



18 December 2018

VIA OVERNIGHT DELIVERY SERVICE

HE António Guterres
Secretary-General of the United Nations
United Nations Headquarters
1st Avenue and 46th Street
New York, New York 10017

RE: *Failure of the General Assembly to Condemn Hamas & Islamic Jihad Actions*

Your Excellency:

By way of introduction, the European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation, dedicated, *inter alia*, to the promotion and protection of human rights and to the furtherance of the rule of law in international affairs. The ECLJ has held Special Consultative Status before the United Nations/ECOSOC since 2007.¹

We are writing to express our deep concern about the recent UN General Assembly's failure to adopt the proposed United States' Resolution A/73/L.42, which dealt with the open and notorious anti-Israel activities perpetrated by Hamas and other militant groups from within the Gaza Strip. We are also writing to encourage Your Excellency, as UN Secretary-General, to take a bold and public stand for peace, for the rule of law in international affairs, and for the principles upon which the UN was originally founded concerning these matters.

The United Nations was founded, in large part, to ensure that resort to war would no longer be recognised as a legitimate means to resolve conflict between peoples and States and to pursue pacific means to resolve such conflicts instead.

The American resolution sought to promote the pacific resolution of the conflict in the Middle East by publicly identifying and roundly condemning acts of violence, terror, provocation, incitement, and destruction originating from the Gaza Strip.² It called on Hamas and Islamic Jihad to cease "repeatedly firing rockets into Israel".³ It condemned Hamas' building of "tunnels to infiltrate Israel and equipment to launch rockets into civilian areas".⁴ It called for "the cessation of all forms of violence and intimidation directed against medical and humanitarian personnel" as well as for "respecting the inviolability and neutrality of

¹List of non-governmental organizations in consultative status with the Economic and Social Council as of 1 September 2016, U.N. Econ. and Soc. Council, E/2016/INF/5 (29 Dec. 2016).

²G.A. Res. A/73/L.42 (29 Nov. 2018).

³*Id.*

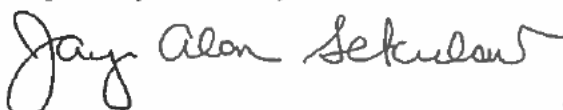
⁴*Id.*

United Nations premises”.⁵ Each of the acts condemned in the resolution runs directly counter to the pursuit—as well as the maintenance—of international peace and security. Of special note, all of the Hamas and Islamic Jihad violations listed in the resolution are beyond dispute. And every single one of those actions violates the Law of Armed Conflict by intentionally targeting civilians, civilian settlements, protected buildings and facilities, farmland and other sensitive ecological sites, and the like.

Although a majority of the States voting in the session dealing with the resolution voted in favour of the resolution, it nonetheless failed to pass because the affirmative votes did not reach the two-thirds threshold required for passage. Yet, even more troubling, the absolute majority of UN Member States did not favour the resolution (the number of States opposing the resolution plus the number abstaining exceeded the number of States favouring the resolution). This is a very disturbing outcome, given that the UN’s fundamental purpose, its very *raison d’être*, is to promote and maintain international peace and security. That is precisely why the resolution sought to condemn Hamas’ and Islamic Jihad’s actions, actions wholly deleterious to international peace and security. Failure of the General Assembly to adopt the resolution indicates that a metastasising moral cancer has infected the organisation at its very roots, thereby undermining the legitimacy and long-term health and effectiveness of the UN as an international institution.

As UN Secretary-General, Your Excellency is the sole person in the organisation with the ability, the position, the prestige, and the “bully pulpit” to address the fact that too many Member States have lost their moral compass and betrayed the very *raison d’être* of the UN. Your Excellency is the one individual at the UN to whom all States pay attention. Even as Your Excellency has taken bold and public stands regarding other issues of global concern (like climate change, for example), we strongly and respectfully urge Your Excellency to take an equally courageous and public stand against groups like Hamas and Islamic Jihad, groups which openly and notoriously commit acts of terror aimed at civilians, which shamelessly flout the rule of law with impunity, which publicly and repeatedly call for the destruction of a Member State of the United Nations, and which openly mock the principles underlying the very existence of the United Nations. We urge Your Excellency to consider seriously that to remain silent in the face of such open and notorious evil and defiance of international norms of behaviour is to abdicate one of the solemn responsibilities of your high office.

Respectfully submitted,



Jay Alan Sekulow
Chief Counsel



Robert W. Ash
Senior Counsel

⁵*Id.*