



# General Assembly

Distr.: General  
22 February 2019

English only

---

## Human Rights Council

### Fortieth session

25 February–22 March 2019

Agenda item 7

### Human rights situation in Palestine and other occupied Arab territories

## Written statement\* submitted by United Nations Watch, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[11 February 2019]

---

\* Issued as received, in the language(s) of submission only.



## Remedies for The Protection Gap Fostered by Special Rapporteur Michael Lynk

United Nations Watch is deeply concerned by the protection gap fostered by Mr. Michael Lynk, and by his non-compliance with Human Rights Council guidelines for Special Procedures.

Despite the title of Mr. Lynk's post—"Special Rapporteur on the situation of human rights in the Palestinian territories"—the text of the mandate makes clear that the rapporteur is charged only with investigating "Israel's violations."<sup>1</sup>

This results in a troubling protection gap by which Mr. Lynk has been able to justify monitoring only Israel's alleged violations of Palestinian rights while ignoring alleged Palestinian Authority and Hamas violations of Palestinian and Israeli human rights. Despite repeated urging by United Nations Watch, Mr. Lynk has taken no steps to remedy the protection gap, and, bizarrely, has repeatedly claimed that no one has ever asked him to do so.

United Nations Watch raised this issue on numerous occasions in the past three years, including in its Written Statements to the Human Rights Council at its 37<sup>th</sup> and 38<sup>th</sup> Sessions.<sup>2</sup> Most recently, in a February 12, 2019 letter to Mr. Lynk, United Nations Watch renewed its request for Mr. Lynk to expand the mandate, as he indicated on October 26, 2017, in response to a question from a reporter at a UN press conference. Lynk stated: "I am actively considering whether or not, when I make my next report, which will be in March [2017] to the Human Rights Council, that I will ask for my mandate to be expanded."<sup>3</sup> Regrettably, this never happened. Mr. Lynk never asked for the injustice and discrimination of his one-sided mandate to be remedied, and his response was merely to deflect legitimate questions.

As in all of Mr. Lynk's previous reports, in his most recent published report, presented to the General Assembly in October 2018, Mr. Lynk acknowledged abuses by Palestinian actors, but refused to address those abuses. He wrote: "In the present report, the Special Rapporteur focuses on Israel's obligations under international human rights law and international humanitarian law, as set out in the mandate."<sup>4</sup> Like his reports, Mr. Lynk's official UN statements and press releases categorically ignore rights violations by Palestinian actors, leaving Israeli and Palestinian victims without a voice at the United Nations.

Mr. Lynk's silence on human rights violations committed by all actors other than Israel also is contrary to the spirit of his duties as a UN human rights expert to uphold the core UN values of universality and impartiality.<sup>5</sup> The Human Rights Council's own Manual for Special Procedures states in para. 11 that mandate-holders must be independent and

---

<sup>1</sup> UN Watch, *Mandate to Discriminate* (March 10, 2016), <https://www.unwatch.org/wp-content/uploads/2009/12/Mandate-to-Discriminate-UN-Watch-Report-March-10-v548.pdf>.

<sup>2</sup> *Written Statement submitted by United Nations Watch*, UN Doc. A/HRC/37/NGO/106 (March 15, 2018); *Written Statement submitted by United Nations Watch*, UN Doc. A/HRC/38/NGO/120 (June 22, 2018);

<sup>3</sup> Press Conference, Special Rapporteur for Palestine Michael Lynk, The situation of human rights in the Palestinian Territory occupied since 1967, UN Web TV (Oct. 26, 2017), <http://webtv.un.org/meetings-events/treaty-bodies/watch/the-situation-of-human-rights-in-the-palestinian-territory-occupied-since-1967-press-conference-26-october-2017/5626030029001/?term=&lan=english>.

<sup>4</sup> Michael Lynk, Situation of human rights in the Palestinian territories occupied since 1967, U.N. Doc. A/73/45717 (Oct. 22, 2018).

<sup>5</sup> See Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council, UN Doc. HRC/RES/5/2 (June 18, 2007), PP 3(b) "Stressed the importance of 'ensuring universality, objectivity and non-selectivity in the consideration of human rights issues, and the elimination of double standards and politicization.'"

impartial.<sup>6</sup> This is reinforced in para. 82, which makes clear that in situations where a peace process is under way, the mandate-holder should not be seen to be taking sides with one party to the conflict. Yet Mr. Lynk's one-sided press releases, reports and speeches, openly endorse the Palestinian narrative, while denying Israeli citizens any human rights, including the rights to life, peace, security and self-defense.

Furthermore, the clear expectation is that the UN expert will address violations by all relevant actors. For example, para. 5 of the Manual sets out the principal functions of Special Procedures, which include to advise on measures taken by the government concerned "and other relevant actors." Moreover, the Manual devotes an entire section to "Non-State Actors," in which it states that "non-State actors can also be held accountable for human rights violations and may be relevant interlocutors in the quest to restore respect for human rights and to establish accountability for violations." Despite these directives, Mr. Lynk ignores violations by all actors other than Israel.

Below is a non-exhaustive list of human rights violations perpetrated by the Palestinian Authority and Hamas in 2018 which Mr. Lynk has ignored, and which we urge him to address:

### **Palestinian Authority Violations in West Bank Ignored by You**

**Arbitrary Arrest and Prosecution, Antisemitic Laws:** PA court sentences East Jerusalem man, Issam Akel, to life in prison and hard labor for attempting to sell Old City property to Jew, in violation of PA law prohibiting land sales to Israeli Jews. (*December 2018*).<sup>7</sup>

**Arbitrary Arrest, Torture:** PA forces arrest and torture activist Suha Jbara, beating her, depriving her of water and use of the toilet, and threatening to harm her family, among other things. (*December 2018*).<sup>8</sup>

**Suppression of Freedom of Assembly:** PA police use excessive force to break-up Ramallah protest opposing PA policies in Gaza, violently beat protesters, arresting wounded from the hospital, and smashing and confiscating phones and cameras. (*June 2018*).<sup>9</sup>

### **Hamas Violations in Gaza Ignored by You**

**Fair Trial and Due Process Violations:** Hamas military court sentences six Gazans to death for collaborating with Israel. (*December 2018*).<sup>10</sup>

**Arbitrary Arrest, Suppression of Freedom of Expression:** Hamas arrests Gazans Salah Jadallah and Khader Mihjez, after they made statements critical of Hamas. (*December 2018*).<sup>11</sup>

**Torture of Children:** Hamas fighters in Gaza beat and torture 13-year-old Gazan boy because he got into a fight with the son of a Hamas military commander. (*August 2018*).<sup>12</sup>

<sup>6</sup> Manual of Operations of the Special Procedures of the Human Rights Council (August 2008), [https://www.ohchr.org/Documents/HRBodies/SP/Manual\\_Operations2008.pdf](https://www.ohchr.org/Documents/HRBodies/SP/Manual_Operations2008.pdf).

<sup>7</sup> *Palestinian court jails U.S.-Palestinian for life for Jerusalem land sale*, REUTERS (Dec. 31, 2018), <https://www.reuters.com/article/us-israel-palestinians-usa-detainee/palestinian-court-jails-u-s-palestinian-for-life-for-jerusalem-land-sale-idUSKCN10U0JG>.

<sup>8</sup> *Palestine: Social justice activist tortured and punished for going on hunger strike*, AMNESTY INTERNATIONAL (Dec. 5, 2018), <https://www.amnesty.org/en/latest/news/2018/12/palestine-social-justice-activist-tortured-and-punished-for-going-on-hunger-strike/>.

<sup>9</sup> Rami Younis, *The night the Palestinian Authority showed us whose side it is on*, 972MAG (June 14, 2018), <https://972mag.com/the-night-the-palestinian-authority-showed-us-whose-side-it-is-on/136200/>.

<sup>10</sup> Huda Baroud, *Despite protocol against death penalty, Gaza sentences six more to death*, AL-MONITOR (Dec. 23, 2018), <https://www.al-monitor.com/pulse/originals/2018/12/palestine-military-court-death-penalty-collaborating-israel.html>.

<sup>11</sup> Khaled Abu Toameh, *Palestinians: Silencing and Intimidating Critics*, GATESTONE INSTITUTE (Dec. 27, 2018), <https://www.gatestoneinstitute.org/13477/palestinians-silencing-intimidating-critics>.

<sup>12</sup> Itamar Marcus and Nan Jacques Zilberdik, *Hamas fighters torture 13-year Adham because he hit son of Hamas military leader*, Palestinian Media Watch (Aug. 29, 2018),

**Suppression of Freedom of Assembly:** Armed Hamas operatives use violence to suppress peaceful protest against Hamas in Gaza, assaulting and threatening protesters and stealing phones. (June 2018).<sup>13</sup>

#### **Palestinian Terrorism Against Israelis Ignored by You**

**Shootings, Praising Terrorism:** Hamas terrorists shoot at Israeli civilians standing at a bus stop, wounding 7, including a pregnant women whose baby was delivered by emergency c-section and later died. Hamas praised the perpetrator, Salih Omar Barghouti, calling the attack “heroic.” (December 2018).<sup>14</sup>

**Attempt to breach Gaza border fence:** Since March 2018, Hamas affiliated terrorists have made numerous attempts to violently breach the border fence separating Israel from Gaza<sup>15</sup> with the express intention of invading Israeli communities and murdering Israelis.<sup>16</sup> (March to December 2018).

**Inciting Terrorism:** Hamas leaders incited March of Return protesters to violence and murder with statements like: “We will tear down the border and we will tear out their hearts from their bodies,”<sup>17</sup> and “Death to Israel.”<sup>18</sup> (May 2018).

**Rockets at Civilians:** Barrage of 45 rockets fired into Israel from Hamas-controlled Gaza Strip in June land in Israeli towns, including next to a community center and a kindergarten.<sup>19</sup> In August, rocket fire from Gaza injures three in the Israeli town of Sderot.<sup>20</sup> (June to December 2018).

We urge Mr. Lynk to recall that universal human rights standards that are applied selectively, and systematically denied to any class of people, cease to be universal standards at all.

---

[http://www.palwatch.org/main.aspx?fi=157&doc\\_id=26243](http://www.palwatch.org/main.aspx?fi=157&doc_id=26243).

<sup>13</sup> Dima Abumaria, *Rare Gaza Strip Protest Against Hamas Ends in Familiar Way: Violence*, JERUSALEM POST (June 21, 2018), <https://www.jpost.com/Arab-Israeli-Conflict/gaza-news/Rare-Gaza-Strip-protest-against-Hamas-ends-in-familiar-way-violence-560528>.

<sup>14</sup> Adam Rasgon and TOI Staff, *Hamas claims deadly Ofra terror attack after Israel kills suspected shooter*, TIMES OF ISRAEL (Dec. 13, 2018), <https://www.timesofisrael.com/hamas-claims-deadly-ofra-terror-attack-after-israel-kills-suspected-shooter/>.

<sup>15</sup> *Palestinians try to rip through Gaza border fence, drawing heavy Israeli fire*, CBS NEWS (April 27, 2018), <https://www.cbsnews.com/news/gaza-israel-violence-at-border-fence-2018-04-27/>.

<sup>16</sup> *The ‘Great Return March’ Campaign: An Initiative Sponsored by Hamas, Whose Goal Was To Breach The Border Fence, Penetrate Israeli Territory*, MEMRI (May 18, 2018), <https://www.memri.org/reports/great-return-march-campaign-initiative-sponsored-hamas-whose-goal-was-breach-border-fence>.

<sup>17</sup> @Ostrov\_A, TWITTER (May 15, 2018, 1:09 AM), [https://twitter.com/Ostrov\\_A/status/996301534718844928](https://twitter.com/Ostrov_A/status/996301534718844928).

<sup>18</sup> *Amid Antisemitic and “Death to Israel” chants, Hamas Political Bureau Chairman Ismail Haniyeh Vows: We Shall Never Recognize Israel*, MEMRI (May 11, 2018), <https://www.memri.org/tv/hamas-political-bureau-head-haniyeh-we-shall-never-recognize-israel>.

<sup>19</sup> Noga Tarnopolsky, *45 rockets fired from Gaza into Israel, which quickly retaliates*, LA TIMES (June 20, 2018), <https://www.latimes.com/world/la-fg-israel-gaza-attack-20180620-story.html>.

<sup>20</sup> Judah Ari Gross, *Three hurt as rockets fired from Gaza slam into Sderot*, TIMES OF ISRAEL (Aug. 8, 2018), <https://www.timesofisrael.com/one-hurt-as-at-least-two-rockets-fired-from-gaza-strike-sderot/>.