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**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.

[25 May 2018]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Mr. Michael Lynk's Non-Cooperation and Human Rights Protection Gap

United Nations Watch is deeply concerned by the protection gap fostered by Mr. Michael Lynk, and by his non-cooperation with significant sectors of civil society.

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

This results in a troubling protection gap by which 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.

United Nations Watch has raised this issue on numerous occasions in the past two years, including most recently in our Written Statement to the Human Rights Council at its 37th Session.²

Prior to that, at a UN press conference on October 26, 2017³, a reporter confronted Lynk about his failure to address Palestinian human rights violations, noting that one of Lynk's predecessors, John Dugard had done so. Although United Nations Watch had publicized this fact in its widely circulated March 2016 report "Mandate to Discriminate," and in other writings including a letter to Mr. Lynk,⁴ he pled ignorance to the journalist, saying "I am unaware of that."

At the same time, he added: "I am actively considering whether or not, when I make my next report, which will be in March to the Human Rights Council, that I will ask for my mandate to be expanded." Regrettably, this never happened. He never asked for the injustice and discrimination of his one-sided mandate to be remedied, and his response was merely to deflect legitimate questions.

In March 2018, instead of asking for the mandate to be expanded, as he had implied he would, Lynk submitted a report to the Council which, like his previous three reports, acknowledged abuses by Palestinian actors, but refused to address those abuses. Lynk wrote: "In the present report, the Special Rapporteur focuses on the human rights and humanitarian law violations committed by Israel, in accordance with his mandate."⁵ His March 19, 2018 oral statement during the Council's interactive dialogue, similarly ignored Palestinian rights abuses, and failed to mention the discriminatory protection gap or to request the expansion of the mandate.⁶

1 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>.

2 Written Statement submitted by United Nations Watch, a non-governmental organization in special consultative status, U.N. Doc. A/HRC/37/NGO/106 (March 15, 2018).

3 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>.

4 See, e.g., Letter from Hillel Neuer to Michael Lynk (Oct. 26, 2017), <https://www.unwatch.org/report-u-n-palestine-investigator-calls-boycott-ignores-palestinian-rights-violations/>.

5 Michael Lynk, Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, U.N. Doc. A/HRC/37/75 (March 15, 2018).

6 ID: SR on Palestinian territories – 43rd Meeting, 37th Regular Session Human Rights Council, UN Web TV (March 19, 2018), <http://webtv.un.org/search/id-sr-on-palestinian-territories-43rd-meeting-37th-regular-session-human-rights-council/5754553994001/?term=2018-03-19&lan=English&cat=Meetings%2FEvents&sort=date>.

Mr. Lynk Turned Blind Eye to Hamas Incitement to Violence

Mr. Lynk's statements since March 30, 2018 have systematically ignored the following key facts:

- Hamas has staged weekly riots along the border fence with Israel with the stated goal of securing the “right of return” for the Palestinian people. The “right of return” means the rejection of Israel’s right to exist. It seeks to eliminate Israel through the “return” of millions of Palestinians to Israeli territory.
- Hamas’s own leaders incited the masses with inflammatory rhetoric, urged women and children to approach the border fence, and even admitted the intention to breach the fence and massacre Israeli’s.
- Hamas co-founder Mahmoud Al-Zahar openly admitted the riots were not peaceful resistance, saying: “When we talk about ‘peaceful resistance,’ we are deceiving the public.”⁷

Moreover, Mr. Lynk’s statements and reports have systematically ignored inflammatory Hamas statements, including:

- **Hamas leader Ismail Haniyeh:** “Palestine and Jerusalem belong to us...We will break the walls of the blockade, remove the occupation entity and return to all of Palestine.”⁸; “Our people will outnumber the occupation and force it from our land.”⁹
- **Hamas Gaza Chief Yahya Sinwar:** “We would rather die as martyrs than die out of oppression and humiliation...We are ready to die, and tens of thousands will die with us.”¹⁰; “We will tear down the border and we will tear out their hearts from their bodies.”¹¹
- **Deputy Chief of Hamas in Gaza Khalil al-Hayya:** The purpose of the demonstration is “to draw the map of return in blood.”¹²

On May 16, 2018, Hamas political bureau member Salah al-Bardawil admitted that 50 of those killed in border clashes a day earlier had been Hamas operatives, calling them “martyrs.”¹³

Yet, Mr. Lynk continues to condemn only Israel and ignore Hamas’s international law violations and its abuses of both Israeli and Palestinian human rights.

Mr. Lynk’s May 15, 2018 statement on the Gaza riots “condemned Israel’s excessive use of force towards largely unarmed demonstrators...” without once mentioning Hamas or the violence perpetrated by its operatives.¹⁴

Mr. Lynk also resorted to classical antisemitism, adding: “this blatant excessive use of force by Israel – an eye for an eyelash – must end.” The phrase “eye for an eye” refers to an age-old Christian stereotype of a vengeful Old Testament Jew which has been renounced as antisemitic by Vatican II.¹⁵ The representative of Human Rights Watch in Geneva apologized for reposting Mr. Lynk’s antisemitic tropes.¹⁶

7 Senior Hamas Official Mahmoud al-Zahhar on Gaza Protests: This is Not Peaceful Resistance, it is Supported by our Weapons, MEMRI TV (May 13, 2018), <https://www.memri.org/tv/senior-hamas-official-mahmoud-zahhar-on-gaza-protests-this-is-not-peaceful-resistance>.

8 Khaled Abu Toameh, *Hamas vows Gaza protests to last until Palestinians ‘return to all of Palestine’*, TIMES OF ISRAEL (April 9, 2018), <https://www.timesofisrael.com/hamas-vows-gaza-protests-to-continue-until-they-return-to-all-of-palestine/>.

9 Fares Akram and Karin Laub, *Israeli soldiers kill 4 Palestinians in 4th Gaza border protest*, CHICAGO TRIBUNE (April 20, 2018), <http://www.chicagotribune.com/news/nationworld/ct-gaza-israel-protests-20180420-story.html>.

10 David Halbfinger and Iyad Abuheweila, *As Gaza Teeters on Precipice, a Hamas Leader Speaks Out*, NEW YORK TIMES (May 10, 2018), <https://www.nytimes.com/2018/05/10/world/middleeast/gaza-protests-yehya-sinwar.html>.

11 Arsen Ostrovsky (@Ostrov_A), TWITTER (May 15, 2018, 1:09 AM), https://twitter.com/Ostrov_A/status/996301534718844928.

12 David M. Halbfinger, Isabel Kershner and Declan Walsh, *Israel Kills Dozens at Gaza Border as U.S. Embassy Opens in Jerusalem*, NEW YORK TIMES (May 14, 2018), <https://www.nytimes.com/2018/05/14/world/middleeast/gaza-protests-palestinians-us-embassy.html>.

13 *Hamas Political Bureau Member Salah al-Bardawil: 50 of the Martyrs Killed in Gaza Were From Hamas, 12 Regular People*, MEMRI TV (May 16, 2018), <https://www.memri.org/tv/hamas-politburo-member-bardawil-fifty-martyrs-were-hamas-members>.

14 Press Release, *UN human rights expert condemns horrific violence in Gaza*, OHCHR (May 15, 2018), 189, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23087&LangID=E>.

15 Manifestations of Antisemitism in the EU 2002-2003, EUMC (2004), <http://fra.europa.eu/en/publication/2010/manifestations-antisemitism-eu-2002-2003>.

16 John Fisher, https://twitter.com/JohnFisher_hrw/status/997414820176678912.

In Mr. Lynk's May 18, 2018 statement to the 28th Special Session of the Human Rights Council, Lynk repeated this antisemitic slur as he continued to ignore Hamas's severe human rights and international law violations and one-sidedly blamed Israel for "excessive use of force."¹⁷

Below is a non-exhaustive list of human rights violations committed by Hamas in connection with the "March of Return" Gaza riots and ignored by the Occupied Palestinian Territory Rapporteur Michael Lynk:

- Hamas actively encouraged demonstrators, including children, to engage in violence at the border fence.¹⁸
- Hamas operatives, dressed as civilians, distributed gasoline, tires and other explosives to rioters;¹⁹ and stormed the security fence attacking IDF soldiers.²⁰
- Hamas rioters lobbed flaming kites over the border fence causing extensive damage to Israeli agricultural fields.²¹
- Hamas directed at least one attack on the Kerem Shalom border crossing, the main entry point for humanitarian aid into Gaza, instructing rioters what to do and where to go. Rioters ransacked the Kerem Shalom crossing, three times in the first two weeks of May, preventing or delaying critical humanitarian aid from entering the Strip.²²
- Hamas rioters caused over \$9 million in damages, destroyed the main fuel and gas lines into Gaza and damaged the electrical infrastructure and other equipment.²³ The destruction of the fuel lines put at risk the provision of essential services to the residents of Gaza, including hospital services, waste collection and water and sanitation.²⁴
- In advance of the May 14-15 riots, Hamas posted pictures and maps on social media showing the shortest routes from the border fence to Israeli communities.²⁵

We remind Mr. Lynk of his obligations as a human rights official of the United Nations, and urge him to end his non-cooperation with significant sectors of civil society seeking to uphold human rights for all.

17 28th Special Session of the Human Rights Council, UN Web TV (May 18, 2018), <http://webtv.un.org/meetings-events/watch/1st-meeting-28th-special-session-of-human-rights-council/5786571192001/?term=>.

18 Elior Levy and Yoav Zitun, *Detained Rioter says Hamas uses women, children as arms to stay in power*, YNET (May 16, 2018), <https://www.ynetnews.com/articles/0,7340,L-5262718,00.html>; *Dozens of Palestinians killed in Gaza as 35,000 protest US embassy opening*, I24 NEWS (May 14, 2018), <https://www.i24news.tv/en/news/israel/diplomacy-defense/174671-180514-israel-braces-for-mass-protests-throughout-gaza-west-bank>.

19 *Dozens of Palestinians killed in Gaza as 35,000 protest US embassy opening*, I24 NEWS (May 14, 2018), <https://www.i24news.tv/en/news/israel/diplomacy-defense/174671-180514-israel-braces-for-mass-protests-throughout-gaza-west-bank>.

20 *Legal Questions Begin to Swirl Over Gaza Violence*, JERUSALEM POST (May 19, 2018), <https://www.jpost.com/Arab-Israeli-Conflict/Legal-Questions-Begin-To-Swirl-Over-Gaza-Violence-557847>.

21 Noga Tamopolsky, *At the Israeli-Gaza border, a growing sense of anxiety and fear*, LA TIMES, (May 6, 2018), <http://www.latimes.com/world/la-fg-gaza-strip-israel-border-20180506-story.html>.

22 Judah Ari Gross, *Israel reopens Gaza crossing, but Palestinians turn back some trucks*, TIMES OF ISRAEL (May 15, 2018), <https://www.timesofisrael.com/israel-reopens-gaza-crossing-but-palestinians-turn-back-some-trucks/>.

23 Aron Heller and Fares Akram, *Israel bombs Gaza tunnel, closes key crossing after attack*, WASHINGTON POST (May 12, 2018), https://www.washingtonpost.com/world/middle_east/israel-closing-gaza-cargo-crossing-after-weekly-protests/2018/05/12/526bf448-55e8-11e8-a6d4-ca1d035642ce_story.html?utm_term=.8beaab8da7ce.

24 Judah Ari Gross, *Israel reopens Gaza crossing, but Palestinians turn back some trucks*, TIMES OF ISRAEL (May 15, 2018), <https://www.timesofisrael.com/israel-reopens-gaza-crossing-but-palestinians-turn-back-some-trucks/>.

25 *Dozens of Palestinians killed in Gaza as 35,000 protest US embassy opening*, I24 NEWS (May 14, 2018), <https://www.i24news.tv/en/news/israel/diplomacy-defense/174671-180514-israel-braces-for-mass-protests-throughout-gaza-west-bank>.