

# Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations  
Promoting human rights by protecting those who defend them

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3 August, 2017

The Honourable Chrystia Freeland, P.C., M.P.  
Minister of Foreign Affairs  
House of Commons Ottawa, ON K1A 0A6  
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Dear Minister Freeland,

## **Re: Reprisals and Intimidation against Michael Lynk, UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967**

Lawyers' Rights Watch Canada (LRWC) is a committee of Canadian lawyers and others promoting human rights and the rule of law. LRWC engages in international human rights law research and education and provides support to human rights defenders whose rights, freedoms or independence are threatened as a result of their advocacy for human rights.

While most of LRWC's work is international, it is of great concern that we are now writing about unjustified reprisals and intimidation directed at a prominent Canadian human rights defender S. Michael Lynk, an Associate Professor at the University of Western Ontario (UWO). Professor Lynk holds the mandate of *Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967*, a position that he has held since 2016. The UN mandate, related documentation, and Professor Lynk's work can be found at:  
<http://www.ohchr.org/EN/HRBodies/SP/CountriesMandates/PS/Pages/SRPalestine.aspx>

The reprisals and intimidation have been led by a Geneva-based nongovernmental organization United Nations Watch ("UN Watch") and its Executive Director Mr. Hillel Neuer. UN Watch initiated a series of inflammatory and misleading statements at the time Professor Lynk was nominated as Special Rapporteur in 2016.<sup>1</sup> On 20 July 2017 UN Watch sent a letter addressed to UWO's President and Vice Chancellor in which the mandate of the Special Rapporteur is described as "discriminatory", bigoted, and anti-human rights. Professor Lynk is personally described as biased with an "egregious" record. The 20 July letter is signed by Mr. Neuer and apparently seeks to strip Professor Lynk of his resources at the University:

We therefore request the University of Western Ontario to cease and desist providing (i) research assistants; (ii) office space, (iii) administrative assistance, and (iv) any other form of support, for Mr. Lynk's discriminatory mandate.

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<sup>1</sup> UN Watch, [Mandate to Discriminate Appointing the 2016-2022 UN Special Rapporteur on "Israel's Violations of the Principles and Bases of International Law"](#) (March 10, 2016).

It is noteworthy that the 20 July correspondence is framed using “cease and desist” language that is typically associated with demand letters preceding the filing of legal proceedings before the courts.

Amit Chakma, President and Vice Chancellor of UWO, wrote back to Mr. Neuer on 21 July 2017. The University properly declined to take sides on the substance of the issues related to the mandate of the Special Rapporteur. However, President Chakma pointed out that certain assertions made by UN Watch were inaccurate, including the supposedly exceptional nature of the support provided by universities to academics working as special mandate holders. In fact, it is common for academic institutions to continue to provide institutional or in-kind support to university professors who engage in extramural work and research related to their academic endeavors and research interests. President Chakma also upheld the fundamental importance of academic freedom and freedom of expression.

UN Watch asserts that taxpayer dollars are being spent inappropriately through in-kind support offered by UWO as an academic institution. In particular, the amount of approximately \$100,000 is held out by UN Watch as the value of the services provided by UWO.<sup>2</sup> According to Professor Lynk, the actual amount is wildly exaggerated – by two decimal places, in fact. The actual amount is under \$1,000.00 CDN, or less than \$800 US.<sup>3</sup> This is yet another example of Mr. Neuer’s exaggeration, innuendo and misleading allegations.

Even if the amount were considerably higher (and, again, it is not considerably higher), voluntary positions such as UN Special mandate holders and independent experts can only function if they receive the ongoing and stable support of their home institutions. This is the norm and not the exception. Special mandate holders are not UN staff and do not receive any salary or other financial compensation except for travel expenses, which includes a daily subsistence allowance on mission. The positions require a substantial time commitment estimated at approximately three months per year. Unpaid activities that are expected of the mandate holders include examining, monitoring, advising and publicly reporting on specific country situations. Activities of special procedures with country mandates also include undertaking country visits, acting on individual cases and concerns of a broader, structural nature, conducting studies, and engaging in general advocacy activities. It is highly regrettable that these forms of support are being recast as insidious efforts to undermine human rights, whereas they are bulwarks that help protect against human rights violations globally.

The actions of UN Watch constitute an incitement to retaliate against Professor Lynk because of his voluntary work as a duly appointed UN independent expert and special mandate holder. They further constitute a clear attempt to use social media and UN Watch’s considerable reach to gather support for a campaign against Professor Lynk and the university. Given that these reprisals and intimidation are directed at a Canadian citizen and a Canadian institution, we urge Canada to exercise its responsibilities as a member of the United Nations, to prevent and condemn such attacks and ensure adequate protection of individuals and groups who cooperate with the United Nations.

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<sup>2</sup> UN Watch, Briefing “Exposed by UN Watch, Canadian University ‘Investigating’ Funding of Anti-Israel Mandate” Vol. 642 July 23 2017.

<sup>3</sup> Interview by LRWC with S. Michael Lynk, July 30, 2017 (telephone interview).

We recognize the rights of both human rights defenders and their critics to exercise free speech and to express their views. These rights are especially important in sensitive and complex areas such as those addressed by this particular Special Rapporteur. We further recognize and support the right of the general public to receive varying and diverse information, opinions and views. However, the line must be drawn at any and all forms of reprisal or intimidation that aim to undermine the work and the reputations of human rights defenders who cooperate with the United Nations. We rely on [UN Human Rights Council Resolution, \*Review of the work and functioning of the Human Rights Council A/HRC/RES/16/21\*](#) (12 April 2011)<sup>4</sup>, which, at paragraph 30 provides that:

30. The Council strongly rejects any act of intimidation or reprisal against individuals and groups who cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, **and urges States to prevent and ensure adequate protection against such acts.** (Emphasis added.)

Similarly, [UN Human Rights Council, \*Resolution, A/HRC/RES/12/2\*](#), 12 October 2009:<sup>5</sup>

1. Urges Governments to prevent and refrain from all acts of intimidation or reprisal against those who:

(a) Seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, or who have provided testimony or information to them;

[ . . . ]

(c) Submit or have submitted communications under procedures established by human rights instruments, and all those who have provided legal or other assistance to them for this purpose;

[ . . . ]

2. Condemns all acts of intimidation or reprisal by Governments and non-State actors against individuals and groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights;

3. Calls upon States to ensure adequate protection from intimidation or reprisals for individuals and members of groups who seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, and reaffirms the duty of all States to end impunity for such actions by bringing the perpetrators, including accomplices, to justice in accordance with international standards and by providing an effective remedy for their victims;

Attempts to prevent individuals or institutions from working or cooperating with Special Procedures constitute a form of intimidation or reprisal. In a recent submission to the United Nations, the International Service for Human Rights has noted that “acts that aim to prevent or

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<sup>4</sup> UN Human Rights Council, *Review of the work and functioning of the Human Rights Council: resolution / adopted by the Human Rights Council*, 12 April 2011, A/HRC/RES/16/21, available at: <http://www.refworld.org/docid/4dc0ff632.html> [accessed 3 August 2017]

<sup>5</sup> *Cooperation with the United Nations, its representatives and mechanisms in the field of human rights*, Adopted by the UN Human Rights Council 1 October 2009, [http://ap.ohchr.org/documents/E/HRC/resolutions/A\\_HRC\\_RES\\_12\\_2.pdf](http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_12_2.pdf)

stop anyone from cooperating with Special Procedures remain undoubtedly one of the most serious concerns to mandate holders, and ...they constitute an attack against the Special Procedure system itself.”<sup>6</sup>

In addition, the U.N. Declaration on Human Rights Defenders<sup>7</sup> recognises the right of human rights defenders to protection from reprisals for their communication or cooperation, or attempted communication or cooperation with the United Nations’ human rights bodies. Although the Declaration is not itself a binding legal instrument, it does contain principles and rights that are drawn from human rights standards in legally binding international instruments, including the International Covenant on Civil and Political Rights. It should be noted that the Declaration was adopted by consensus by the UN General Assembly, and represents a strong commitment on behalf of states to implementing its principles and expressed rights.

Human rights defenders based in Canada who are subject to libelous or defamatory attacks, loss or threatened loss of resources, have very few tools with which to defend themselves when the instigator does not reside in Canada. It is our understanding that UN Watch is Geneva-based, and that Mr. Neuer resides in Geneva. The *Canadian Human Rights Act*<sup>8</sup> does provide for protection against retaliation, but that protection only extends to complainants and persons who cooperate with investigations into complaints filed under that *Act*. The situation described here would not be covered by the *Act*.

The Government of Canada should be making every effort to support Canadians who work in cooperation with the United Nations, especially those who make the types of voluntary and personal sacrifices expected of Special mandate holders and independent experts. It is regrettable that the burden of the considerable difficulties inherent in these positions is increased by reprisals and intimidation, such as the 20 July letter by UN Watch, and that these incidents should take place with impunity. We strongly urge the Canadian government to uphold the work of Special Rapporteurs and independent experts who work in cooperation with the United Nations by creating legislative protection for human rights defenders who are Canadian and/or who are working in Canada, and by issuing public statements of support.

We are aware that nominations for Special mandate holders are not initiated by governments and that States are not expected to take particular positions with regard to the opinions and research outcomes of Special mandate holders. However, we urge you to consider that member States should actively and vigorously uphold these mandates as part of the international order. We urge the Government of Canada, in accordance with the aforementioned UN Human Rights Council resolutions, to condemn all acts of reprisal and intimidation against Special mandate holders working in Canada and to provide appropriate legislative protections.

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<sup>6</sup> International Service for Human Rights, *Ending reprisals against those who cooperate with the United Nations in the field of human rights*: Submission to the UN Secretary-General on recent developments, cases and recommendations (May 2017) at p. 5.. Online:

[https://www.ishr.ch/sites/default/files/documents/reprisals\\_submission\\_may\\_2017\\_final\\_updated.pdf](https://www.ishr.ch/sites/default/files/documents/reprisals_submission_may_2017_final_updated.pdf)

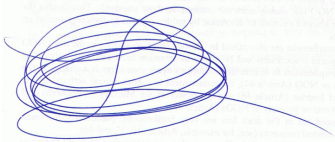
<sup>7</sup> Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, Adopted by General Assembly resolution 53/144 of 9 December 1998, Articles 2(1), 9(1) and 12(2).

<sup>8</sup> R.S.C., 1985, c. H-6.

Please do not hesitate to contact the undersigned should you require further information or wish to further discuss any of the issues that are raised in this document.

We look forward to your reply.

Sincerely,



Gail Davidson, Executive Director, LRWC

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