

MANDATE TO DISCRIMINATE, PART II

**How Michael Lynk Failed His UN Mandate to Protect
Palestinian Human Rights From 2016 to 2022 — and Why His
Designated Successor Francesca Albanese Is Likely To Do the Same**

Presented to the United Nations Human Rights Council in its 49th Session

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TABLE OF CONTENTS

I. SUMMARY	1
II. UN SPECIAL RAPPORTEUR ON PALESTINE: MANDATE TO DISCRIMINATE	3
A. Mandate’s Deceptive Title	3
B. Mandate Against Human Rights	3
Protection Gap	4
Mandate Obsolete	4
Outgoing Special Rapporteur Michael Lynk acknowledged the protection gap, but refused to act to amend it	4
Special Rapporteurs Dugard and Falk Recognized Bias of Mandate	4
Special Rapporteur Giacomelli Recognized “Severe Limitations” of Mandate	5
Special Rapporteur Halinen: Mandate is “So Distant From Reality,” Must be Changed	5
Special Rapporteur Felber Resigned, Called for Eliminating the Mandate	6
Amnesty International: Bias Undercuts Mandate’s Credibility and Effectiveness	7
Only Mandate Never to Undergo UNHRC Review, Rationalization and Improvement	7
III. THE MISSING LYNK: A REVIEW OF THE FAILED OPPORTUNITY OF MICHAEL LYNK	7
A. Canada Objected to Michael Lynk’s Appointment	8
B. Michael Lynk Gave a Free Pass to the Palestinian Authority and Hamas	9
C. As Special Rapporteur, Michael Lynk Violated UN Rules for Special Procedures	11
Michael Lynk Violated UN Rules by Failing to Seriously Investigate PA and Hamas Violations	11
Michael Lynk Violated UN Rules by Legitimizing Antisemites	11
Michael Lynk Violated UN Rules by Lobbying to Boycott Israel	12
Conclusion.....	13
IV. CURRENT POOL OF CANDIDATES FAIL TO MEET STANDARD OF IMPARTIALITY	14
A. Appointment Procedure	14
B. Profile of the Current Candidates	15
First-ranked Candidate: Francesca P. Albanese	15
Second-Ranked Candidate: Michelle Burgis-Kasthala	18
Third-Ranked Candidate: Susan M. Akram.....	19
Non-Ranked Candidate: Usha Natarajan.....	21
Non-Ranked Candidate: Ralph Wilde	22
Non-Ranked Candidate: Muhammad Muzahidoul Islam	23
Conclusion.....	23
V. RECOMMENDATIONS FOR STAKEHOLDERS	24

A. Recommendation to the European Union and United States	24
B. Recommendations to the Human Rights Council	24
C. Recommendation to Palestinian Authority, Arab League, Organization of Islamic Cooperation	25

I. SUMMARY

Addressing the U.N. Human Rights Council on March 1st, Secretary of State Antony Blinken pledged that the United States, which just returned to the 47-nation body, would “counter anti-Israel bias and the unfair and disproportionate focus on Israel.”

Four weeks later, however, and the U.S., along with fellow members Britain, France, Germany and the Netherlands, appear unwilling or unable to stop the UN’s top human rights forum from trampling its own impartiality rules by appointing a new investigator on Palestinian human rights who [exults](#) that those calling Israel an “apartheid” state have “liberated the word,” and repeatedly compares the Palestinian situation to the Nazi Holocaust.

The UNHRC president has nominated Francesca Albanese, an Italian lawyer who worked in Jordan for UNRWA, the relief agency for Palestinians, to be the next “Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967.”

While the title implies concern for all actors in the area, in fact the mandate of the rapporteur—unchanged since February 1993—is solely to investigate “Israel’s violations of the principles and bases of international law.” Whatever Hamas, Islamic Jihad and the Palestinian Authority may do, whether to their own people or to Israelis, is excluded.

The post was created by the Arab states as a political weapon to target Israel, and the democracies seem resigned to letting the Palestinians pick the candidate. Yet if there were an objective expert holding the mandate, he or she could use it to uphold human rights for Palestinians and Israelis alike.

Instead, noting “her vision for implementing the mandate,” the vetting committee gave first ranking to Francesca Albanese, someone who has [equated](#) the Palestinian Nakba with the Nazi Holocaust, accused Israel of [apartheid](#), [genocide](#), [ethnic cleansing](#), and [war crimes](#).

On her application, Albanese was asked whether she holds “any views or opinions that could prejudice the manner in which the candidate discharges the mandate.” She replied “[No](#).”

Yet just last year, Albanese [acknowledged](#) the opposite, saying her “deeply held personal views” on the Palestinian issue “could compromise my objectivity.”

Indeed, Albanese has [said](#) Israel is “keeping captive millions of civilians,” [organized](#) a panel on “Israel Apartheid,” and campaigns for an [arms embargo](#) against Israel.

On her [application](#), Albanese also certified no personal conflicts of interest, failing to disclose that her husband, who [compares](#) Palestinians to Jews of the Warsaw Ghetto resisting the Nazis, formerly [worked](#) for the Palestinian Authority, where he authored a [report](#) on Israel’s “exploitative” policies.

According to its own rules, the UNHRC must give “paramount importance” to “impartiality” when selecting mandate-holders. Albanese is the opposite of impartial.

In this regard, one can expect that she will follow in the footsteps of the outgoing Special Rapporteur, Michael Lynk, who did nothing to advance the peace process, and instead only entrenched the

discrimination inherent in the mandate through his one-sided UN reports and statements that gave a free pass to [systematic violations](#) by the PA and Hamas.

Though it is rare for Canada to criticize UN appointments, Canadian Prime Minister Justin Trudeau's government had slammed Lynk's appointment in 2016, saying that UN Special Rapporteurs needed to have a "track record that can advance peace in the region" and to be "credible, impartial and objective."

Canada's rebuke came after UN Watch exposed Lynk's [lengthy record](#) of signing anti-Israel petitions, campaigning for Israel to be prosecuted for war crimes, accusing Israel of ethnic cleansing, and addressing conferences promoting a "one-state" solution, which means the end of Israel.

In his application, Lynk deliberately failed to disclose his leadership role in three pro-Palestinian lobby groups, including the National Council on Canada-Arab Relations, where he lobbied against Canada's free trade agreement with Israel; the Canadian-Palestinian Education Exchange, which organizes "Israeli Apartheid Week" events; and Friends of Sabeel.

During his UN tenure from 2016 to 2022, this report shows how Lynk promoted the same agenda. As Special Rapporteur on Palestine, Lynk published 12 reports and 84 official UN press releases about the Palestinian territories. These texts systematically ignored egregious human rights violations by the PA and Hamas against both Israelis and Palestinians. Lynk justified his omissions by citing the discriminatory 1993 mandate which instructs him to investigate only Israel's violations. Eventually, in wake of criticism from UN Watch, Lynk's last three reports to the General Assembly included a handful of sentences on violations by the PA and Hamas, disproving his prior arguments. Still, 97% of the content of these reports related to criticism of Israel, while Lynk continued to ignore Hamas terrorism.

Out of the 84 official UN press releases issued by Lynk between 2016 and 2022, only 12—one seventh— included any criticism at all of the PA and Hamas. These few references typically amounted to no more than one or two lines mentioning Palestinian violations within a larger context of condemning Israel. During his entire six years as Special Rapporteur, Lynk published only one UN statement devoted to human rights abuses by the PA. He failed to issue a single statement about the Hamas regime's human rights violations against Palestinians. Lynk failed to issue a single statement dedicated to criticizing either the PA or Hamas for their gross and systematic violations of freedom of religion, the rights of children, the rights of women, and LGBTQ rights. Finally, Lynk failed to issue a single statement dedicated to criticizing the PA or Hamas for firing thousands of rockets at Israeli civilians, terrorism targeting Jews, or antisemitic incitement.

The mandate, which dates back to the pre-Oslo era—meaning, before the PA and Hamas ruled millions of Palestinians in the West Bank and Gaza—is inherently discriminatory, and creates a protection gap for Palestinian and Israeli victims of violations by Palestinian actors. Several of Lynk's predecessors publicly criticized this discrimination, and called for the mandate to be reformed. By contrast, Lynk pointedly refused to do so. To the Canadian media in 2016, Lynk promised that he was "open to looking at expanding the job," but in the end he did the opposite, embracing the biased mandate.

II. UN SPECIAL RAPPORTEUR ON PALESTINE: MANDATE TO DISCRIMINATE

A. Mandate's Deceptive Title

The UN gives the Human Rights Council's lead investigator on Israel the title of "Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967." The position is currently held by Canadian law professor Michael Lynk whose term expires this month. He succeeded Makarim Wibisono who stepped down in March 2016 after just two years. Prior to that, Richard Falk held the position from 2008 to 2014.

The title is deliberately misleading, designed to mask the discriminatory and prejudicial nature of the Council's permanent investigative mandate on Israel. The title is a key part of the UN's larger, routine misrepresentation of this mandate.

In April 2010, for example, the UN's Office of the High Commissioner for Human Rights (OHCHR) sent out a press release stating that Mr. Falk was "mandated by the UN Human Rights Council to monitor the situation of human rights and international humanitarian law on Palestinian territories occupied since 1967." This statement, like the rapporteur's title, is false and misleading because the actual, unchanged mandate since 1993, as spelled out in Article 4 of Commission on Human Rights resolution 1993/2, is as follows: "To investigate *Israel's violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian territories occupied by Israel since 1967.*"

As the UN rights office described it to the press, the mandate would have universal application to all actors, be they Israeli or Palestinian. The mandate as it actually is, however, applies only to *Israeli* actions, and with guilt—"Israel's violations—declared in advance. There is a substantial difference between the two.

The title grants the false legitimacy of fairness to an entirely one-sided and unfair mandate. When Michael Lynk is introduced at panels, the hosts never disclose that his mandate is to exclusively focus on Israel's actions, and that these actions are presumed from the start to be "violations." Rather, such as when Sir Geoffrey Bindman introduced Mr. Lynk at Amnesty International headquarters in London, a false picture is presented: "The work that Michael Lynk is doing, and the work required by his office, is to *report on the state of human rights in the occupied territories,*" said Bindman. In fact, "the work that Michael Lynk is doing" and "the work required by his office" is to report *only on Israel*, and the guilty verdict is pre-determined by his mandate.¹

B. Mandate Against Human Rights

Indeed, it may be said that the mandate negates the very idea of universal human rights and the rule of law. Victims of human rights violations cannot be ignored or addressed by the United Nations depending on the identity of the alleged perpetrator.

¹ *UK should ban imports from illegal Israeli settlements – new campaign*, AMNESTY INTERNATIONAL (June 13, 2017), <https://www.amnesty.org.uk/press-releases/uk-should-ban-imports-illegal-israeli-settlements-new-campaign> (referencing June 13 panel with Michael Lynk); see also @HillelNeuer, TWITTER (October 26, 2018, 1:42 AM), <https://twitter.com/HillelNeuer/status/1055590327447420928>.

Protection Gap

The result is a protection gap that must be remedied. The United States and the European Union should lead an effort in the Council to change the mandate to improve protection and accountability for victims of violations of human rights and humanitarian law. The U.S. and EU should take action in the 49th session to provide the new special rapporteur with a clear mandate, as even Amnesty International once said, “to investigate and report on violations of international human rights and humanitarian law committed by all parties—Israeli and Palestinian, state agents and non-state actors.”² Ensuring the comprehensiveness of the Special Rapporteur’s mandate is necessary to protect and promote the rights of all persons.

Mandate Obsolete

It is important to note that the current mandate is obsolete. It was created in February 1993, when Israel was the sole authority in the West Bank and Gaza. This was just prior to the dramatic changes on the ground engendered by the Oslo Accords of September 1993, including the arrival of Yasser Arafat and the PLO to the West Bank and Gaza, the establishment of the Palestinian Authority, and the subsequent take-over of Gaza by Hamas. The focus of the mandate was never expanded to protect Palestinians who are ruled by the PA and Hamas.

Outgoing Special Rapporteur Michael Lynk acknowledged the protection gap, but refused to act to amend it

Facing intense criticism when he was appointed special rapporteur due to his decades of anti-Israeli campaigning and lack of impartiality, Michael Lynk insisted to the Canadian media in March 2016 that he was “open to looking at expanding the job” to cover human rights abuses committed by actors other than Israel.³ He repeated that pledge in October 2017, again while facing criticism, when Lynk told a UN press conference that he was “actively considering” asking for the “mandate to be expanded.”⁴ In fact, however, Lynk never acted on these promises, and it appears he never had any intention to do so.

Special Rapporteurs Dugard and Falk Recognized Bias of Mandate

As former rapporteur John Dugard noted in his August 2005 report, the mandate “does not extend to human rights violations committed by the Palestinian Authority.”⁵ Human rights abuses by Hamas, Islamic Jihad, and the Palestinian Authority enjoy impunity.

² *Israel/Occupied Palestinian Territories (OPT): Mandate of the Special Rapporteur*, AMNESTY INTERNATIONAL (July 11, 2008), <https://www.amnesty.org/en/documents/MDE15/028/2008/en/>.

³ Patrick Martin and Michelle Carbert, *UN appointment of Canadian professor creates controversy*, THE GLOBE AND MAIL (March 30, 2016), <https://www.theglobeandmail.com/news/world/un-appointment-of-canadian-professor-creates-controversy/article29467174/#:~:text=The%20appointment%20of%20a%20Canadian,of%20controversy%20on%20three%20continents>.

⁴ *Video: U.N. Palestine rapporteur ‘unaware’ he could address Palestinian human rights violations*, UN WATCH (October 26, 2017), <https://unwatch.org/u-n-palestine-rapporteur-unaware-report-palestinian-human-rights-violations/>.

⁵ In his August 2005 report, Dugard for the first time broke the mandate’s instructions, explaining that he felt compelled to address Palestinian violations as well. Not those against Israel, however, but rather in regard to the

On June 16, 2008, Mr. Falk himself acknowledged the one-sided nature of the mandate, saying it was open to challenge regarding “bias and one-sidedness.” He added: “With all due respect, I believe that such complaints have considerable merit.”⁶ However, the Council refused to eliminate the discrimination.

Special Rapporteur Giacomelli Recognized “Severe Limitations” of Mandate

On March 15, 2000, then Special Rapporteur Giorgio Giacomelli emphasized in his report to the Commission on Human Rights (predecessor to the Human Rights Council) that “since the establishment of this mandate [in 1993], a new situation has come into being in the mandated area”—meaning the establishment of the PA—noting “that new players have appeared on the same ground.” These factors “have created a new, more complex situation” which requires “attention and action.” Giacomelli further commented that the fact that the Special Rapporteur had access only to one concerned party “severely limits the possibility of drawing a complete picture of the situation,” threatening to relegate the mandate “to a routine and limited role.” He asked the Commission to consider if the mandate, as it stands, “still fully serves the purpose for which it was originally conceived” and “whether it reflects a complete picture of the human rights situation in the occupied territories.”⁷

Special Rapporteur Halinen: Mandate is “So Distant From Reality,” Must be Changed

Hannu Halinen of Finland, who served as Special Rapporteur from 1995 to 1999, recognized the acute discrimination and prejudice in the mandate, and on numerous occasions called for change. On March 15, 1996, the Special Rapporteur urged the Commission on Human Rights to amend the mandate, emphasizing “human rights violations perpetrated in areas under the control of the Palestinian Authority.” He wrote that the protection and promotion of human rights is a “general responsibility,” and it is essential that the Special Rapporteur be able to study and report about the situation of human rights in a “comprehensive” manner. The “situation on the ground... has to be reflected appropriately in the mandate of the Special Rapporteur.” The Palestinian Authority had “promised him full cooperation in reviewing the mandate accordingly.” The responsibility of improving the human rights situation in the West Bank and Gaza Strip, said the rapporteur, lies also with the Palestinian Authority.⁸

Palestinian use of the death penalty against their own. It would be “irresponsible for a human rights special rapporteur to allow the execution of Palestinian prisoners to go unnoticed... The Special Rapporteur expresses the hope that these executions were aberrations and that the Palestinian Authority will in future refrain from this form of punishment.” See *Report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Palestinian territories occupied by Israel since 1967*, UN Doc. A/60/271, ¶ 50 (August 18, 2005), <https://digitallibrary.un.org/record/557079?ln=en>.

⁶ See *Human rights situation in Palestinian territories ‘remains grave,’* UN NEWS (June 16, 2008), <https://www.refworld.org/docid/4860ae678.html> (summarizing Richard Falks remarks).

⁷ Giorgio Giacomelli, *Report on the situation of human rights in the Palestinian territories occupied since 1967*, UN Doc. E/CN.4/2000/25 (March 15, 2000), <https://www.un.org/unispal/document/auto-insert-185026/>.

⁸ Hannu Halinen, *Report on the situation of human rights in the Palestinian territories occupied since 1967*, UN Doc. A/CN.4/1996/18 (March 15, 1996), <https://undocs.org/E/CN.4/1996/18>.

On March 19, 1998, according to a UN press release, Special Rapporteur Halinen, noted that he was unable to visit Palestinian prisons “as these were not under his mandate.”⁹ He again called for the mandate to be changed. Mr. Halinen said he was asking for “equal treatment” with other Special Rapporteurs. It was up to Commission members to act and start discussions on this matter. The Special Rapporteur explained that “the mandate was prejudging the outcome of the findings” and “it was taken for granted that there were violations” and “that they were committed by Israel.” Halinen added that “to move ahead and create trust, it was necessary to regard the question in its entirety and look at how to help prevent violations.” He wished to have a mandate “to investigate in the whole area.”¹⁰

On March 31, 1999, according to a UN press release, Special Rapporteur Halinen said “he had not been happy with his mandate from the very beginning.”¹¹ He had been “constantly asking for an amendment of the mandate,” which was “so distant from reality” that “it must be reviewed if one wanted to improve the human rights situation.” He was only able to report on human rights violations by Israel. Yet he wanted “to be able to report on the situation of human rights as did other Special Rapporteurs,” and “not be told beforehand what the violations were and by whom they were committed.”

Special Rapporteur Felber Resigned, Called for Eliminating the Mandate

After presenting his second report to the Commission, Rene Felber resigned as Special Rapporteur on February 9, 1995 and called for the mandate to be eliminated altogether. The Associated Press reported that the Special Rapporteur said that “promoting the peace process, not condemning Israel, was the best way to insure Palestinian rights.”¹² Felber’s comments unleashed a wave of criticism from member states of the commission, particularly Muslim countries.¹³ “Maybe I said out loud what other people merely think,” Felber, a former Swiss foreign minister, told a news conference. “I don't regret it.”

“Instead of condemning Israel, Felber said it was better to support the peace process because it will promote respect for basic freedoms.”¹⁴ “Is it better to condemn or is it better to support a peace process which leads to a concrete solution?” he asked. “For me, I support the concrete solution.”¹⁵

⁹ *Informal note on the press briefing by Mr. Hannu Halinen, Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967*, UN (March 19, 1998), <https://webcache.googleusercontent.com/search?q=cache:sjUsvdlkBq4J:https://unispal.un.org/DPA/DPR/unispal.nsf/eed216406b50bf6485256ce10072f637/ee2516e3a1e476f685256b9d0053d531%3FOpenDocument+&cd=1&hl=en&ct=clnk&gl=il>.

¹⁰ *Israel lashes out at U.N. rights investigator*, ASSOCIATED PRESS INTERNATIONAL (March 19, 1998) (summarizing the remarks).

¹¹ *Press Briefing by Hannu Halinen, Special Rapporteur on Occupied Arab Territories*, UN (March 31, 1999), https://webcache.googleusercontent.com/search?q=cache:l_yynV90nMIJ:https://unispal.un.org/DPA/DPR/unispal.nsf/1ce874ab1832a53e852570bb006dfaf6/3fe5c1856e94ed888525710000797097%3FOpenDocument+&cd=1&hl=en&ct=clnk&gl=il.

¹² Clare Nullis, *Special Investigator Defends Controversial Decision to Quit*, ASSOCIATED PRESS (February 3, 1995); Clare Nullis, *U.N. Rights Prober: Focus On Israel Should End*, ASSOCIATED PRESS (February 1, 1995).

¹³ Michael Huggins, *U.N.'s Mideast rights monitor resigns*, UNITED PRESS INTERNATIONAL (February 3, 1995).

¹⁴ Clare Nullis, *Special Investigator Defends Controversial Decision to Quit*, ASSOCIATED PRESS (February 3, 1995)

¹⁵ *Id.*

“It is in this spirit that we submit this report,” he wrote in his final submission to the UNHRC, “which naturally concludes with a proposal to do away with our services, and even to do away with appointing a Special Rapporteur in the occupied territories altogether.”¹⁶

Amnesty International: Bias Undercuts Mandate’s Credibility and Effectiveness

Human rights groups have likewise criticized the one-sided nature of the mandate. On July 11, 2008, even Amnesty International said that the mandate’s “limitation to Israeli violations... undercuts both the effectiveness and the credibility of the mandate.”¹⁷ Amnesty noted that the mandate “fails to take account of the human rights of victims of violations of international human rights and humanitarian law committed by parties other than the State of Israel.”¹⁸

Only Mandate Never to Undergo UNHRC Review, Rationalization and Improvement

Amnesty also called for the mandate to be subjected to the review, rationalization and improvement process that was applied to all other mandates in the transition from the Human Rights Commission to the Human Rights Council.¹⁹ During this period, the outgoing president of the Council, Ambassador Doru Costea of Romania, had similarly called for the mandate to be subject to the RRI process.²⁰ Nevertheless, the RRI never took place, and the mandate on Israel was the only UN Human Rights Council mandate not to be reviewed, rationalized or improved.

III. MISSING LYNK: A REVIEW OF THE FAILED OPPORTUNITY OF MICHAEL LYNK’S 2016-2022 TERM

A review of the six-year term of Special Rapporteur Michael Lynk shows that he did nothing to advance the peace process, and instead only entrenched the discrimination inherent in the mandate through his one-sided UN reports and press statements. As detailed below, under the rules of the Council, Lynk was never qualified to serve as Special Rapporteur on Palestine in the first place.

Lynk will be remembered for absolutely refusing to speak out against the mandate’s discrimination or to seek reform of the mandate. He will also be remembered for his numerous one-sided condemnations of Israel which gave a free pass to routine egregious violations by the PA and Hamas.

A. UN Watch and Others Strongly Objected Michael Lynk’s Appointment

¹⁶ Rene Felber, Report on the human rights situation in the Palestinian territories occupied since 1967, UN Doc. E/CN.4/1995/19 (December 13, 1994), <https://digitallibrary.un.org/record/167181?ln=es>.

¹⁷ *Israel/Occupied Palestinian Territories (OPT): Mandate of the Special Rapporteur*, AMNESTY INTERNATIONAL (July 11, 2008), <https://www.amnesty.org/en/documents/MDE15/028/2008/en/>.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ See Daniel Kuhn, *Outgoing HRC head: Review Palestinian mandate*, JERUSALEM POST (June 7, 2008), <http://www.jpost.com/International/Outgoing-HRC-head-Review-Palestinian-mandate>.

In March 2016, when Michael Lynk was appointed, it was clear that the appointment failed the minimum standards of impartiality for special rapporteurs.²¹ Canadian Prime Minister Justin Trudeau's government criticized the Council for selecting someone with such a strong partisan record of anti-Israel advocacy. Canada's then Foreign Affairs Minister Stéphane Dion called on the President of the Council to "review this appointment," saying that UN Special Rapporteurs needed to have a "track record that can advance peace in the region"²² and to be "credible, impartial and objective."²³ His office elaborated: "This candidate was not put forward by Canada and does not represent the views of this government," stated Dion's spokesman. "There are legitimate questions and concerns raised, which is why we've asked for a review."²⁴ Canada's UN ambassador also made it clear that the Human Rights Council should appoint a "professional, neutral and credible" candidate.²⁵

Mr. Lynk's record of pro-Palestinian advocacy included signing anti-Israel petitions, calling for Israel to be prosecuted for war crimes at the ICC, accusing Israel of ethnic cleansing, and addressing conferences promoting a one-state solution.

Moreover, during the appointment process, Lynk failed to disclose to the Council that he had played a leadership role in three separate pro-Palestinian lobby groups:

1. Lynk failed to disclose that he served as a member of the board of directors of the National Council on Canada-Arab Relations.
2. Lynk failed to disclose that he served as a member of the advisory board of the "Canadian-Palestinian Education Exchange" (CEPAL), which promotes events like the "4th Annual Israeli Apartheid Week."
3. Lynk failed to disclose that he, together with former Arab League representative Clovis Maksoud, served as a member of the advisory board of Friends of Sabeel North America, another pro-Palestinian organization. In this capacity, Lynk had actively lobbied against Israel, including in 1996 when he attempted to get the Canadian Parliament to delay and undermine a Canada-Israel trade deal.²⁶

²¹ Patrick Martin, Michelle Carbert, *UN appointment of Canadian professor creates controversy*, GLOBE AND MAIL (March 30, 2016), <https://www.theglobeandmail.com/news/world/un-appointment-of-canadian-professor-creates-controversy/article29467174/#:~:text=The%20appointment%20of%20a%20Canadian,of%20controversy%20on%20three%20continents.&text=Lynk%2C%22%20he%20concluded%2C%20%22,requirements%22%20of%20a%20UNHRC%20rapporteur..>

²² *Id.*

²³ *Stephane Dion asks UN to review nomination of anti-Israel prof*, CJNI (March 27, 2016), <https://thecjn.ca/news/canada/stephane-dion-asks-un-to-review-nomination-of-anti-israel-prof/>.

²⁴ Rachel Browne, *Canada Isn't a Fan of the UN's Pro-Palestinian Choice for a Human Rights Watchdog*, VICE (March 28, 2016), https://www.vice.com/en/article/ev9k9z/canada-isnt-a-fan-of-the-uns-pro-palestinian-choice-for-a-human-rights-watchdog?utm_source=vicenewsfb.

²⁵ *Stephane Dion asks UN to review nomination of anti-Israel prof*, CJNI (March 27, 2016), <https://thecjn.ca/news/canada/stephane-dion-asks-un-to-review-nomination-of-anti-israel-prof/>.

²⁶ Parliament of Canada transcript, hearing of Standing Committee on Foreign Affairs and International Trade (October 29, 1996) (reviewing Bill C-61, An Act to implement the Canada-Israel Free Trade Agreement. Mr. Michael Lynk is listed as "Secretary Treasurer, National Council on Canada-Arab Relations," in which capacity he requested

Accordingly, in an October 16, 2016 letter complaint to the UN Secretary-General, UN Watch called for Mr. Lynk's appointment to be reviewed pursuant to the request by the Government of Canada.²⁷ UN Watch argued that Michael Lynk should have been disqualified for failing to disclose relevant information in his application, and because he did not meet the test for impartiality.

Although the requests of both the Government of Canada and UN Watch were ignored, Michael Lynk himself proved the validity of their concerns through his performance as special rapporteur, as detailed below.

B. Michael Lynk Gave Free Pass to Human Rights Abuses by Palestinian Authority and Hamas

During his tenure, Mr. Lynk published 12 reports (six to the Human Rights Council, and six to the General Assembly) as well as 84 official UN statements and press releases about the Palestinian territories, in which he routinely ignored egregious human rights violations by Palestinian actors, against both Israelis and Palestinians. In his reports, Mr. Lynk repeatedly justified his failure to criticize the PA and Hamas, citing the text of the discriminatory 1993 mandate which, as noted, instructs him to investigate only Israel's violations. Eventually, in wake of criticism from UN Watch, Mr. Lynk's last three reports to the General Assembly included a few paragraphs about violations by the PA and Hamas. However, these reports were still far from balanced. In total, 97% of their content related to criticism of Israel, while Mr. Lynk continued to completely ignore Hamas terrorism.

Furthermore, out of the 84 official UN statements and press releases issued by Michael Lynk between 2016 and 2022, only 12—one seventh—included any criticism at all of the PA and Hamas. Even then, these few references typically amounted to no more than one or two lines mentioning Palestinian violations within the larger context of criticizing Israel. During his entire six years as Special Rapporteur, Mr. Lynk published only one UN statement that was exclusively devoted to human rights abuses committed by the PA. This was in July 2021, in the last year of his term, when Mr. Lynk criticized the PA for the death in custody of Palestinian activist Nizar Banat, and excessive force by Palestinian Security Forces against protesters in the aftermath of that event.²⁸

A handful of Mr. Lynk's other statements included criticism of the PA, Hamas and Israel on matters affecting Palestinians such as electricity shortages in Gaza and the postponement of Palestinian elections. Yet Mr. Lynk failed to issue a single statement about the Hamas regime's human rights violations against Palestinians. His other criticisms of Hamas all concerned international humanitarian law violations in the context of the ongoing military conflict between Hamas and Israel. Mr. Lynk failed to issue a single statement dedicated to criticizing either the PA or Hamas for their gross and systematic violations of freedom of religion, the rights of children, the rights of women, and LGBTQ rights.²⁹

"that this bill be withdrawn from the government agenda" until his demands were met), https://www.ourcommons.ca/Content/Archives/Committee/352/fore/evidence/49_96-10-29/fore49_blk-e.html.

²⁷ Letter from Hillel Neuer to Secretary-General Ban Ki-moon, UN WATCH (October 27, 2016), <https://unwatch.org/wp-content/uploads/2009/12/Ltr-to-UN-urging-suspension-of-Illegal-appointment-Michael-Lynk.pdf>.

²⁸ *Occupied Palestinian Territory: Attacks against critics must stop, those responsible arrested – UN experts*, OHCHR (July 6, 2021), <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27267&LangID=E>.

²⁹ *Human rights violations ignored by Michael Lynk*, UN WATCH (February 3, 2022), <https://unwatch.org/lynk/>.

Likewise, Mr. Lynk failed to issue a single statement dedicated to criticizing either the PA or Hamas for firing thousands of rockets at Israeli civilians, terrorism targeting Jews, or antisemitic incitement.

As noted above, the mandate is inherently discriminatory and creates a protection gap for Palestinian and Israeli victims of human rights violations by Palestinian actors. Notably, however, previous UN Palestine rapporteurs openly criticized this discrimination. By contrast, Mr. Lynk pointedly refused to do so. Indeed, Mr. Lynk himself acknowledged the bias of the mandate when he was appointed in March 2016. At the time, he told Canada's *Globe and Mail* that he was "open to looking at expanding the job" to "human rights abuses by Palestinian authorities in the West Bank and Gaza."³⁰ However, he never took any action in this regard.

Early in his term, UN Watch urged Mr. Lynk to take action to end the discrimination and the protection gap only to be met with empty promises. For example:

- At a June 2017 UN meeting, UN Watch Fellow Dan Smith asked Mr. Lynk about expanding the mandate due to the protection gap. Mr. Lynk said: "No one has ever asked me that question before, but my mind remains open."³¹
- In October 2017, UN Watch wrote to Mr. Lynk calling on him to expand the mandate, noting that his predecessor John Dugard had done so. Mr. Lynk ignored this letter. When confronted about it at a press conference, he disingenuously stated that he was "unaware" that John Dugard had spoken out against PA torture. He also stated: "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."³²

Despite these hopeful early statements, Mr. Lynk never once called for the mandate to be expanded during his entire six-year term.

Furthermore, notwithstanding repeated urging from UN Watch—in its written statements to the Council, and in a February 2019 letter to Secretary-General Guterres criticizing the fact that Mr. Lynk was continuing to serve the "overtly discriminatory and legally flawed mandate without making any effort to remedy it"³³—Mr. Lynk continued to deliberately omit any PA and Hamas abuses from his annual reports to the Human Rights Council. His reports did acknowledge the existence of such abuses, but justified the exclusion by citing to the text of the mandate which calls only to investigate Israeli violations. Apparently in response to our pressure, beginning in October 2019, Mr. Lynk began to include a few paragraphs about PA and Hamas violations in his reports to the General Assembly. Still, as noted

³⁰ Patrick Martin and Michelle Carbert, *UN appointment of Canadian professor creates controversy*, THE GLOBE AND MAIL (March 30, 2016), <https://www.theglobeandmail.com/news/world/un-appointment-of-canadian-professor-creates-controversy/article29467174/#:~:text=The%20appointment%20of%20a%20Canadian,of%20controversy%20on%20three%20continents>.

³¹ *UN investigator of Israel 'did not hear any demand' to also examine PA, Hamas*, UN WATCH (July 9, 2017), <https://unwatch.org/un-investigator-israel-not-hear-demand-also-examine-pa-hamas/>.

³² *Video: U.N. Palestine rapporteur 'unaware' he could address Palestinian human rights violations*, UN WATCH (October 26, 2017), <https://unwatch.org/u-n-palestine-rapporteur-unaware-report-palestinian-human-rights-violations/>.

³³ *Letter from Hillel Neuer to Secretary-General Antonio Guterres*, UN WATCH (February 21, 2019), <https://unwatch.org/wp-content/uploads/2019/02/Letter-to-UNSG-on-UN-SR-Michael-Lynk.pdf>.

above, these were brief and passing references, and the reports remained 97% focused on condemning Israel alone.

C. As Special Rapporteur, Michael Lynk Violated UN Rules for Special Procedures

Michael Lynk Violated UN Rules by Failing to Seriously Investigate PA and Hamas Violations

Significantly, Mr. Lynk's near-complete silence on human rights violations committed by all actors other than Israel was contrary to the spirit of his duties as a UN human rights expert to uphold the core UN values of universality and impartiality.³⁴ HRC resolution 5/1 provides that independence, impartiality and objectivity are "of paramount importance" when selecting mandate-holders.³⁵ The Code of Conduct for Special Procedures likewise prioritizes impartiality, requiring mandate-holders to "uphold the highest standards of efficiency, competence and integrity, meaning [...] probity, impartiality, equity, honesty and good faith."³⁶ Furthermore, the Human Rights Council's own Manual for Special Procedures states in paragraph 11 that mandate-holders must be independent and impartial.³⁷ This is reinforced in paragraph 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 endorsed the Palestinian narrative, while effectively denying Israeli citizens any human rights, including the rights to life, peace, security and self-defense.

Moreover, the clear expectation is that the UN expert will address violations by all relevant actors. For example, paragraph 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." 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 routinely ignored egregious violations by both the PA and Hamas.

Michael Lynk Violated UN Rules by Legitimizing Antisemites

During his tenure, Mr. Lynk repeatedly acted to legitimize known antisemites. For example, in January 2019, Mr. Lynk addressed an event in Hamilton, Ontario, co-organized by the extremist group CJPME, whose racist leader Dimitri Lascaris was condemned by Canadian Prime Minister Justin Trudeau for making "vile antisemitic smears." Prior to that, Mr. Lynk was closely associated with Lascaris, who acted as Mr. Lynk's surrogate during the controversy surrounding Mr. Lynk's nomination to the UNHRC in 2016. In addition, Mr. Lynk shared a stage with Lascaris in October 2019, only one month after the latter

³⁴ See *Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council*, UN Doc. HRC/RES/5/2 (June 18, 2007), <https://www.ohchr.org/Documents/HRBodies/SP/CodeOfConduct.pdf>, 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.'"

³⁵ *Institution-building of the United Nations Human Rights Council*, UN Doc. HRC/RES/5/1 (June 18, 2007).

³⁶ *Code of Conduct for Special Procedures*, Article 3(e).

³⁷ *Manual of Operations of the Special Procedures of the Human Rights Council* (August 2008), https://www.ohchr.org/Documents/HRBodies/SP/Manual_Operations2008.pdf.

was condemned for his antisemitism by Canada's New Democratic Party leader Jagmeet Singh as well as by Conservative Party leader Andrew Scheer.³⁸

In addition, in 2017 Mr. Lynk met in London and posed for photos with the Hamas front group known as Palestinian Return Centre ("PRC"),³⁹ and with the virulent antisemite Sameh Habeeb,⁴⁰ who has posted antisemitic videos by former KKK grand wizard David Duke, published stories accusing Israelis of stealing organs in Haiti, and wrote articles claiming that World Wars I and II were Jewish plots.

By legitimizing antisemites, and by speaking for an extremist group led by a condemned racist, Mr. Lynk blatantly violated Article 3 of the Code of Conduct for Special Procedures, which requires mandate-holders to uphold the highest standards of "integrity," "probity" and "impartiality."

Michael Lynk Violated UN Rules by Lobbying to Boycott Israel

Mr. Lynk invoked the limitations of his mandate when it suited his interest in criticizing only Israel, yet in other situations he completely ignored—and indeed blatantly violated—the limitations of his mandate. In November 2021, acting in his official capacity and writing on UN letterhead, Mr. Lynk sent letters to government pension funds in the UK urging them to divest from companies listed on the UN database of businesses operating in Israeli settlements.⁴¹ The database is an initiative of the antisemitic BDS movement that seeks to isolate and demonize Israel.⁴²

Aside from violating his duty to maintain impartiality, Mr. Lynk's letters also contravened his obligations under Article 3 of the Code of Conduct to "focus exclusively on the implementation of [the] mandate, constantly keeping in mind the fundamental obligations of truthfulness, loyalty and independence."⁴³

As set forth in Human Rights Commission resolution 1993/2A, adopted on February 19, 1993, the mandate of the Special Rapporteur on Palestine is limited to (a) investigating, (b) receiving evidence and (c) reporting to the UN on violations. Because lobbying government pension funds to divest from Israel does not qualify as any of the above activities, by doing so Mr. Lynk violated the Code of Conduct's obligation to "focus exclusively on...implementation of the mandate." The Special Procedures Manual does list some "other activities" in which mandate-holders can engage, such as preparing thematic reports, speaking at seminars, and publicizing their work through different official UN channels, but none of these "other activities" includes actively campaigning against one of the sides to the conflict

³⁸ *UN's Palestine Investigator Shared Stage with Anti-Semite, Endorsed 'Right to Use Force to Resist,'* UN WATCH (October 24, 2018), <https://unwatch.org/uns-palestine-investigator-shared-stage-anti-semite-endorsed-right-use-force-resist/>.

³⁹ *Hamas congratulates 'Palestinian Return Centre' for winning UN status,* UN WATCH (July 22, 2015), <https://unwatch.org/hamas-congratulates-palestinian-return-centre-for-winning-un-status-2/>.

⁴⁰ Andrew Gilligan, *Jeremy Corbyn, friend to Hamas, Iran extremists,* THE TELEGRAPH (July 18, 2015), https://www.telegraph.co.uk/news/politics/labour/11749043/Andrew-Gilligan-Jeremy-Corbyn-friend-to-Hamas-Iran-and-extremists.html?WT.tsrc=email&etype=Edi_Pol_New.

⁴¹ *Letter from Michael Lynk to UK Pension Fund* (November 22, 2021), <https://lgpsboard.org/images/Other/LetterLynk22112021.pdf>.

⁴² *The U.N.'s Anti-Israel Blacklist: Myths & Facts on the "Settlements Database,"* UN WATCH (February 1, 2018), <https://unwatch.org/u-n-s-anti-israel-blacklist-myths-facts-database-pursuant-human-rights-council-resolution-31-36/>; and *Terror-linked NGOs Behind UN Blacklist,* NGO MONITOR (February 13, 2020), <https://www.ngo-monitor.org/reports/terror-linked-ngos-behind-un-blacklist/>.

⁴³ Code of Conduct for Special Procedures, Article 3.

that is the subject of the mandate.⁴⁴ We are unaware of any other UN mandate-holder that has used their position to lobby a government to boycott or divest from a UN member state. Even the UN monitors on non-democracies such as Iran, North Korea, Belarus, Myanmar and Sudan have never engaged in such activity.

In addition, it appears that Mr. Lynk acted in concert with a campaign organized by politicized Palestinian NGOs and thus may have violated the Code of Conduct rule not to “seek or accept instruction from any non-governmental organization or pressure group.” Indeed, just two months before sending the letter, Lynk addressed an event organized by the “Don’t Buy Into Occupation” coalition, a joint project between 26 Palestinian and other NGOs, which investigates businesses operating in Israeli territories. The coalition was active in pressuring Norwegian pension funds to divest from such businesses.⁴⁵ The event was promoted by Al Haq, a leader of anti-Israel lawfare and BDS campaigns. The letter itself followed the release of a report by the Palestine Solidarity Campaign—a leader of the anti-Israel BDS campaign in the UK—which claimed that the pension funds had 4.4 million GBP invested in companies doing business with Israeli settlements.⁴⁶

Mr. Lynk’s letter to the UK pension funds also violated the directive in Article 13 of the Code of Conduct requiring that “the concerned government authorities” should be “the first recipients” of the mandate-holder’s recommendations and that they be given “adequate time to respond.” However, Mr. Lynk did not even notify the Israeli government that he intended to send letters to the pension funds, let alone give it time to respond to the allegations.

Furthermore, in his letter to the pension funds, Mr. Lynk grossly misrepresented his mandate as being “to assess the human rights situation in the Occupied Palestinian Territory.” In doing so, Mr. Lynk described himself as a neutral official who investigates both Palestinian and Israeli violations, when, as noted above, the truth is the complete opposite. As Mr. Lynk himself has pointed out in his UN reports in order to justify his ignoring violations by Palestinian actors, the mandate of the Special Rapporteur is only to investigate “Israeli violations.” By falsely portraying himself as an objective UN official implementing a neutral mandate, Mr. Lynk deliberately misled the pension funds into believing the data in his letter could be relied upon as an impartial presentation of the facts.

Conclusion

When Canadian law professor Michael Lynk was first appointed in March 2016, it was clear that the appointment failed the minimum standards of impartiality. UN Watch was the first to sound the alarm in a report that detailed Mr. Lynk’s leadership role in anti-Israel advocacy organizations, his lobbying campaigns to punish Israel economically, and his association with “Israel apartheid” campaigns.⁴⁷ In a rare critique of a UN appointment, Canadian Prime Minister Justin Trudeau’s government called out the Human Rights Council for selecting someone with such a blatantly partisan record of anti-Israel

⁴⁴ *Special Procedures Manual*, pp. 20-21.

⁴⁵ *New report exposes billions in European financial support to companies in illegal Israeli settlements*, AL HAQ (September 29, 2021), <https://www.alhaq.org/advocacy/18867.html>.

⁴⁶ Bethany Rielly, *UN rapporteur calls for Britain’s council pension funds to divest from firms linked to Israel’s illegal settlements*, MORNING STAR (December 8, 2021), <https://morningstaronline.co.uk/article/b/un-rapporteur-calls-for-britain-council-pension-funds-to-divest-from-firms-linked-to-israel-illegal-settlements>.

⁴⁷ *Mandate to Discriminate*, UN WATCH (March 10, 2016), <http://www.unwatch.org/wpcontent/uploads/2009/12/Mandate-to-Discriminate-UN-Watch-Report-March-10-v548.pdf>.

advocacy. Foreign Affairs Minister Stéphane Dion called on the President of the Council to review the appointment, saying that UN Special Rapporteurs needed to have a “track record that can advance peace in the region” and to be “credible, impartial and objective.” Mr. Lynk “was not put forward by Canada and does not represent the views of this government,” said the foreign minister’s spokesperson. “There are legitimate questions and concerns raised, which is why we’ve asked for a review. Likewise, Canada’s UN ambassador made clear that the Council needed to appoint a “professional, neutral and credible” candidate—someone other than Mr. Lynk.

At the time, to save his position, Mr. Lynk and his surrogates launched a lobbying and media campaign on his behalf, insisted that he was objective, and denied that he had chosen sides. “My allegiance is to international law, to human rights law,” he told Canada’s newspaper of record. “I’m open-minded,” Mr. Lynk promised, despite his leadership role in organizations that promoted “Israeli Apartheid Week” events, and his participation in similar conferences. “I didn’t use the word apartheid,” explained Mr. Lynk. “Someone else did.” Mr. Lynk assured a Canadian newspaper that it was “a fair question” whether the Special Rapporteur mandate should be expanded beyond monitoring only Israeli actions. “I’m open to looking at expanding the job.” In reality, during Mr. Lynk’s six-year tenure, he never looked at expanding the mandate, and instead fully embraced the political agenda it was designed to promote.

IV. CURRENT POOL OF CANDIDATES FAIL TO MEET STANDARDS OF IMPARTIALITY

A. Appointment Procedure

Following interviews with four out of the six applicants, on January 24, 2022, the Human Rights Council’s 5-member Consultative Group (CG) recommended to the President three names for the position of the Special Rapporteur on Palestine: Francesca P. Albanese of Italy, ranked first; Michelle Burgis-Kasthala of Australia, ranked second; and Susan M. Akram of the United States, ranked third.⁴⁸ In turn, on February 22, 2022, Council President Ambassador Federico Villegas proposed the appointment of top-ranked candidate Francesca Albanese.⁴⁹

Under the rules of the Council, as defined in resolutions 5/1 and 16/21, the criteria of “impartiality” and “objectivity” are to be of “paramount importance” when selecting and appointing mandate-holders. Accordingly, when in 2014 it was time to select applicants for this same position, the Consultative Group—at the time headed by a Canadian ambassador—said that its operating criteria would be to recommend a candidate who was “the most likely to be able to objectively engage the key interested parties,” and not those who, by contrast, had “previously taken public positions on issues relevant to the mandate.” The CG members were no doubt mindful of the scandals provoked by then-outgoing rapporteur and overt Hamas supporter Richard Falk. Proceeding on that basis, the CG in 2014 chose

⁴⁸ *Report of the Consultative Group to the President of the Human Rights Council relating to the vacancies of mandate holders to be appointed at the forty-ninth session of the Human Rights Council* (January 24, 2022), <https://www.ohchr.org/Documents/HRBodies/SP/CallApplications/HRC49/CG-REPORT-HRC49-to-President.pdf>.

⁴⁹ *Letter from Human Rights Council President Federico Villegas* (February 22, 2022), [https://hrcmeetings.ohchr.org/PresidencyBureau/BureauRegionalGroupsCorrespondence/Correspondence/Letter%20of%20the%20President%20of%20the%20Human%20Rights%20Council%20presenting%20his%20list%20of%20candidates%20for%20the%20mandate%20holders%20to%20be%20appointed%20at%20the%20Council%E2%80%99s%2049th%20session%20\(PDF\).pdf](https://hrcmeetings.ohchr.org/PresidencyBureau/BureauRegionalGroupsCorrespondence/Correspondence/Letter%20of%20the%20President%20of%20the%20Human%20Rights%20Council%20presenting%20his%20list%20of%20candidates%20for%20the%20mandate%20holders%20to%20be%20appointed%20at%20the%20Council%E2%80%99s%2049th%20session%20(PDF).pdf). For the appointment procedure, see Human Rights Council resolution 5/1, decision 6/102 and resolution 16/21.

human rights lawyer Christina Cerna, and rejected biased candidates such as William Schabas and Christine Chinkin. Under pressure from the Palestinians and the Arab states, the CG's recommendation was rejected, and another candidate was appointed.

The CG's stated criteria for recommending Christina Cerna should have been the standard for selecting candidates for the position going forward. Regrettably, in 2016, under different leadership, the CG breached its obligations and failed to uphold even the most minimal impartiality criteria when it recommended Michael Lynk as one of its top picks. Likewise this year, it is unfortunate that the CG's top three picks all have blatantly partisan records of anti-Israel advocacy. There is no doubt that if Francesca Albanese is appointed, she will follow in the footsteps of Michael Lynk, and undermine chances for peace.

B. Profiles of the Current Candidates

1. First-Ranked Candidate: FRANCESCA P. ALBANESE⁵⁰



Francesca P. Albanese is the candidate proposed by the President of the Human Rights Council, Ambassador Federico Villegas of Argentina, validating the selection made by the UNHRC's vetting committee, the Consultative Group. Born and raised in Italy, Albanese is a lawyer who worked for UNRWA, the UN refugee agency for Palestinians. She advocates for the Palestinians' "right of return," compares Palestinian suffering to the Nazi Holocaust, and accuses Israel of "apartheid."

Conflict of Interest: On her UN application form, at page 14, Albanese was asked whether there were "any personal or financial relationships" that might cause the candidate to limit the extent of inquiries, to limit disclosure, or to weaken or slant findings in any way; about any factors that could "directly or indirectly influence" or "otherwise affect the candidate's ability to act independently in discharging the mandate"; and about "any reason, currently or in the past, that could call into question the candidate's moral authority and credibility." To all of these, she replied "No."⁵¹

In fact, however, beyond Albanese's lifelong record of partisan campaigning as documented below, she failed to disclose a personal conflict of interest: that her husband Massimiliano Cali served as an economic advisor to the Ministry of National Economy of the State of Palestine in Ramallah.⁵² Working for the government of Palestinian President Mahmoud Abbas, Albanese's husband authored a report,

⁵⁰ Application and Bio of Francesca Albanese (November 23, 2021), https://www.ohchr.org/sites/default/files/2021-12/ALBANESE_Francesca_form.pdf

⁵¹ *Id.*

⁵² *Massimiliano Cali biography*, WORLD BANK BLOGS (last visited March 21, 2022), <https://blogs.worldbank.org/team/massimiliano-cali>; and *Massimiliano Cali*, VOXEU (last visited March 21, 2022), <https://voxeu.org/users/maxillo>. While he was at the Palestinian Ministry of Economy, their documents cited his work. See, e.g., *Assisting Palestine Independence through Trade: Trends and Prospects of Economic and Social Development in the Occupied Palestinian Territory*, PALESTINIAN NATIONAL AUTHORITY MINISTRY OF NATIONAL ECONOMY (May 2011), <https://www.yumpu.com/en/document/read/54134841/assisting-palestine-independence-through-trade-trends-and>.

“The Economic Costs of the Israeli Occupation for the occupied Palestinian Territory.”⁵³ According to Al Jazeera, the report “highlighted Israel’s ‘exploitative’ policy towards Palestinian natural resources.”⁵⁴

Judges are routinely disqualified by conflicts of interests involving a spouse.⁵⁵ Albanese cannot be investigating, reporting and judging human rights complaints directly involving the Palestinian Authority government for which her husband worked. According to its own rules, under resolutions 5/1 and 16/21, the Council must give “paramount importance” to the criteria of “impartiality” when selecting and appointing mandate-holders.

At page 15 of her application, Albanese certified her understanding that “falsifying or intentionally withholding information will be grounds for not being selected or appointed or the withdrawal of any proposed appointment or, if an appointment has been made and accepted, for its immediate cancellation or termination.” Because she withheld information on her husband’s position with the Palestinian government, Albanese’s selection and proposed appointment should be immediately cancelled.

Albanese’s Extreme Bias: Albanese directs the “Question of Palestine Program” at a Jordanian organization, the Arab Renaissance for Democracy and Development. On her application, Albanese was asked whether she holds “any views or opinions that could prejudice the manner in which the candidate discharges the mandate.” She replied “No.”

In fact, Albanese has accused Israel of “advance[ing] its ‘colonization’ plans — committing serious human rights violations and keeping captive millions of civilians.”⁵⁶ She dubbed Israel’s airstrikes on the sources of Hamas rocket fire against Israeli civilians as “horrific” and “immoral.”⁵⁷ She organized events focused on demonizing Israel, including a panel titled “Israel Apartheid Exposed: What’s Next?”⁵⁸ Albanese organized a webinar with BDS leader Omar Barghouti who branded Israel “colonialist,” opposed any kind of normalization with Israel, and called Israel “the enemy of the peoples of the entire region.”⁵⁹

⁵³ *The economic costs of the Israeli occupation for the Occupied Palestinian Territory*, MINISTRY OF NATIONAL ECONOMY OF THE STATE OF PALESTINE (September 2011), <https://www.arj.org/wp-content/uploads/2014/01/Economic-Cost-of-Occupation.pdf>.

⁵⁴ Stefanie Dekker, *West Bank protests highlight failing economy*, AL JAZEERA (September 18, 2012), www.aljazeera.com/features/2012/9/18/west-bank-protests-highlight-failing-economy.

⁵⁵ Cynthia Gray, *An Ethics Guide for Judges and Their Families*, AMERICAN JUDICATURE SOCIETY AND STATE JUSTICE INSTITUTE (2001), https://www.ncsc.org/data/assets/pdf_file/0021/18822/ethics-guide-for-judges-and-their-families.pdf.

⁵⁶ Francesca Albanese, *Brussels International Conference on UNRWA: What really happened?* ARDD (November 30, 2021), <https://ardd-jo.org/Blogs/brussels-international-conference-on-unrwa-what-really-happened>.

⁵⁷ Francesca Albanese, *Gaza Under Attack, Latest on Palestine: Experts speak out*, ARDD (May 12, 2021), <https://ardd-jo.org/Blogs/gaza-under-attack-gaza-under-attack>.

⁵⁸ *Israel Apartheid Exposed: What’s Next?*, ARDD FACEBOOK PAGE (June 9, 2021), <https://www.facebook.com/ArabRenaissance/photos/pcb.1951583171646807/1952046041600520/>.

⁵⁹ *ARDD hosts webinar discussing the implications of normalizing relations with Israel*, ARDD (June 12, 2021), <https://ardd-jo.org/News-Room/ardd-hosts-webinar-discussing-the-implications-of-normalizing-relations-with>.

Albanese has equated the Palestinian Nakba with the Nazi Holocaust,⁶⁰ accused Israel of “apartheid,”⁶¹ “genocide,”⁶² “ethnic cleansing,”⁶³ and “war crimes.”⁶⁴ She denied Israel’s right to self-defense, tweeting in May 2021: “Dropping bombs and killing civilians is a WAR CRIME (no self-defense can be invoked).”⁶⁵ Albanese has also defended Hamas.⁶⁶ In 2019, she addressed an event organized by a Hamas-linked⁶⁷ organization, the Palestinian Return Centre.⁶⁸

Albanese advocates for an arms embargo against Israel,⁶⁹ repeats the libel that Israel denied Palestinians COVID vaccines,⁷⁰ and rejects Israel’s right to exist by tweeting under the hashtag “#NoMoreNakbas”⁷¹ (Nakba means “catastrophe” in Arabic and is the Palestinian term for Israel’s creation). She asserts that Israel was created “IN Palestine,” and refers to Israeli territory as the Palestinian “homeland.”⁷² Along these lines, in a recent interview for the Palestine Chronicle, Albanese attacked Israel’s very existence, saying the Jewish state is “in long-standing breach of the basic principles of international law, which started 70 years ago with the forced depopulation of two-thirds of the indigenous Arab population in what became the State of Israel in British Mandate Palestine.”⁷³

⁶⁰ @HillelNeuer, TWITTER (January 20, 2022, 1:31 AM),

<https://twitter.com/HillelNeuer/status/1483945150925651969>.

⁶¹ @FranceskAlb, TWITTER (May 14, 2021, 4:34 PM),

<https://twitter.com/FranceskAlb/status/1393198044343013377>.

⁶² @FrancinAlbanese, TWITTER (July 25, 2014, 9:38 PM),

<https://twitter.com/FrancinAlbanese/status/492740681610174464>.

⁶³ *Palestinian Refugees in International Law*, MUNK PODCAST (April 15, 2021),

<https://www.munkgc.com/podcast/palestinian-refugees-in-international-law/>.

⁶⁴ @FranceskAlb, TWITTER (May 14, 2021, 4:28 PM),

<https://twitter.com/FranceskAlb/status/1393196513812049924>.

⁶⁵ *Id.*

⁶⁶ Liked @OmarBaddar, TWITTER (May 20, 2021, 12:25 AM),

<https://twitter.com/OmarBaddar/status/1395128588249272326?s=20&t=JgzuJnt5pKI5UXv3RWGuyQ> (video

claiming Israel, not Hamas, uses human shields); Liked @4Noura, TWITTER (May 19, 2021, 4:55 PM),

<https://twitter.com/4noura/status/1395015222537166849?s=20&t=JgzuJnt5pKI5UXv3RWGuyQ> (video justifying

Hamas rockets).

⁶⁷ *Hamas congratulates ‘Palestinian Return Centre’ for winning UN status*, UN WATCH (July 22, 2015),

<https://unwatch.org/hamas-congratulates-palestinian-return-centre-for-winning-un-status-2/>.

⁶⁸ *PRC Concludes Successful Conference on UNRWA*, PALESTINIAN RETURN CENTRE (December 3, 2019),

<https://prc.org.uk/en/post/4147/prc-concludes-successful-conference-on-unrwa>.

⁶⁹ @FranceskAlb, TWITTER (May 13, 2021, 3:54 PM),

<https://twitter.com/FranceskAlb/status/1392825667788558336>.

⁷⁰ Retweeted @Marwan Bishara, Twitter (May 18, 2021, 8:09 AM),

<https://mobile.twitter.com/marwanbishara/status/1394520549368418308> (“Palestine to America: Israel has

delivered your bombs but not your vaccines”).

⁷¹ @FranceskAlb, TWITTER (May 16, 2021, 1:49 PM),

<https://twitter.com/FranceskAlb/status/1393881274540986370>.

⁷² @FranceskAlb, TWITTER (May 14, 2021, 4:29 PM),

<https://twitter.com/FranceskAlb/status/1393196871254827018>.

⁷³ Romano Rubeo, *Intl. Law Expert Albanese Speaks to the Palestine Chronicle on the Banning of Six Palestinian*

NGOs, PALESTINE CHRONICLE (October 28, 2021), <https://www.palestinechronicle.com/intl-law-expert-francesca-albanese-speaks-to-the-palestine-chronicle-on-the-banning-of-six-palestinian-rights-groups/>.

Albanese is obsessed with making a false moral equivalence between Israelis and Nazis, an act of antisemitism under the IHRA definition.⁷⁴ She hailed a Palestinian organization that promotes a “one-state solution” which means the elimination of Israel,⁷⁵ supported terrorist airline hijacker Leila Khaled,⁷⁶ and has repeatedly praised the UNRWA spokesman who infamously glorified Hamas public hangings in Gaza.⁷⁷

In a 2021 lecture about her book, *Palestinian refugees in International Law*, Albanese admitted questioning her ability to be impartial on the subject: “I feared [that] embarking on a matter [on] which I had deeply held personal views could compromise my objectivity.”⁷⁸ These same “deeply held personal views” indisputably compromise her ability to serve as an impartial UN expert, and disqualify her candidacy *ab initio*.

2. Second-Ranked Candidate: MICHELLE BURGIS-KASTHALA⁷⁹



Michelle Burgis-Kasthala was deemed impartial and objective and ranked second by the UNHRC’s vetting committee. Burgis-Kasthala is a law professor whose qualifications include that she interned for Al Haq, a Palestinian group with ties to the PFLP terrorist organization,⁸⁰ where she contributed to a 2009 report branding Israel an “apartheid” state;⁸¹ published research from a fellowship at Birzeit University in the West Bank that criticized the Oslo negotiations

⁷⁴ See, e.g., Acsecnarf Albanese, FACEBOOK (November 29, 2015, 4:25 PM), <https://www.facebook.com/franci.albanese/posts/10153014874326706>; and Acsecnarf Albanese, FACEBOOK (January 30, 2015, 11:51 PM), <https://www.facebook.com/franci.albanese/posts/10152472666071706>, where Albanese shared and endorsed her husband’s Facebook post that justified Hamas’ terrorist indoctrination of children by comparing this to Jews in 1942 resisting the Nazis in the Warsaw Ghetto.

⁷⁵ Acsecnarf Albanese, FACEBOOK (November 20, 2020, 1:28 PM), <https://www.facebook.com/franci.albanese/posts/10157173122741706>.

⁷⁶ Acsecnarf Albanese, FACEBOOK (January 23, 2015, 1:24 AM), <https://www.facebook.com/franci.albanese/posts/10152459242721706>.

⁷⁷ Acsecnarf Albanese, FACEBOOK (May 23, 2021, 12:14 PM), <https://www.facebook.com/franci.albanese/posts/10157580772036706> (referring to “The one and only Chris Guinness”). This is the same Chris Guinness who infamously tweeted (and then deleted): “Twas the night before Christmas, / when all across The Strip / Not a Qasam Rocket crackled / under Israel’s tight grip / Collaborators twitched as they hung in the air / On the lamp posts that glistened in Palestine Square.”) See *Former UNRWA spokesman attacks Israel in bizarre Christmas-themed Twitter rant*, JNS (December 26, 2019), <https://www.jns.org/former-unrwa-spokesman-attacks-israel-in-bizarre-christmas-themed-twitter-rant/>.

⁷⁸ *Palestinian Refugees in International Law Webinar*, INSTITUTE FOR PALESTINE STUDIES (February 23, 2021), <https://www.palestine-studies.org/en/node/1650998>.

⁷⁹ Application and Bio of Michelle Burgis-Kasthala (November 22, 2021), https://unwatch.org/wp-content/uploads/2022/02/BURGIS-KASTHALA_Michelle_Application.pdf.

⁸⁰ *Al-Haq*, NGO MONITOR (October 25, 2021), https://www.ngo-monitor.org/ngos/al_haq/.

⁸¹ *Symposium Proceedings: Occupation, Colonialism, Apartheid?* AL HAQ (August 16, 2009), <https://www.alhaq.org/advocacy/6953.html>.

process as having “impeded Palestinian statehood”⁸²; and considers Israel to be a “settler-colonial” occupier.

Burgis-Kasthala is a pro-Palestinian activist who has signed numerous petitions and letters supporting the Palestinian cause and harshly condemning Israel, including: a June 2021 BDS petition which dismissed Hamas rockets and accused Israel of “apartheid” and “racial supremacy of Jewish-Zionist nationals,”⁸³ a May 2021 al-Haq letter to then-ICC Chief Prosecutor Fatou Bensouda accusing Israel of “war crimes” and “apartheid,”⁸⁴ and a July 2014 declaration spearheaded by 9/11 conspiracy theorist Richard Falk asserting that Israel “intentionally targets civilians” in Gaza and commits multiple violations of the laws of war.⁸⁵

Burgis-Kasthala is also affiliated with Lawyers for Palestinian Human Rights,⁸⁶ a NGO that represents individuals who have a record of promoting violence against Israel or ties with terrorists, accuses Israel of “war crimes and crimes against humanity,” and advocates for BDS.⁸⁷

3. Third-Ranked Candidate: SUSAN M. AKRAM⁸⁸



Susan M. Akram, was deemed impartial and objective and ranked third by the UNHRC’s vetting committee. Akram is a human rights lawyer and law professor whose qualifications include that she co-authored publications on the Israeli-Palestinian conflict with current rapporteur Michael Lynk and has partnered with Palestinian NGO Badil since 2000, publishing a Palestinian refugee protection handbook which described Israel as “non-democratic” and “committed to an apartheid vision of greater Israel.”⁸⁹

In her lectures and writings, Akram accuses Israel of “apartheid” and claims it maintains “an institutionalized regime of systematic

⁸² Michelle Leanne Burgis-Kasthala, *Over-stating Palestine’s UN Membership Bid? An Ethnographic Study on the Narratives of Statehood*, EUROPEAN JOURNAL OF INTERNATIONAL LAW, Volume 25, Issue 3 (August 2014), pp. 677-701 <https://doi.org/10.1093/ejil/chu049>.

⁸³ *Israeli Academics Sign Petition Calling for the Boycott of Israel*, ISRAEL ACADEMIA MONITOR (June 3, 2021), <https://israel-academia-monitor.com/2021/06/03/israeli-academics-sign-petition-calling-for-the-boycott-of-israel/>; see also *Statement by European Legal Scholars Defending the Right to Support BDS for Palestinian Rights*, BDS MOVEMENT (December 8, 2016), <https://bdsmovement.net/news/statement-european-legal-scholars-defending-right-support-bds-palestinian-rights>.

⁸⁴ *Letter to Prosecutor Bensouda Re: Situation in Palestine: Sheikh Jarrah – Communication from Legal Scholars and Advocates*, AL HAQ (May 23, 2021), <https://www.alhaq.org/advocacy/18402.html>.

⁸⁵ *Joint Declaration by International Law Experts on Israel’s Gaza offensive*, RICHARD FALK (July 28, 2014), <https://richardfalk.org/2014/07/28/joint-declaration-by-international-law-experts-on-israels-gaza-offensive/>.

⁸⁶ *Michelle Burgis-Kasthala Profile*, THE UNIVERSITY OF EDINBURGH (last visited February 28, 2022), <https://www.research.ed.ac.uk/en/persons/michelle-burgis-kasthala>.

⁸⁷ *Lawyers for Palestinian Human Rights*, NGO MONITOR (February 15, 2022), https://www.ngo-monitor.org/ngos/lawyers_for_palestinian_human_rights_lphr/.

⁸⁸ Application and Bio of Susan M. Akram (November 24, 2021), https://unwatch.org/wp-content/uploads/2022/02/AKRAM_Susan_Application.pdf.

⁸⁹ *Handbook on Protection of Palestinian Refugees in States Signatories to the 1951 Refugee Convention*, BADIL (2015), <https://www.wbur.org/cognoscenti/2019/05/29/gaza-march-of-return-palestine-israel-susan-akram>.

oppression and domination by one racial group” amounting to “a crime against humanity.”⁹⁰ She denies Jewish nationality and Jewish rights to self-determination in Israel,⁹¹ and rejects the two-state solution in favor of “a single multi-national, multi-ethnic state from the Jordan river to the Mediterranean Sea.”⁹² Akram advocates for the “right of return” for millions of Palestinians,⁹³ completely absolves Palestinians of any responsibility for their lack of statehood today;⁹⁴ and argues for termination of US military aid to Israel.⁹⁵

Akram also has worked closely with Al Haq, a Palestinian group with ties to the PFLP terror organization. Akram taught at Al Haq’s summer school⁹⁶ and spoke at an Al Haq conference rejecting the concept of Jewish indigenous rights in Palestine.⁹⁷ Elsewhere she criticized the Balfour declaration for discriminating against “native Palestinians in favor of immigrant Jews,” making clear her view that Jews do not possess legitimate rights in the territory.⁹⁸ In 2012, Ms. Akram participated in the Russell Tribunal on Palestine, a mock court which put Israel and its Western allies “on trial” and promoted the BDS movement.⁹⁹

⁹⁰ @HillelNeuer, TWITTER (January 20, 2022, 1:38 AM),

<https://twitter.com/HillelNeuer/status/1483947021484572672>.

⁹¹ Susan M. Akram, *Is Justice Still Possible?* EDUARD SAID ANNUAL LONDON LECTURE (2019),

<https://vimeo.com/341561898>.

⁹² Susan M. Akram, *Hilda’s Unanswered Question: What about the Palestinian refugees?* HARVARD UNIVERSITY MIDDLE EAST STUDIES CENTER (May 14, 2010), <https://cmes.fas.harvard.edu/files/cmefiles/silverman-lecture-2010-akram.pdf>; see also Penny Schwartz, *One-state conference at Harvard signifies possible new front in campus Israel wars*, JTA (March 6, 2012), <https://www.jta.org/2012/03/06/united-states/one-state-conference-at-harvard-signifies-possible-new-front-in-campus-israel-wars>.

⁹³ Susan M. Akram & Terry Rempel, *Palestinian Nationality and “Jewish” Nationality: From the Lausanne Treaty to Today, in Rethinking Statehood in Palestine: Self-Determination and Decolonization Beyond Partition*, BERKELEY: UNIVERSITY OF CALIFORNIA PRESS (2021), pp. 192-224, <https://doi.org/10.1525/9780520385634-012>.

⁹⁴ Susan Akram & Terry Rempel, *Temporary Protection as an Instrument for Implementing the Right of Return for Palestinian Refugees*, 22 BOSTON UNIVERSITY INTERNATIONAL LAW JOURNAL 1 (2004),

https://scholarship.law.bu.edu/faculty_scholarship/552.

⁹⁵ Susan M. Akram, *Americans Should Know More About The ‘March of Return,’* WBUR (May 29, 2019),

<https://www.wbur.org/cognoscenti/2019/05/29/gaza-march-of-return-palestine-israel-susan-akram>.

⁹⁶ *Al-Haq Successfully Concludes its First Online Summer School*, AL-HAQ (October 27, 2020),

<https://www.alhaq.org/alhaq-center/17481.html>.

⁹⁷ @AsemKhalil, TWITTER (July 13, 2019, 11:58 AM), <https://twitter.com/AsemKhalil/status/1149966421369196544>.

⁹⁸ Susan M. Akram, *Palestinian Nationality and “Jewish” Nationality*, *supra note* ___.

⁹⁹ *Palestinian Refugees and the United Nations*, RUSSELL TRIBUNAL ON PALESTINE (last visited March 2, 2022),

<http://www.russelltribunalonpalestine.com/en/sessions/future-sessions/new-york-session-video-presentations/susan-akram.html>.

4. *Non-Ranked Candidate: USHA NATARAJAN*¹⁰⁰



Usha Natarajan is an international law professor who was the Edward W. Said Fellow at Columbia University. She was encouraged to apply for this position by current rapporteur Michael Lynk, whose work she endorses in her application.

According to her application, Natarajan views the Israeli-Palestinian conflict through the lens of “colonialism” and considers the “power asymmetry inherent in a situation of protracted occupation” to increase Israel’s “state responsibility.” In listing various human rights abuses following from “54 years of occupation,” Natarajan does not mention any Palestinian duties or violations. She lauds the UNHRC’s recent creation of an open-ended Commission of Inquiry targeting

Israel, headed by a BDS campaigner, as “helpful.”

She co-edited a book that endorsed BDS, encouraged “research and analysis of the apartheid features of Israel’s population control,” and compared Israel to apartheid South Africa and Nazi Germany.¹⁰¹

Natarajan has adopted the Palestinian cause by signing letters which harshly criticize Israel and support the Palestinians, including a May 2021 Al Haq letter to then-ICC Chief Prosecutor Fatou Bensouda accusing Israel of “war crimes” and “apartheid,”¹⁰² a November 2017 statement seeking to impose an academic boycott of the Hebrew University of Jerusalem,¹⁰³ and a July 2014 declaration spearheaded by 9/11 conspiracy theorist Richard Falk asserting that Israel “intentionally targets civilians” in Gaza and commits multiple violations of the laws of war.¹⁰⁴

¹⁰⁰ *Application and Bio of Usha Natarajan* (November 24, 2021), https://www.ohchr.org/Documents/HRBodies/SP/CallApplications/HRC49/Candidates/SR-OPT/NATARAJAN_Usha_form.pdf.

¹⁰¹ Usha Natarajan, John Reynolds, Amar Bhatia, Sujith Xavier, eds., *Third World Approaches to International Law on Praxis and the Intellectual*, ROUTLEDGE (2018).

¹⁰² *Letter to Prosecutor Bensouda Re: Situation in Palestine: Sheikh Jarrah – Communication from Legal Scholars and Advocates*, AL HAQ (May 23, 2021), <https://www.alhaq.org/advocacy/18402.html>.

¹⁰³ *Statement by Legal Scholars and International Lawyers Against Holding ESIL Forum at the Hebrew University n East Jerusalem*, CONCERNED INTERNATIONAL LAWYERS (November 23, 2017), <https://criticallegalthinking.com/2017/11/23/statement-against-holding-esil-at-the-hebrew-university/>.

¹⁰⁴ *Joint Declaration by International Law Experts on Israel’s Gaza offensive*, RICHARD FALK (July 28, 2014), <https://richardfalk.org/2014/07/28/joint-declaration-by-international-law-experts-on-israels-gaza-offensive/>.

5. Non-Ranked Candidate: RALPH WILDE¹⁰⁵



Ralph Wilde is an international law professor who recently accused Israel of “apartheid” and “war crimes,” and refers to the creation of the State of Israel using the Palestinian term *Nakba* (Arabic for catastrophe).¹⁰⁶

He was commissioned to provide an expert opinion on “the interface between Israel and Palestine’s human rights obligations in the OPT” for the pro-Palestinian Swedish group Diakonia, which runs a legal program in Jerusalem that focuses exclusively on attacking Israel and ignores Palestinian violations.¹⁰⁷ In his expert opinion, Wilde wrote that “the legal self-determination entitlement of the Palestinians requires Israel to end the occupation

promptly.”¹⁰⁸

At a February 2022 webinar for the Arab Organization for Human Rights in the UK, Wilde suggested that Palestinians could achieve self-determination even without a peace agreement with Israel simply by applying international law to end the “occupation,” which Wilde claimed is “illegal and constitutes aggression, which is a crime in international law.”¹⁰⁹

Wilde spoke at the 2018 Al Haq conference titled *The Threshold from Occupation to Annexation* where he made a similar argument stating “there is a need to move beyond occupation law in order to challenge the existence of the occupation itself as violations of the right to self-determination.”¹¹⁰

Wilde has advocated for the Palestinian cause in different fora. In February 2020, he and Palestinian activist Ata Hindi attempted to submit an Amicus brief to the ICC in support of the Palestinians’ arguments on statehood, but it was rejected for missing the deadline.¹¹¹ Wilde has also signed petitions

¹⁰⁵ Application and Bio of Ralph Wilde (November 24, 2021), https://unwatch.org/wp-content/uploads/2022/03/WILDE_Ralph_Application.pdf.

¹⁰⁶ Ralph Wilde, *Using the Master’s Tools to Dismantle the Master’s House: International Law and Palestinian Liberation*, THE PALESTINE YEARBOOK OF INTERNATIONAL LAW ONLINE, 22(1), 1-74 (2021), https://doi.org/10.1163/22116141_022010_002.

¹⁰⁷ *Israeli-Palestinian Conflict*, DIAKONIA INTERNATIONAL HUMANITARIAN LAW CENTRE (last visited March 2, 2022), <https://www.diakonia.se/ihl/jerusalem/>; see also Diakonia, NGO MONITOR (June 17, 2020), <https://www.ngo-monitor.org/funder/diakonia/>.

¹⁰⁸ Ralph Wilde, *Expert Opinion: Application of Human Rights Law in Palestine*, DIAKONIA (2018), <https://www.diakonia.se/ihl/publications/israeli-palestinian-conflict/expert-opinion-applicability-of-human-rights-law-in-palestine/>.

¹⁰⁹ *Online Seminar: Settlements and Displacement of Palestinians by the Israeli Occupation*, ARAB ORGANIZATION FOR HUMAN RIGHTS IN THE UK (February 9, 2022), <https://aohr.org.uk/online-seminar-settlements-and-displacement-of-palestinians-by-the-israeli-occupation/>.

¹¹⁰ *The Conference “Threshold from Occupation to Annexation” Concluded*, AL HAQ (October 6, 2018), <https://www.alhaq.org/news/6154.html>.

¹¹¹ Kevin Jon Heller, *The ICC Takes Time Limits Seriously! (If You’re Palestinian)*, OPINIOJURIS (February 22, 2020), <http://opiniojuris.org/2020/02/22/the-icc-takes-time-limits-seriously-if-youre-palestinian/>.

supporting the Palestinian cause, including a February 2016 statement titled *Defending the Right to Support BDS for Palestinian Rights*.¹¹²

6. *Non-Ranked Candidate: MUHAMMAD MUZAHIDUL ISLAM*¹¹³



Muhammad Muzahidul Islam is an international human rights lawyer whose work has not focused on the Israeli-Palestinian conflict. However, in his application, he indicated his view that Israel is the main violator of human rights. In a section on major challenges that need to be addressed, Islam listed only alleged violations by Israel and completely ignoring any responsibility or violations by Palestinian actors. Islam accepts and does not challenge the inherent discrimination and protection gap in the mandate, stating that if appointed, he would “investigate Israel’s violations of the principles and bases of international law...”

Conclusion

According to diplomats involved in the process, the UNHRC’s selection of the Palestine rapporteur—whether Michael Lynk in 2016, or Francesca Albanese in 2022—is influenced by pressure exerted by the Palestinian Authority together with the Arab and Islamic states. However, as McGill international law professor Frédéric Mégret has noted regarding similar appointments in the past, surely if the Arab and Islamic states believe that Israel is committing gross and systematic violations of human rights, then they must believe that the facts will speak for themselves, and that designating those who have a long record of making partisan statements—knowing full well that their records will be discredited by legal scholars and human rights activists—does not serve their cause.¹¹⁴

For example, the Palestinians and the Arab and Islamic states ensured Richard Falk’s appointment as Special Rapporteur in 2008. Yet less than two years later, the Palestinians found themselves freezing his

¹¹² *Statement by European Legal Scholars Defending the Right to Support BDS for Palestinian Rights*, BDS (December 8, 2016), <https://bdsmovement.net/news/statement-european-legal-scholars-defending-right-support-bds-palestinian-rights>.

¹¹³ Application and Bio of Muhammad Muzahidul Islam (November 30, 2021), https://unwatch.org/wp-content/uploads/2022/03/ISLAM_Muhammad_Application.pdf.

¹¹⁴ Joseph Weiler, *After Gaza 2014: Schabas*, EJIL: TALK! (November 4, 2014) (see comment by Frédéric Mégret), <https://www.ejiltalk.org/after-gaza-2014-schabas/comment-page-1/#comment-222552>; see also Frédéric Mégret, *International Judges and Experts’ Impartiality and the Problem of Past Declarations*, 10 *Law & Prac. Int’l Cts. & Tribunals* 31 (2011) 31-66.

reports¹¹⁵—for his support of their rival Hamas—and pleading with him to resign, and for the U.S. to help remove him.¹¹⁶

Similarly, the Palestinians and their supporters lobbied for William Schabas to head the UNHRC’s 2014 Gaza inquiry, yet his prior statements and actions were found to be so egregious that his appointment was condemned by leading international law scholars,¹¹⁷ and Schabas was forced to resign in disgrace only six months later—after it was also revealed that he had done paid legal work for the PLO—making him the first-ever UN inquiry chair forced to quit over actual conflict of interest.

V. RECOMMENDATIONS FOR STAKEHOLDERS

In light of the foregoing, United Nations Watch submits the following recommendations for stakeholders:

A. Recommendation to the European Union and United States:

- Take action to finally eliminate the human rights protection gap, prejudice, and discriminatory nature of the mandate of the Special Rapporteur on “Israel’s violations,” as recognized by numerous democracies, Amnesty International, and even by several of the mandate-holders themselves.

B. Recommendation to the Human Rights Council:

- Uphold the rules of the Council, as set forth in in resolutions 5/1 and 16/21, to give paramount importance to the criteria of impartiality and objectivity when selecting and appointing mandate-holders;
- Apply the standard set by the Consultative Group in 2014 when it recommended a candidate who was “the most likely to be able to objectively engage the key interested parties,” and not one who, by contrast, had “previously taken public positions on issues relevant to the mandate”;
- Accordingly, in line with these rules and standards, the Council should reject the selection of partisan candidates by voting against the appointment of Francesca Albanese, and instead identify an appropriate candidate without a record of partisan advocacy.

¹¹⁵ *Double Standards: UN Postpones Israel Debate in Deference to Palestinian Agenda*, UN WATCH (February 17, 2013), <https://unwatch.org/u-n-turns-blind-eye-to-palestine-expert-skipping-hrc-session/>.

¹¹⁶ Hillel Neuer, *PLO deletes tweet defending Falk; it urged UN to fire him, Wikileaks reveals*, TIMES OF ISRAEL (December 19, 2013), <https://blogs.timesofisrael.com/plo-mocks-canada-for-calling-on-un-to-fire-falk-even-though-it-did-the-same-in-2010-secret-cable-reveals/>.

¹¹⁷ *Lawyers and rights activists question Schabas’ tenure on UN Gaza probe*, UN WATCH (November 9, 2014), <https://unwatch.org/lawyers-and-rights-activists-question-schabas-tenure-on-un-gaza-probe/>.

C. Recommendation to Palestinian Authority, Arab League, Organization of Islamic Cooperation

- Support objective and neutral candidates, allowing the facts to speak for themselves, instead of promoting candidates who have a long record of making partisan statements.