

Secretary-General Antonio Guterres
The United Nations
New York, NY 10027
United States

8 July 2020

Dear Mr. Secretary-General,

We urge your immediate intervention to overrule the repeated censorship by your Secretariat of our written statements to the United Nations Human Rights Council. In a complete break with standard practice, as evidenced by our prior statements published without issue over two decades, your Office of the High Commissioner for Human Rights (OHCHR) is now routinely and summarily rejecting our submissions on a range of matters concerning human rights and the United Nations.

As you know, United Nations Watch is accredited as a non-governmental organization in Special Consultative Status with ECOSOC and as such has the right under the United Nations Charter to participate in and contribute to the proceedings of the Human Rights Council. Consequently, your Secretariat's relentless policy and practice of censorship amounts to a breach of the Charter, and of the UN's promise to assure the participation of civil society.

1. UN Watch Submissions Censored by OHCHR

Over the past year, your Secretariat has censored at least 13 of our submissions. In the current 44th Session of the HRC that is now meeting in Geneva, the following three UN Watch written statements were rejected for publication for unexplained reasons:

- [Remedies for the Protection Gap in the Mandate of the Special Rapporteur on Palestine](#) (Agenda Item 7)
- [Palestinian Violations of Child Rights](#) (Agenda Item 3)
- [Antisemitic and Terrorist Incitement in Palestinian Education](#) (Agenda Item 9)

In the 43rd Session held in February and March of this year, the following six written statements were rejected for unexplained reasons:

- [New UNHRC Member Libya is in Non-Compliance with Resolution 60/251 Obligations](#) (Agenda Item 5)
- [Oppression: New UNHRC Member Venezuela is in Non-Compliance with Resolution 60/251 Obligations](#) (Agenda Item 5)
- [Time to Reassess The Universal Periodic Review](#) (Agenda Item 6)
- [Remedies for The Protection Gap Fostered by Special Rapporteur Michael Lynk](#) (Agenda Item 7)

- [Antisemitic and Terrorist Incitement in Palestinian Education](#) (Agenda Item 9)
- [Palestinian violations of child rights](#) (Agenda Item 7)

In the 41st Session held in June and July of 2019, the following four written statements were rejected for unexplained reasons:

- [China Violates Human Rights Council Rules in Attempt to Silence Legitimate Criticism of its Anti-Muslim Racism](#) (Agenda Item 9)
- [Call to Review the Appointment of Palestine Rapporteur Michael Lynk](#) (Agenda Item 7)
- [Palestinian Violations of the Convention on the Rights of the Child](#) (Agenda Items 7 and 9)
- [Palestinian Violations of the Convention on the Rights of the Child – Education](#) (Agenda Items 7 and 9)

2. OHCHR Refuses to Specify Reasons for Censorship

When our written statements for the 41st session failed to appear on the UN website, we contacted the OHCHR Secretariat’s NGO Liaison office at hrcngo@ohchr.org to ask for an explanation.

OHCHR’s delayed response—received a few weeks later in a telephone conversation—failed to specify any objections. We were told vaguely that the statements were being reviewed by the legal office in New York, due to unspecified “legal questions.”

Meanwhile, the 41st Session came and went, and our four statements, as listed above, were neither published by the UN nor circulated to UN delegates as part of the Order of the Day for the relevant agenda items, thereby violating our right to participate in those relevant debates. Our contributions were excluded; our voice was silenced.

Some three weeks later, we received a short email from the NGO Liaison Office quoting from ECOSOC Resolution 1996/31 in regard to written statements, and stating the following:

“We therefore draw your attention to the need for written statements submitted to be relevant to the work of the Human Rights Council. Your organization is also reminded that...written statements containing personal attacks against individuals are not in order.”

This general and vaguely-worded OHCHR email was sent to us only after the session already ended, and failed to identify any specific problem or concern in our written statements, thereby preventing us from being able to make any relevant amendments.

After we submitted a complaint to you accusing the Secretariat of infringing on NGO rights and censoring us, Eric Tistounet, Chief of the OHCHR’s Human Rights Council branch, [stated](#) that the UN has the right to “intervene” to prevent written submissions which include “personal attacks,” and that in doing so the UN is “not censoring anybody.”

In February 2020, when our written statements for the 43rd session did not appear online, we again contacted the NGO Liaison office to ask for an explanation. Again, the NGO Liaison Office responded with vague and general objections which failed to provide minimal guidance for us to amend and resubmit the statements.

In a 2 March 2020 email, the NGO Liaison Office advised that six of our written statements could not be published due to:

“Reference to minors with full names given; use of abusive references and language that are not compliant with applicable rules and practices governing the participation of non-governmental organizations in the work of the Human Rights Council.”

The email added a general line echoing its response from July 2019 that written statements should be *“relevant to the work of the Human Rights Council and in line with its rules and practices.”*

In response to this email, we removed all the names of children from two written statements that contained such names and resubmitted them on 3 March. Unable to amend the other four written statements due to the UN’s failure to provide any details for their objections, we asked for further clarification.

It took a full week for the NGO Liaison Office to respond. On 10 March, we received an email that the two amended statements still could not be published because:

“Regarding the second comment of the Secretariat, it applies to all six pending written statements. In this regard, the Secretariat kindly reminds again the fact that written statements should follow the same rules and practices as oral statements delivered in Room XX. In particular, written statements shall uphold the United Nations standards and United Nations Charter when referring to countries and territories as well as use respectful language. Written statements containing personal attacks against individuals are not admissible either.”

Again, this general email did not specify which of its objections applied to which of our statements and which parts of our statements were objectionable. On 12 March, we resubmitted our written statements on Venezuela and the UPR review process after having conformed the country names to UN standards. However, we were unable to make any other amendments to the statements as the NGO Liaison’s office did not provide sufficient guidance concerning its objections. The statements were never published—even after the session, suspended due to the coronavirus, resumed in June. Once again, our contributions to the session debates were excluded and our voice silenced.

As we write, the OHCHR Secretariat is refusing to publish three of our written statements which are directly relevant to interactive dialogues of the current 44th Session. Our statement on Palestinian child rights violation pertains to the 3 July 2020 interactive dialogue on children and armed conflict (Agenda Item 3); the statement on antisemitic and terrorist incitement in Palestinian education is relevant to the 16 July 2020 interactive dialogue with the Special Rapporteur on racism (Agenda Item 9); and the statement on the protection gap in the mandate of the

Special Rapporteur on Palestine is relevant to the 16 July 2020 interactive dialogue with the Special Rapporteur on Palestine (Agenda Item 7).

The stated reasons for rejecting these statements were provided by email dated 5 July 2020:

“Reference to minors with their names given; use of abusive references and language that are not compliant with applicable rules and practices governing the participation of non-governmental organizations in the work of the Human Rights Council.”

Notably, we had already removed the names of minors from these statements with the exception of Ahed Tamimi, who no longer is a minor and whose name has appeared in a number of UN documents (*e.g.*, [A/HRC/37/75](#) and [OHCHR press release dated 13 Feb. 2018](#)), including written statements by other NGOs (*e.g.*, [A/HRC/37/NGO/140](#); [A/HRC/40/NGO/83](#)).

We note that the debate on children and armed conflict already took place last week, and our written statement did not appear together with all other NGO submissions in the relevant Order of the Day. During that debate, a number of countries including Iran, Jordan and Venezuela attacked Israel with abusive language, accusing the country of having an “apartheid system” and “systematically commit[ting] crimes against Palestinian children.” Yet our own voice—detailing violations against children by the Palestinian Authority and Hamas—was excluded from the debate as a result of the Secretariat’s arbitrary censorship.

3. Rules for NGO Statements Are Vague

There are no published UNHRC rules concerning the form or content of NGO written statements, other than the general language in ECOSOC Resolution [1996/31](#), which provides that written statements should be “relevant to the work of the Council,” but which does not otherwise specify limitations on the content of written statements; general language in the HRC’s [Practical Guide for NGO Participants](#) (p. 6) that written statements “should fully uphold UN standards and avoid abusive language,” but not defining these terms; and provisions in the [Practical Guide for NGO Participants](#) (p. 6) and [Handbook for Civil Society](#) (p. 92) concerning the word limits for written statements.

Therefore, the NGO Liaison’s office repeated references to vague and undefined terms (*e.g.*, “abusive references and language”; “respectful language”; “personal attacks”) cannot be a basis for blocking our written statements from publication, particularly when the Secretariat refuses to state which parts of our written statements are in their opinion non-compliant. Making decisions based on “rules and practices” or “United Nations standards” that are not published anywhere, nor applied with any consistency, reflect a level of arbitrariness and non-transparency that are unacceptable practices for the UN Secretariat.

What is clear, however, is that the OHCHR has suddenly over the past year decided to impose a new policy of censorship designed to intimidate and silence United Nations Watch.

4. OHCHR Censorship Violating Freedom of Expression

The right to freedom of expression is enshrined in Article 19 of the Universal Declaration of Human Rights (UDHR) and Article 19 of the International Covenant on Civil and Political Rights (ICCPR). ICCPR Article 19(2) provides that this right includes: “freedom to seek, receive and impart information and ideas of all kinds...” Furthermore, as set forth in Article 19(3) of the ICCPR, the only permissible restrictions on this right are those that “are provided by law and are necessary” for “respect of the rights and reputations of others;” and “the protection of national security or of public order (*ordre public*), or of public health or morals.”

While the OHCHR Secretariat is not a state and thus not a party to the ICCPR, as the UN human rights body tasked with overseeing compliance with that treaty, it certainly should comply with it. The Human Rights Council has affirmed the importance of the freedom of expression as “one of the essential foundations of a democratic society,” and it should itself respect this right. (*See, e.g., HRC/Res/21/12 and HRC/Res/39/6*).

a. Broad scope of right to freedom of expression

The Human Rights Committee (“Committee”), the UN body of experts tasked with monitoring state compliance with the ICCPR, has discussed the scope and limitations of this right. In General Comment 34, it detailed the broad scope of the right to freedom of expression which “embraces even expressions that may be regarded as deeply offensive.” (Para. 11).

In discussing the restrictions in Article 19(3), the Committee emphasized that they “may never be invoked as a justification for muzzling *any advocacy* of multi-party democracy, democratic tenets and *human rights*.” (Para. 23, emphasis added). Accordingly, the OHCHR Secretariat should never restrict NGO expression that advocates for human rights.

b. Criticism of officials or “abusive” language are not valid grounds for censorship

Furthermore, OHCHR has censored our statements, claiming they contain “personal attacks against individuals.” This is false. While our statements have criticized the actions of certain UN human rights officials, that is not a “personal attack” but the exercise of our duty to hold UN mandate-holders accountable to their obligations. Moreover, rejecting statements on such grounds is clearly improper under the ICCPR. In its discussion of Article 19(3)(a) in General Comment 34, the Committee stressed that when it comes to “public debate concerning public figures in the political domain and public institutions, the value placed by the Covenant upon uninhibited expression is particularly high.” (Para. 38). The Committee also expressed concern about certain types of laws including laws on protection of the honor of public officials (Para. 38).

In this regard, in its resolution 39/6, the UNHRC criticized states for misusing defamation and libel laws to “illegitimately and arbitrarily censor journalists and interfere with their mission of informing the public.” (See HRC/Res/39/6, Para. 12).

David Kaye, the Special Rapporteur on freedom of expression has expressed similar concerns. In a 2016 press release on his report to the General Assembly that year, he [stated](#) generally that “censorship...undermines everyone’s right to information, to public participation...” In the report, he emphasized that restricting or punishing criticism of public officials “is a form of censorship of the kind that directly undermines public engagement and debate and runs counter to the object and purpose of the International Covenant on Civil and Political Rights and the letter of article 19 thereof.” (See A/71/373 Para. 29).

Mr. Kaye also criticized states for imposing restrictions on freedom of expression beyond what is permitted by Article 19(3), particularly restrictions requiring language to be “civil and polite.” (*Id.* Para. 27).

These criticisms apply equally to the OHCHR’s censorship of our written statements. As noted, some of the vague reasons OHCHR provided for rejecting our written statements include “abusive” language and “personal attacks” on UN experts. These simply do not constitute valid grounds for censoring our important human rights advocacy under the ICCPR.

c. Restrictions on freedom of expression must be set out in clear publicly available rules

The Committee added that “restrictions must be provided by law,” and that any such law must be “formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly and it must be accessible to the public.” (Para. 24-25). Such laws “may not confer unfettered discretion for the restriction of freedom of expression on those charged with its execution.” (Para. 25). Rather, “laws must provide sufficient guidance to those charged with their execution to enable them to ascertain what sorts of expression are properly restricted and what sorts are not.” (Para. 25).

Thus, any restrictions on NGO advocacy must be made public and “formulated with sufficient precision” to enable NGOs to “regulate their conduct accordingly” and to “provide sufficient guidance to those charged with their execution”—here the OHCHR Secretariat. In the case of NGO written (and oral) statements to the UNHRC, aside from word limits and the general notion of relevance to UNHRC work and avoiding abusive language, there are no published rules restricting either the form or content for such statements. This makes it impossible for NGOs to “regulate their conduct.”

The OHCHR Secretariat’s vague references in emails to “rules and practices” and to “United Nations standards” when explaining its reasons for rejecting our written statements cannot satisfy the strict requirements of ICCPR Article 19. In violation of our rights to freedom of expression under the UDHR and ICCPR, as well as our rights as NGOs under the United Nations Charter, the OHCHR for the past year has been arbitrarily censoring nearly all of our written statements to the UNHRC.

5. OHCHR Rules Applied Arbitrarily

The OHCHR also fails to apply its criteria in a consistent manner. For example, OHCHR rejected our written statements for the 41st, 43rd and 44th sessions criticizing Michael Lynk, the Special Rapporteur on Palestine, for both the discriminatory nature of his mandate and the discriminatory manner in which he applies it. However, in the past, OHCHR authorized publication of similar statements concerning Mr. Lynk and one of his predecessors, Richard Falk. (See [A/HRC/33/NGO/82](#), [A/HRC/40/NGO/214](#), [A/HRC/37/NGO/106](#) and [A/HRC/23/NGO/27](#)). In this regard, we note that the statement submitted for the 44th session does not even mention Mr. Lynk by name.

In addition, OHCHR rejected our statements for the 41st, 43rd and 44th sessions concerning Palestinian violations of children's rights on grounds that the statements identified children by name even though the children's names were already public through news articles online.

6. OHCHR's Double Standard For UN Watch

We cannot help but notice, however, that OHCHR has published written statements by other NGOs that identified children by name — especially when they accuse Israel of violating children's rights. Such accepted submissions include a statement by the Hamas-affiliated Palestine Return Center referring to “16-year-old Palestinian activist Ahed Tamimi,” which OHCHR published as [A/HRC/37/NGO/6](#); and the Joint Statement by Al Haq and six other NGOs naming Palestinian children allegedly killed by Israel in connection with March of Return, which OHCHR published as [A/HRC/43/NGO/181](#).

In our case, even after we removed any children's names, OHCHR still refused to publish these statements, citing its general objections to “abusive language,” “personal attacks,” and UN rules and standards, but without identifying any specific words or terms in the statements. At the same time, OHCHR has readily published written statements by:

- NGOs criticizing Israel for alleged violations against Palestinian children (see, e.g., [A/HRC/42/NGO/32](#), Joint Statement by International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD) and five other NGOs); and
- NGOs in other contexts on violations of children's rights around the world (see, e.g., [A/HRC/43/NGO/4](#), Statement by World Muslim Congress on violations by India in Jammu and Kashmir; [A/HRC/42/NGO/54](#), Statement by National Secular Society on violations by the Holy See).

The OHCHR also generally objected to all of our written statements on grounds that they contained “abusive language and references.” Although we have no way to know what this refers to because OHCHR refused to specify, we note that OHCHR has published *many statements* from other NGOs containing abusive, and even false and defamatory statements.

For example, OHCHR routinely allows statements to be published accusing Israel of “apartheid” and “colonialism,” denying the indigenous rights of Jews in their homeland. (See, e.g., [A/HRC/36/NGO/87](#), Statement by the Palestine Return Center; [A/HRC/40/NGO/95](#), Statement by BADIL Resource Center for Palestinian Residency and Refugee Rights; [A/HRC/40/NGO/101](#), Joint Statement by EAFORD and five other NGOs).

In addition, OHCHR published a written statement by EAFORD ([A/HRC/13/NGO/23](#)) falsely accusing Israel of *organ trafficking*—a repackaging of the medieval blood libel that was used over centuries to incite antisemitic hatred, violence and pogroms against Jews.

In light of the above, OHCHR’s relentless, arbitrary and selective censorship of our written statements over the past year constitute a violation of Article 19 of the UDHR and ICCPR, and of our rights as NGOs under the UN Charter. This censorship appears to be intended to to exclude our contributions, to intimidate our organization, and to silence our voice.

Accordingly, we urge you to (a) take immediate action to ensure that all of the above listed written submissions to the Human Rights Council are published forthwith, (b) condemn OHCHR’s policy and practice of targeting our NGO, and (c) compel OHCHR to create and publish rules for written statements in a manner consistent with international human rights law, as specified above.

Sincerely,



Dina Rovner
Legal Advisor

cc: Amb. Elisabeth Tichy-Fisslberger, President of the Human Rights Council
David Kaye, UN Special Rapporteur on freedom of expression