

21 February 2025

**Attention: Mayor of Montreal. Varlérie Plante and Police Chief Fady Dagher**

**Re: Yves Engler – Unlawful arrest and illegitimate charge.**

I understand the Montreal police have threatened that Yves Engler will be charged with harassing media and the police by publishing information about Israel's genocide against Palestinians and that he is likely to be held overnight pending a bail application before a judge.

Re: Arrest and Detention

There is no public or security reason to arrest Mr. Engler or otherwise deprive him of liberty. As a longtime resident of Montreal and an internationally known and respected Canadian author and commentator, he poses absolutely no risk of flight, failure to appear, tampering with evidence or behavior that could be legally or reasonably considered harassment of police or anti-Palestine media. To confirm the narrow facts that allow police to exercise arrest and detention powers, please refer to the Lawyers' Rights Watch Canada guide, *Freedom from Arbitrary or Unlawful Deprivation of Liberty*, which is available here <https://www.lrwc.org/the-right-to-freedom-a-guidebook/> This guide book is published on a Creative Commons basis so police may freely copy and use.

Canada is a State Party to the UN International Convention on Civil and Political Rights (ICCPR). Article 9 guarantees

"Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law."

Canada is also a State Party to the *Rome Statute of the International Criminal Court* (Rome Statute) the *Convention for the Prevention and Punishment of the Crime of Genocide* (Genocide Convention), and the *Geneva Conventions*, and is legally bound to take all measures necessary to prevent war crimes, crimes against humanity, and genocide—which include enabling dissemination of information and public debate. The most serious breaches of these are crimes of universal jurisdiction under Canada's *War Crimes and Crimes Against Humanity Act*,<sup>1</sup> and form principles of Customary International Law binding all nations.

The Supreme Court of Canada has ruled on many occasions that rights guaranteed by Canada's *Charter of Rights and Freedoms*, such as the right to liberty and freedom from arbitrary arrest and detention, must be interpreted as providing at least as much protection as that provided by the ICCPR and other treaties to which Canada is a State Party. The ICCPR prohibits arrest and detention as a political tool to prevent or restrict the lawful exercise of the right to freedom of expression of opinions not favoured by or uncomfortable to, state authorities or others.

In this case the facts and opinions reported by Mr. Engler are facts and conclusions confirmed and determined by the highest court in the world, the International Court of Justice in decisions

<sup>1</sup> *Canada: Crimes Against Humanity and War Crimes Act*, SC 2000, c. 24, 23 October 2000, <https://www.refworld.org/legal/legislation/natlegbod/2000/en/57418> [accessed 03 December 2024]

issued on 26 January and 19 July of 2024 respectively in the, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip* (South Africa v. Israel) and, *Legal Consequences arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem* .

In addition, on 21 November 2024 Pre-Trial Chamber I of the International Criminal Court (ICC), pursuant to the Rome Statute,<sup>2</sup> issued arrest warrants for Prime Minister Benjamin Netanyahu and former Defense Minister Yoav Gallant for committing jointly with others the war crime of starvation as a method of warfare; and the crimes against humanity of murder, persecution, and other inhumane acts, from at least 8 October 2023 until at least 20 May 2024.

There are no facts, circumstances, or status, that justify breaches of international humanitarian law and/or prohibitions of genocide, war crimes, or crimes against humanity. There are no facts, circumstances, or status, that justify the suppression of public knowledge of allegations of court rulings determining the commission of these grave offences. There are no facts, circumstances, or status, that justify criminalization of expressing opinions and publishing facts on controversial issues.

Under the Genocide Convention and arguably under the Rome Statute, Mr. Engler has duties as a professional journalist and a private individual to report credible allegations of crimes of genocide, war crimes and crimes against humanity to the best of his ability and by the means available to him. In the absence of public knowledge, these crimes will continue with impunity.

As recently stated by UN Special Rapporteur Francesca Albanese, effective implementation and enforcement of international human rights and humanitarian law provisions requires public knowledge and lawful remedial action by private individuals and groups.

Canada's failure to comply with the rulings of the ICJ to take all measures necessary to prevent and remedy the commission by Israel of crimes of murder, plausible genocide, starvation, crimes against humanity and war crimes, and to comply with the international arrest warrants issued by the ICC do not justify unlawful punishment of individuals seeking to comply with their own duties to prevent the ongoing atrocities.

Please confirm receipt of this communication

In the event you want to discuss or receive further information on any of the issues raised in this communication, please contact me.

Gail Davidson  
BC Resident, Canadian Citizen  
Member (retired status) Law Society of BC

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<sup>2</sup> UN General Assembly, *Rome Statute of the International Criminal Court* (last amended 2010), ISBN No. 92-9227-227-6, UN General Assembly, 17 July 1998. There are 125 State Parties counting Palestine, to the ICC. Canada is a State Party having signed 18 December 1998 and ratified 7 July 2000.