



Déclaration : les universitaires avertissent d'un potentiel génocide à Gaza

## Description

Par *Mohsen al Attar* pour OpinioJuris le 15 octobre 2023

Dans un monde où les Etats puissants clament de plus en plus leur impunité, il est primordial de donner la voix à ceux qui résistent. Avec l'aide de près de 800 avocats, universitaires, praticiens, représentant différents points de vue, académique et pratique, j'ai signé une pétition avertissant la possibilité d'un génocide à Gaza, en Palestine. Cette lettre ouverte montre la gravité de la situation, identifie les nombreux cas où Israël semble avoir violé le droit international, à la vue du grand public et souvent avec l'aval d'une certaine classe politique et d'un media servile. Il est impardonnable que nous adressions ces transgressions et les tenions pour responsables ceux qui agissent au mépris du droit international et de la dignité humaine fondamentale, aussi imparfaite soient-elles. J'exhorte chaque lecteur à réfléchir à cette déclaration et ce qu'elle implique sur nous, pour le droit international et surtout pour le peuple palestinien.

En tant qu'universitaires et praticiens du droit international, des études de conflits et des études sur le génocide, nous sommes tous obligés de sonner l'alarme sur la possibilité d'un crime génocidaire perpétré par les forces israéliennes contre les Palestiniens dans la bande de Gaza. Nous ne le faisons pas à la légère, conscients du poids de ce crime, mais la gravité de la situation actuelle l'exige.

Les conditions pré-existantes dans la bande de Gaza avaient déjà suscité des discussions sur le génocide avant l'escalade actuelle à l'instar de la [Corporation des Avocats Nationaux](#) en 2014, le [Tribunal Russell sur la Palestine](#) en 2014, et le [Centre pour les Droits Constitutionnels](#) en 2016. Les universitaires ont averti que les années de siège à Gaza peuvent aboutir à un « prélude d'un génocide » ou à un « génocide au ralenti ». La prédominance des propos racistes et déshumanisant et des discours de haine sur les réseaux sociaux ont été également soulignés dans un [avertissement](#) émis en juillet 2014 par le Conseiller spécial des Nations Unies pour la prévention du génocide et le conseiller spécial pour la responsabilité de protéger, en réponse à la conduite d'Israël contre la population

palestinienne protégée. Les Conseillers Spéciaux ont noté que des Israéliens avaient diffusé des messages qui pouvaient être déshumanisant pour les Palestiniens et appelant au meurtre des membres de ce groupe, et ont noté que l'incitation à commettre des atrocités criminelles est interdite par le droit international.

L'actuelle attaque militaire israélienne sur la bande de Gaza depuis le 7 octobre 2023, est sans précédent par son ampleur et sa gravité, et par conséquent par ses ramifications pour la population de Gaza. Suite à l'intervention des groupes armés palestiniens le 7 octobre 2023, notamment des attaques criminelles contre les civils israéliens, la bande de Gaza a été sujette à des bombardements incessants et aveugles de la part des forces israéliennes. Entre le 7 octobre à 9 heures du matin et le 15 octobre il y a eu 2329 Palestiniens tués et 9042 Palestiniens blessés dans les attaques israéliennes sur Gaza, dont plus de 724 enfants, des vastes pans de quartiers des familles entières à travers Gaza ont été anéantis. Le Ministre de la Défense a ordonné un « siège complet » de la bande de Gaza en interdisant la fourniture de carburant, d'électricité, d'eau et d'autres produits de première nécessité. Cette terminologie indique elle-même l'intensification d'un siège d'illégal, potentiellement génocidaire jusqu'à un assaut purement destructeur.

Le 12 octobre, l'autorité israélienne a donné comme ordre aux Palestiniens de la ville de Gaza et du nord de la bande de Gaza de quitter leurs maisons et de migrer vers le sud de Gaza en 24 heures, sachant que c'était quasi impossible pour beaucoup d'entre eux. Les Palestiniens qui ont commencé à évacuer vers le sud ont rapporté que des civils et des ambulances ont été ciblés et touchés par des frappes aériennes israéliennes pourtant sur des « routes sécurisées », tuant au moins 70 Palestiniens qui étaient partis chercher refuge. L'ICRC (Comité International de Genève) a déclaré que « les ordres d'évacuations couplés au siège complet » sont incompatibles avec le droit international humanitaire. Près d'un demi-million de Palestiniens ont été déplacés, et les forces israéliennes ont bombardé la voie de sortie qu'elle ne contrôle pas, le passage de Rafah vers l'Égypte. L'Organisation Mondiale de la Santé a publié un avertissement selon lequel « forcer plus de 2000 patients à déménager dans le sud de Gaza, où les établissements de santé fonctionnent déjà à pleine capacité et sont incapables d'absorber une augmentation spectaculaire du nombre de patients, pourrait équivaloir à une condamnation à mort ».

Il y a également eu une escalade de la violence, des arrestations, des expulsions et de la destruction de communautés palestiniennes entières en Cisjordanie occupée et à Jérusalem. Depuis le 7 octobre, les colons israéliens, avec le soutien de l'armée et de la police, ont attaqué et tiré à bout portant sur des civils palestiniens (comme cela a été documenté dans les villages d'at-Tuwani et Qusra), ont envahi leurs maisons et agressé les habitants. Un certain nombre de communautés palestiniennes ont déjà été contraintes d'abandonner leurs maisons, après quoi des colons sont arrivés et ont détruit leurs biens. Entre le 7 et le 15 octobre, Al-Haq a documenté le meurtre par l'armée israélienne et les colons de 55 Palestiniens en Cisjordanie, ainsi que les blessures de 1200 Palestiniens.

Les déclarations des responsables israéliens depuis le 7 octobre 2023 suggèrent qu'au-delà des meurtres et des restrictions des conditions de vie illégitimes perpétrés contre les Palestiniens à Gaza, il existe également des indications selon lesquelles les attaques israéliennes en cours et imminentes sur la bande de Gaza sont menées avec une intention potentiellement

génocidaire. Le langage utilisé par les personnalités politiques et militaires israéliennes semble reproduire la rhétorique et les tropes associés au génocide et à l'incitation au génocide. Les descriptions déshumanisantes des Palestiniens répandues. Le ministre israélien de la Défense, Yoav Gallant, a [déclaré](#) le 9 octobre que « nous combattons les animaux humains et nous agissons en conséquence ». Il a [annoncé](#) plus tard qu'Israël « s'orientait vers une réponse à grande échelle » et qu'il avait « supprimé toutes les restrictions » imposées aux forces israéliennes, tout en [déclarant](#) : « Gaza ne reviendra pas ce qu'elle était avant ». Nous éliminerons tout. » Le 10 octobre, le chef du Coordonnateur des activités gouvernementales dans les territoires (COGAT) de l'armée israélienne, le major général Ghassan Alian, [adresse](#) ce message directement aux résidents de Gaza : « Les animaux humains doivent être traités comme tels. Il n'y aura ni électricité ni eau, il n'y aura que la destruction. « Tu voulais l'enfer, tu auras l'enfer. » Le même jour, le porte-parole de l'armée israélienne, Danier Hagari, a [reconnu](#) la nature gratuite intentionnellement destructrice de la campagne de bombardements israéliens sur Gaza : « L'accent est mis sur les dégâts et non sur la précision. »

Depuis 2007, Israël « [définit](#) la bande de Gaza dans son ensemble comme une « entité ennemie ». Le 7 octobre, le Premier Ministre Benjamin Netanyahu a [déclaré](#) que les habitants de Gaza paieraient un « [prix immense](#) » pour les actions des combattants du Hamas. Il a affirmé qu'Israël « mènerait une offensive prolongée et transformerait certaines parties des centres urbains densément peuplés de Gaza en décombres ». Le président israélien a souligné que les autorités israéliennes considèrent l'ensemble de la population palestinienne de Gaza comme responsable des actions des groupes militants et soumise, par conséquent, à une punition collective et à un recours illimité à la force : « C'est toute une nation qui est responsable. Ce discours selon lequel les civils ne sont pas au courant et ne sont pas impliqués est faux. « Ce n'est absolument pas vrai. » Le ministre israélien de l'Énergie et des Infrastructures, Israel Katz, a [ajouté](#) : « Toute la population civile de Gaza a reçu l'ordre de partir immédiatement. Nous allons gagner. Ils ne recevront pas d'électricité jusqu'à ce qu'ils quittent le monde. »

Des preuves d'incitation au génocide sont également présentes dans le discours public israélien. Cela va des déclarations d'élus comme [l'appel](#) du député de la Knesset Ariel Kallner le 7 octobre à « un seul objectif : la Nakba! (catastrophe pour les Palestiniens) Une Nakba qui éclipsera la Nakba de 1948 » aux [banderoles](#) publiques déployées dans les villes israéliennes appelant à une « victoire » signifiée par « zéro population à Gaza » et à « l'annexion de Gaza ». A la télévision nationale, le correspondant de sécurité Alon Ben Daviv a [relayé](#) le plan de l'armée israélienne visant à détruire la ville de Gaza, Jabaliyya, Beit Lahiya et Beit Hanun. De telles déclarations ne sont pas nouvelles et résonnent avec un discours israélien plus large montrant l'intention d'élimination et de génocide contre le peuple palestinien. Plus tôt dans l'année, par exemple, le ministre israélien des Finances, Bezalel Smotrich, a [qualifié](#) les Palestiniens de « rivaux », de « [dégâts](#) » et a appelé à « [annuler](#) » l'ensemble du village palestinien de Huwwara, en Cisjordanie.

Le 12 octobre 2023, un groupe de rapporteurs spéciaux de l'ONU a [condamné](#) « les attaques militaires aveugles d'Israël contre le peuple palestinien d'occupation de Gaza, qui compte plus de 2,3 millions de personnes, dont près de la moitié sont des enfants. Ils vivent sous blocus

illégale depuis 16 ans et ont déjà traversé cinq guerres majeures et brutales, dont on n'a toujours pas trouvé trace. » Les experts de l'ONU ont mis en garde contre « le refus de fournitures essentielles telles que la nourriture, l'eau, l'électricité et les médicaments ». De telles actions précipiteraient une grave crise humanitaire à Gaza, où la population court désormais un risque inéluctable de mourir de faim. « La famine intentionnelle est un crime contre l'humanité. » Le 14 octobre 2023, le rapporteur spécial des Nations Unies sur la situation des droits de l'homme dans les territoires palestiniens occupés a [mis en garde](#) contre « une répétition de la Nakba de 1948 et de la Naksa de 1967 mais à une plus grande échelle » alors qu'Israël procède à « un nettoyage ethnique massif des territoires palestiniens occupés ». Palestiniens sous le brouillard de la guerre.

Le peuple palestinien constitue un groupe national aux fins de la Convention pour la prévention et la répression du crime de génocide (la Convention sur le génocide). Les Palestiniens de la bande de Gaza constituent une proportion substantielle de la nation palestinienne et son pris pour cible par Israël parce qu'ils sont Palestiniens. La population palestinienne de Gaza semble être actuellement soumise par les forces et les autorités israéliennes à des massacres généralisés, à des souffrances physiques et mentales et à des conditions de vie non viables sur fond de déclarations israéliennes qui montrent des signes d'intention de détruire physiquement la population.

L'article II de la Convention sur le génocide dispose que « le génocide désigne l'un quelconque des actes suivants commis dans l'intention de détruire, en tout ou en partie, un groupe national, ethnique, racial ou religieux, en tant que tel :

-Tuer des membres du groupe

ou causer un préjudice physique ou mental grave aux membres du groupe

-imposer délibérément au groupe des conditions d'existence susceptibles d'entraîner sa destruction physique totale ou partielle

-Imposer des mesures destinées à empêcher les naissances au sein du groupe

-Transfert forcé d'enfants d'un groupe à un autre groupe

Tous les Etats sont liés en droit par le principe selon lequel le génocide est un crime interdit par le droit international. La Cour internationale de Justice a affirmé que l'interdiction du génocide est une norme impérative du droit international à laquelle aucune dérogation n'est autorisée. La Convention prévoit que les individus qui tentent de commettre un génocide ou qui incitent au génocide « seront punis, qu'il s'agisse de dirigeants, d'agents publics ou de particuliers constitutionnellement responsables ».

L'article I de la Convention pour la prévention et la répression du crime de génocide dispose que : « Les Parties contractantes confirment que le génocide, qu'il soit commis en temps de paix ou en temps de guerre, est un crime de droit international qu'elles s'engagent à prévenir, à réprimer et à punir. » La cour internationale de Justice a précisé que « l'obligation d'un Etat de prévenir, et le devoir correspondant d'agir, naissent au moment où l'Etat prend connaissance, ou aurait normalement avoir connaissance, de l'existence d'un risque

sérieux qu'un génocide soit commis. A partir de ce moment, si l'Etat dispose de moyens susceptibles d'avoir un effet dissuasif à l'égard des personnes soupçonnées de préparer le génocide ou raisonnablement soupçonnées d'avoir une intention spécifique (dolus specialis), il a le devoir en faire usage. Si les circonstances le permettent. »

[Les organisations palestiniennes de défense des droits de l'homme, les groupes juifs de la société civile, les socialistes des études sur l'Holocauste et les autres](#) ont désormais mis en garde contre un génocide imminent contre la population palestinienne à Gaza. Nous soulignons l'existence d'un risque sérieux de génocide dans la bande de Gaza.

Les soussignés appellent de toute urgence les Etats à prendre des mesures concrètes et significatives pour prévenir individuellement et collectivement les actes de génocides, conformément à leur obligation légale de prévenir le crime de génocide. Ils doivent protéger la population palestinienne et veiller à ce qu'Israël s'abstienne de toute nouvelle incitation au génocide et de la perpétration de comportements interdits par l'article II de la Convention sur le génocide.

Tous les Etats devraient immédiatement agir en vertu de l'Article VIII et devraient appeler les organes compétents des Nations Unies, en particulier l'Assemblée générale des Nations Unies, à prendre des mesures urgentes en vertu de la Charte des Nations Unies, appropriées pour la prévention et la répression des actes de génocide. Nous notons ici spécifiquement le rôle de l'Assemblée générale, étant donné que le Conseil de sécurité est compromis par les Etats-Unis et le Royaume-Uni (tous deux membres permanents disposant d'un droit de veto) qui envoient des forces militaires en Méditerranée orientale pour soutenir Israël. Nous rappelons qu'en 1982, l'Assemblée générale a [condamné](#) le massacre de civils palestiniens dans les camps de réfugiés de Sabra et Chatila comme « un acte de génocide ». Nous notons également que l'Etat de Palestine a le droit d'engager, conformément à l'article IX de la Convention sur le génocide, une procédure devant la Cour internationale de Justice afin de prévenir la perpétration d'actes de génocide.

Enfin, nous appelons tous les organes compétents des Nations Unies, y compris le Bureau pour la prévention du génocide et la responsabilité de protéger, ainsi que le Bureau du Procureur de la Cour pénale internationale, à intervenir immédiatement, à mener les enquêtes nécessaires et à lancer les avertissements nécessaires. Procédures visant à protéger la population palestinienne du génocide.

Aannid Vaidya, Associate Professor of Anthropology, Reed College

### **Voici les 790 signataires :**

Aaron Seymour, Lecturer, University of Technology Sydney

Aasiya Lodhi, Senior Lecturer, University of Westminster.

Abdelghany Sayed, Assistant Lecturer, PhD Candidate, Kent Law School.

Abdullah Omran, PhD student, Indiana University

Abigail Balbale, New York University

Adalmir Marquetti, Pontifícia Universidade Católica do Rio Grande do Sul (PUCRS).

Adam Elliott-Cooper, Lecturer, School of Politics and International Relations, Queen Mary University of London

Adrian Carrillo Gomez, PhD student, Deusto University.

Afshin Matin-Asgari, Professor of Middle East history, California State University, Los Angeles

Ahmad Al-Dissi, Professor, University of Saskatchewan

Ahmad Fouad, Lecturer of Law, the British University in Egypt

Ahmad Khaled, PhD, Assistant Professor of Public Law, Birzeit University.

Ahmad Mustafa, Ph.D. student at the University of Kansas

Ahmed Abofoul, International Lawyer, Legal Researcher and Advocacy Officer at Al-Haq Organisation

Ahmed Selim, PhD Student, University of Chicago

Ahmet Ferhat Baran, PhD Student, University of Aberdeen.

Ajantha Subramanian, Professor, City University of New York.

Alba Valenciano-Mañá, post-doctoral researcher, Universidad Autónoma de Madrid

Albert Caramés, Adjunct Professor, Blanquerna Ramon Llull University

Alessandra Mezzadri SOAS Reader in Global Development and Political Economy

Alessandro Donadio Miebach, Adjunct Professor, Universidade Federal do Estado do Rio Grande do Sul.

Alexander D. Barder, Professor of International Relations, Florida International University

Alexandre Abreu, Assistant Professor, ISEG-Lisbon School of Economics and Management.

Alfredo Alietti, Professor, University of Ferrara Italy

Ali Cebeci, PhD, Georgetown University

Ali Raza, Associate Professor, Lahore University of Management Sciences

Alice Panepinto, Reader, School of Law, Queen's University Belfast

Alicia Campos Serrano, Profesora Titular, Universidad Autónoma de Madrid

Alison Phipps, UNESCO, Chair University of Glasgow

Alma Khasawnih, The College of New Jersey

Alyosxa Tudor, Reader in Gender Studies, SOAS University of London.

Alyssa Kristeller, Graduate Student Georgetown University.

Aman, Associate Professor of Legal Practice, Jindal Global University

Amber De Clerck, PhD Student & Teaching Assistant, Ghent University, Belgium

Amber Lakhani, PhD Candidate & GTA, SOAS University of London.

Amira Abdelhamid, Lecturer in International Relations, University of Portsmouth

Amy Strecker, Associate Professor of Law, University College Dublin

Anamika Misra, Associate Lecturer, University of Bristol.

Anand Sheombar, researcher & lecturer, HU University of Applied Sciences Utrecht, NL.

Ananya Chakravarti, Associate Professor of History, Georgetown University

Anas Karzai, Laurentian University, Canada

Andrea Cornwall, Professor of Global Development and Anthropology, King's College London.

Andrea Maria Pelliconi, Teaching Associate, University of Nottingham

Andrea Mura, Senior Lecturer, Goldsmiths, University of London

Andrea Teti, Associate Professor of Political Science, University of Salerno, Italy

Andrew Bush, Assistant Professor, Bard College

Angana Chatterji, University of California, Berkeley.

Angela Daly, Professor of Law & Technology, University of Dundee.

Angela Smith, Sessional Academic, University of New South Wales

Angela Zito, Anthropology/Religious Studies, NYU

Anita H. Fajbos, Professor, International Development, Community & Environment Department, Clark University

Anita Rupprecht, University of Brighton

Anjali Arondekar, Professor, Feminist Studies, UCSC

Anna Bigelow, Stanford University.

Anna Ferguson, Georgetown University

Anna Rosellini, University of Bologna

Anna-Claire Steffen, PhD Candidate, UMass Amherst

Annaclaudia Martini, Assistant Professor at University of Bologna, Italy

Annapurna Menon, Teaching Associate, University of Sheffield

Anne Berg, Assistant Professor of History, University of Pennsylvania.

Anne Hunnell Chen, Assistant Professor of Art History and visual culture, Bard College

Anne Norton, Professor, University of Pennsylvania

Anneke Newman, Senior Postdoctoral Fellow, University of Ghent

Anooradha Iyer Siddiqi, Barnard College, Columbia University

Anthony Alessandrini, Professor, City University of New York

Anthony Gorman, Senior Lecturer, University of Edinburgh.

Anton Shammash, Prof. Emeritus of Middle East Literatures, University of Michigan

Antonio Scialoja, Università Roma Tre, Italy

Antonio Y. Vazquez-Arroyo, Associate Professor, Rutgers University-Newark.

Arathi Sriprakash, University of Oxford

Arun Kundnani, independent scholar and writer

Arzu Somalali, PhD student, University of Istanbul.

Aseil Abu-Baker, Legal Consultant.

Ashok Kumar, Senior Lecturer of Political Economy, Birkbeck University.

Asli Bali, Professor of Law, Yale University.

Astrid Mrkich, refugee lawyer, Toronto, Canada

Ata Hindi, Birzeit University.

Atiya Habeeb Kidwai, retired Professor, Jawaharlal Nehru University, India

Aysha A. Ubukhu, Associate Professor in Human Rights, LSE

Ayesha Khalid Chaudhry, Doctoral candidate at Deakin University Australia

Ayesha Uma Dajud, JSD student, Cornell University

Ayushman Bhagat, Lecturer, Brunel University London

Azam Khatam, Instructor, York University

Azeezah Kanji, legal academic and journalist.

Badreddine Rachidi, Graduate Student & Center for Contemporary Arab Studies, Georgetown University.

Baki Tezcan, Professor of History, University of California, Davis

Banah Ghadbian, Assistant Professor Of Comparative Women's Studies, Spelman College

Barbara Aiolfi, research fellow University of Milan - BICOCCA

Barbara De Poli, Associate Professor, Ca' Foscari University Venice

Barry Trachtenberg, Rubin Presidential Chair of Jewish History, Wake Forest University, North Carolina.

Basheer Ahmad, Retired professor, JNU, New Delhi

Bashir Saade, Lecturer in Politics and Religion, University of Stirling.

Bayan Abusneineh, Assistant Professor, Ohio State University

Ben Golder, Professor, UNSW

Ben Whitham, Lecturer in International Relations, SOAS University of London

Ben Wiedel-Kaufmann, Lecturer, The Open University.

Benjamin Selwyn, Professor of International Relations and Development, University of Sussex.

Benjamin Thorne, Lecturer in Law, University of Kent.

Berklee Baum, DPhil, University of Oxford

Besan Jaber, Georgetown University.

Bielasan Tareq Zaina, PhD Student, Georgetown University.

Bikrum Gill, Assistant Professor, Department of Political Science, Virginia Tech

Bilal Maanaki, University of Virginia

Bilge Yesil, City University of New York

Bircan Ciytak, Research Fellow, University of Birmingham

Birgul Kutan, University of Sussex

Bishnupriya Ghosh, Professor, UC Santa Barbara

Blanca Camps-Febrer, Adjunct Lecturer, Autonomous University of Barcelona

Brannon Ingram, Associate Professor of Religious Studies, North-western University

Brendan Ciaran Browne, Assistant Professor, School of Religion, Theology and Peace Studies, Trinity College Dublin

Brenna Bhandar, Associate Professor, Allard Law Faculty

Bridget Guarasci, Associate Professor of Anthropology, Franklin & Marshall College

Bruce Robbins, Columbia University

Camila Vergara, Senior Lecturer, University of Essex

Camilo Párez-Bustillo, Executive Director, National Lawyersâ?? Guild-San Francisco Bay Area chapter

Carlo Caprioglio, Legal Clinic on Migration and Asylum, Università Roma Tre

Carlo Leget, Professor of Care Ethics, University of Humanistic Studies.

Carlos Bichet, Assistant Professor, Facultad de Derecho y Ciencias Políticas , Universidad de Panama.

Catherine Charrett, Senior Lecturer, International Relations, University of Westminster.

Catherine Larocque, PhD candidate, University of Ottawa

Cemil Aydin, Professor of International History, University of North Carolina Chapel Hill

Ceyda Turan, Lawyer at Turan Law Office

Chaman Lal Retd Professor JNU

Charles des Portes, Teaching Fellow in Political Theory, University of Leeds

Chiara De Cesari, Professor of Heritage, Memory and Cultural Studies, University of Amsterdam.

Chiara Pagano, Post-doc, University of Graz

Chi-Chi Shi, PhD Researcher, Durham University

Chris Barker, Assistant Professor, The American University in Cairo

Chris Dole, Professor of Anthropology, Amherst College

Chris Gilbert, Professor of Political Studies, Universidad Bolivariana de Venezuela

Christina Murray, Graduate Student, MAAS, Georgetown.

Christine Hong, Professor, UC Santa Cruz

Christo El Morr, Professor, York University, Canada

Christopher Parker, Associate Professor, Ghent University

Cigdem Cidam, Professor of Political Science, Union College Schenectady NY

Cira Pascual Marquina, Professor of Political Studies, Universidad Bolivariana de Venezuela

Claire Begbie, PhD student at Concordia University, Montreal.

Claire Gallien, Professor, University Montpellier 3

Clara Han, Professor of Anthropology, Johns Hopkins University

Claudia Dides, Universidad de Santiago.

Claudia Saba, Adjunct Lecturer, Ramon Llull University

Clement Sichimwa, Lecturer and Researcher at University of Zambia

Clod Marlan Krister Yambao, Asst. Professor University of the Philippines Dept. of Art Studies and  
Doctoral Research Fellow, Conflict Research Group, Ghent University

Colleen Bell, Associate Professor, University of Saskatchewan

Cristiana Fiamingo, assistant prof. University of Milan

Cristina Bacchilega, Professor Emerita, University of Hawaii-Manoa

Curtis F.J. Doebbler, Research Professor of Law, Department of Law, University of Makeni

Cynthia Franklin, Professor, University of Hawaii

Dalia Said Mostafa, Associate Professor, Hamad Bin Khalifa University, Qatar

Daniel Brown, PhD, LSE Sociology Department

Daniel Segal, Jean M Pitzer Professor Emeritus, Pitzer College

Daniel Stein, Assistant Professor, O.P. Jindal Global Law School

Daniela Meneghini caâ?? Foscari universitÃ of Venice

Daniela Pioppi University of Naples Lâ??Orientale

Danielle Fernandes, Doctoral researcher, Vrije Universiteit Brussel

Dara Leyden, PhD candidate, Queen Mary University of London

Daragh Murray, Senior Lecturer, School of Law, Queen Mary University of London.

Darryl Li, Associate Professor of Anthropology and Associate Member of the Law School, University of Chicago.

David Leadbeater, Adjunct Professor, Laurentian University, Canada

David Palumbo-Liu, Louise Hewlett Nixon Professor, Stanford University.

David Theo Goldberg, Professor, University of California, Irvine

David van Leeuwen, professor, Radboud University Nijmegen

David Whyte, Professor of Climate Justice, Queen Mary University of London

Dearbhla Minogue, Senior Lawyer at Global Legal Action Network

Deborah B. Gould, Professor of Sociology, University of California, Santa Cruz

Deborah Lawson, PhD Candidate, School of Law and Social Justice, University of Liverpool.

Deen Sharp, Visiting Fellow, LSE

Diana Allan, McGill University

Diana Jeater, Professor of African History, University of Liverpool

Diane Lamoureux, professeure  $\text{\AA}$ m $\text{\AA}$ rite, Universit $\text{\AA}$  Laval.

Dimitri Van Den Meerssche, Lecturer, Queen Mary University of London.

Dina Al-Kassim, Professor, University of British Columbia

Dina M. Siddiqi, Global Liberal Studies, New York University

Dina Matar, Professor Political Communication, SOAS

Dino Pancani C, Facultad de Comunicacion e Imagen, Universidad de Chile.

Dolly Kikon, University of Melbourne

Donia Khraishi, Georgetown University

Douaa sheet, Assistant Professor, American University

Douglas Carson, Design Fellow, University College Dublin

Dr David Landy, Director of MPhil in Race Ethnicity and Conflict, Trinity College Dublin

Edemilson Paranã, Associate Professor of Social Sciences, LUT University, Finland

Eduardo Villavicencio, PhD Student, Kent Law School.

Edward Brennan, Lecturer, Technological University, Dublin

Edwin Bikundo, Senior Lecturer, Griffith Law School

Eftychia Mylona, Lecturer, Leiden University

Egidio de Bustamante, Senior Lecturer, Unit for Peace and Conflict Studies, University of Innsbruck.

Ekin Kurtic, Postdoctoral Fellow, Northwestern University

Elena Vezzadini, Research affiliate, Institute for African Worlds

Elif Babı, Associate Professor, Mount Holyoke College

Elif Durmuş, Postdoctoral Researcher in International Law and Human Rights, University of Antwerp

Elisa Giunchi, Professor, Università degli studi di Milano

Elizabeth Shakman Hurd, Professor of Politics and Religious Studies, Northwestern University.

Elora Halim Chowdhury, Professor, UMass Boston

Elora Shehabuddin, Professor, UC Berkeley

Elyse Crystall, Teaching Professor, UNC Chapel Hill

Emilio Dabed, adjunct professor of law, York University, Toronto

Emily J. Sumner, Ph.D. candidate, University of Minnesota

Emily Watkins, Graduate Teaching Assistant/Instructor, University of Kansas

Emma Palmer, Senior Lecturer, Griffith University

Enrica Rigo, Associate professor of law, University of Roma Tre

Eren Duzgun, Assistant Professor of International Relations, University of Cyprus

Eric Hooglund, Editor, Middle East Critique

Eskandar Sadeghi, Associate Professor, University of York

Estella Carpi, Assistant Professor in Humanitarian Studies, University College London

Ettore Asoni, University of Bologna

Eva Nanopoulos, Senior Lecturer, Queen Mary University of London.

Fabio Lanza, Professor, University of Arizona.

Fabio Marcelli, Senior Researcher of the Institute for International legal studies.

Fadi Ennab, Vanier Scholar/PhD Student, University of Manitoba

Farah Mahmoud, Doctoral Candidate, Florida International University

Farida Khan, Professor, University of Colorado

Fatemeh Shams, Associate Professor of Persian Studies, University of Pennsylvania, U.S.A

Fathimah Fildzah Izzati, PhD Candidate, SOAS University of London

Fatima Sajjad, Associate professor, Director Center for Critical Peace Studies, University of Management and Technology Lahore

Fauzia Ahmad, Senior Lecturer, Goldsmiths

Fá©ilim Á? hAdhmaill, Lecturer, University College Cork

FelÁcia Campos, PhD researcher in Islamic & Middle Eastern Studies, University of Edinburgh.

Felicite Fairer-Wessels, emeritus professor, University of Pretoria, South Africa

Fernando Quintana, PhD Student and GTA, Queen Mary University of London, School of Law

Fida Adely, Assistant Professor, Georgetown University

Fien De Meyer, PhD, University of Antwerp.

Flagg Miller, Professor, University of California, Davis

Francesca Biancani, Associate Professor, University of Bologna

Francesca Romana Ammaturo, Senior Lecturer, London Metropolitan University.

Francis Cody, Associate Professor of Anthropology, University of Toronto

Francisca James Hernandez, Instructional Faculty, Pima Community College

Fulya Pinar, Postdoctoral scholar, Middle East Studies, Brown University.

Gabriela Kuetting, Professor of Global Politics, Rutgers University-Newark

Gabriele vom Bruck, SOAS.

Gareth Dale, Politics, Brunel University

Gargi Bhattacharyya, Professor, University of the Arts

Gary Fields, University of California San Diego

Gayatri Chakravorty Spivak, Professor, Columbia University

Gearáid Á? Cuinn, Founding Director, Global Legal Action Network (GLAN)

Gennaro Gervasio, Associate Professor, Università Roma Tre

German Correa profesor Universidad de Santiago de Chile.

Germán Santana Pérez, Universidad de Las Palmas de Gran Canaria

Ghada Ageel, University of Alberta.

Ghadir Zannoun, Associate Professor, University of Kentucky

Gholam Khiabany, Goldsmiths, University of London

Gianfranco Ragona, professor at University of Turin

Gillian Hart, Professor Emeritus, University of California Berkeley

Gillian Maris Jones, Ph.D. candidate, University of Pennsylvania

Giorgia Baldi, Lecturer, University of Sussex.

Giulia Contes, project manger and PhD student, UAntwerpen

Giuseppe Aragno, Storico, Fondazione Humaniter, Napoli

Giuseppe Mastruzzo, Director, International University College of Turin

Gloria Novovic, Gender, Development and Globalisation Fellow, London School of Economics.

Golnar Nikpour, Assistant Professor of History, Dartmouth College

Gordon Christie, Professor, Peter A Allard School of Law, University of British Columbia

Goretti Horgan, Senior Lecturer, Ulster University

Greg Albo, professor, Politics, York University

Greg Burris, Associate Professor, American University of Beirut.

Guido Donini, former Assistant Professor of Classics at the University of Chicago

Guillermo Gigliani, Professor, Universidad Nacional de Moreno, Argentina

Hadia Mubarak, Assistant Professor of Religion, Queens University of Charlotte.

Haim Beresheeth, Professorial Research Associate, SOAS University of London.

Hakeem Yusuf, Professor of Global Law, University of Derby

Hamed Al-Mogarry, Sana'a University.

Hanan Elsayed, Occidental College

Hanan Kashou, Associate Teaching Professor, Rutgers University.

Hanan Toukan, Associate Professor, Bard College Berlin

Hannah Boast, Chancellor's Fellow, University of Edinburgh

Hannah NS Bahrin, PhD student, Queen Mary University

Hannelore Van Bavel, postdoctoral researcher, Vrije Universiteit Brussel & University of Bristol

Harold Marcuse, Professor of History, University of California, Santa Barbara

Hasan Basri Baki, Assistant Professor of International Law, Boazi University, Turkey.

Hasan Shuaib, PhD Graduate, Rutgers University

Hassan Jabareen, General Director, Adalah Legal Center.

Hatice Ozturk, PhD student, Georgetown University

Hayley Gibson, University of Kent.

Hazem Jamjoum, Curator, British Library.

Helga Tawil-Souri, Associate Professor, New York University

Helmi Mohammed Abdo, Sana'a Community College.

Helyeh Doutaghi, Research Scholar, Yale University.

Hesham Sallam, Stanford University

Hilla Dayan, Lecturer, Amsterdam University College.

Hossein Kamaly, Professor of Interfaith Studies, Hartford international University for Religion and Peace

Howard Pflanzler, Adj. Associate Professor, Hunter College

Howard Winant, University of California, Santa Barbara

Howie Rechavia-Taylor, Fellow, LSE

Hulya Dagdeviren, Professor of Economic Development, University of Hertfordshire.

Humeira Iqtidar, Kingâ??s College London

Huseyin Disli & Kent Law School/Worldwide Lawyers Association Research and Programmes Executive.

Idil Abdillahi Assistant Professor, TMU.

Ignasi Bernat, Postdoctoral Researcher, Department of Sociology, University of Barcelona

Inessa Hadjivayanis, PhD candidate, SOAS.

Inge van Nistelrooij, associate professor, University of Humanistic Studies, Utrecht.

Intan Suwandi, Assistant Professor of Sociology, Illinois State University.

Iqra Anugrah, Research Fellow, International Institute for Asian Studies, Leiden University.

Ira Bhaskar, Retd. Jawaharlal Nehru University, New Delhi, India

Irene Van Staveren, professor of economics, Erasmus University Rotterdam.

Irina Ceric, Assistant Professor, University of Windsor Faculty of Law

Isabel Huacuja Alonso, Assistant Professor, Columbia University

Isabel KÃ¤ser, Postdoctoral Fellow, University of Bern

Isabella Camera dÃ¢?Afflitto â?? Honorary Professor, Sapienza universitÃ di Roma

Isabelle Mildonian, Graduate, Roanoke College.

IÃ±Ã±l Aral, Assistant professor of international law, KoÃ§ University

Isobel Roele, Reader in Law, Queen Mary University of London

Issa Shivji, Professor Emeritus, University of Dar es Salaam

J. Travis Shutz, Assistant Professor, California State University Los Angeles

Jack Halberstam, Columbia University

Jack McGinn, PhD candidate, LSE

Jairo I. FÃ³nez-Flores, Texas Tech University

Jalal Kawash, Academic, University of Calgary

Jamal Ali, Assistant Teaching Professor, Rutgers University

James Eastwood, Senior Lecturer in Politics and International Relations, Queen Mary University of London

Jan Selby, Professor of International Politics, University of Leeds

Jaskiran Dhillon, Associate Professor, The New School

Jasmin Johurun Nessa, University of Liverpool.

Jasmine Barzani, PhD candidate Melbourne University

Jason Beckett, Associate Professor, American University in Cairo

Javier González-Arellano, Profesor asociado de filosofía del Derecho Universidad Carlos III de Madrid.

Jay Ramasubramanyam, Assistant Professor, Department of Social Science, York University

Jean Beaman, Associate Professor, Sociology, University of California-Santa Barbara

Jeannette Graulau, Associate Professor, CUNY

Jeff Handmaker, Associate Professor, Erasmus University Rotterdam.

Jeffrey Sacks, Associate Professor, University of California, Riverside

Jeffrey Stevenson Murer, Senior Lecturer on Collective Violence, University of St Andrews

Jehan Mohamed, Lecturer, Rutgers State University.

Jenny Phillimore, Professor, University of Birmingham

Jeremy Dell, Lecturer, University of Edinburgh

Jessie Daniels, PhD, Professor, CUNY

Jillian Rogin, Associate Professor (Law), University of Windsor.

Jinan Bastaki, Associate Professor of Legal Studies, NYUAD.

Jo Bluen, London School of Economics, PhD candidate

Joel Gordon, Professor of History, University of Arkansas

Johanna Ray Vollhardt, Associate Professor, Clark University

John Bellamy Foster, Profesor Emeritus, University of Oregon.

John Cox, Director, Center for Holocaust, Genocide & Human Rights Studies, University of North Carolina at Charlotte.

John L. Esposito, Distinguished University Professor, Georgetown University

John Reynolds, Associate Professor of International Law, Maynooth University.

Jolanda Guardi, Professor, University of Turin

Jo-Marie Burt, Associate Professor, George Mason University

Jonathan Wheeler, Assistant professor and researcher, National University of Tucum n-CONICET.

Jordan Cortesi, PhD student, University of Kansas.

Jordana Silverstein, Senior Research Fellow, University of Melbourne

Jose Itzigsohn, Professor of Sociology, Brown University

Joseph Elsayyid, Yale University

Julian Go, Professor, University of Chicago

Juliane Hammer, Professor of Religious Studies, University of North Carolina, Chapel Hill

Jyotirmaya Sharma, Professor, University of Hyderabad

Kaiya Aboagye, Senior Lecturer, University Western Sydney

Kalbir Shukra, former senior lecturer now independent researcher.

Kareem Rabie, Associate Professor, University of Illinois at Chicago

Karen Crawley, Senior Lecturer, Griffith Law School

Karin Arts, Professor of International Law and Development, International Institute of Social Studies

Karma Nabulsi, Professor, University of Oxford

Kasia Paprocki, Associate Professor, London School of Economics and Political Science

Katherine Gallagher, Center for Constitutional Rights

Katherine Natanel, Senior Lecturer in Gender Studies, University of Exeter

Katy Kalemkerian, John Abbott College

Kaveh Ehsani, Associate Professor, DePaul University- Chicago

Ken Fero Assistant Professor Coventry University

Kenzie El Bakry, Graduate Social Sciences, University of D sseldorf

Kevin A. Gould, Associate Professor of Geography, Concordia University

Kevin Skerrett, Adjunct Research Professor, Institute of Political Economy, Carleton University

Khaled Abou El Fadl, Professor, UCLA law School

Kiran Asher, Professor and Chair, Department of Women, Gender, Sexuality Studies, UMass Amherst

Kirsten Forkert, Professor of Cultural Studies, Birmingham City University.

Koen Leurs, Associate Professor, Utrecht University.

Kristina Richardson, Professor, University of Virginia.

Kurt Schock, Professor, Rutgers University, Newark

Laila Farah, Depaul University, Associate Professor

Laila Parsons, Professor, McGill University

Laila Shereen Sakr, Associate Professor, UC Santa Barbara

Laith Aqel, Clinical Lecturer in Law, Yale Law School.

Laleh Khalili, Professor, Institute of Arab and Islamic Studies, University of Exeter

Lana Sirri, Postdoctoral Researcher, University of Amsterdam.

Lara Deeb, Professor of Anthropology, Scripps College

Lara Fricke, PhD candidate University of Exeter

Lara Khattab, Assistant Professor at Mount Allison University

Laura De Vos, Assistant Professor American Studies, Radboud University

Laura Fair, Professor, Columbia University

Laura MagheÈ?iu, Doctoral Researcher, CLaSP, Queen Mary University of London (QMUL).

Laura Rodriguez Castro, Southern Cross University

Laurie King, Anthropology, Georgetown University

Laurie King, Teaching Professor, Department of Anthropology, Georgetown University

Layli Uddin, Lecturer, Queen Mary University of London

Leena Grover, Associate Professor of International Law, Tilburg University

Leila Ullrich, Associate Professor of Criminology, University of Oxford.

Lena Alhousseini, Phd Student, California Institute of Integral Studies

Leo Spitzer, Professor of History Emeritus, Dartmouth College

Leon Sealey-Huggins, Assistant Professor of Global Sustainable Development, University of Warwick

Leticia Rovira-Facultad de Humanidades y Artes- Universidad Nacional de Rosario ??? Argentina

Leyla Neyzi, Research Fellow, University of Glasgow

Lila Pine, Associate Professor, New Media, Toronto Metropolitan University

Liliana Su?irez, Universidad Aut?noma de Madrid

Lisa Hajjar, Professor of Sociology, UC Santa Barbara

Livia Wick, Associate Professor, American University of Beirut.

Liyana Kayali, Postdoctoral Research Fellow, University of Sydney

Lori Allen, Reader in Anthropology, SOAS University of London.

Lucia Sorbera, Senior Lecturer and Chair Arabic Language and Cultures, The University of Sydney

Luigi Daniele, Senior Lecturer in Law, Nottingham Trent University

Luis Andueza, Lecturer in International Development, King's College London

Luis Eslava, Professor of International Law, La Trobe University & University of Kent

M. Bahati Kuumba, Professor of Comparative Women's Studies, Spelman College

M. Muhannad Ayyash, Professor of Sociology, Mount Royal University.

Macarena Aguil?n, Acad?mica Universidad de Chile

Madawi Al-Rasheed, Professor, LSE

Madeline G. Levine, Kenan Professor of Slavic Literatures Emerita, University of North Carolina, Chapel Hill

Maghraoui Driss, Al Akhawayn University, Morocco.

Maha Abdallah, Graduate Teaching Assistant & PhD researcher, Faculty of Law, University of Antwerp.

Maha Nassar, Associate Professor, University of Arizona.

Maha Shuayb, University of Cambridge and Centre for Lebanese Studies.

Maher Hamoud, Associate Scholar, KU Leuven

Mahsheed Ansari, Senior Lecturer, Charles Sturt University

Mahvish Ahmad, Assistant Professor in Human Rights and Politics, LSE & Co-Director LSE Human Rights.

Mairaj Syed, Professor, Religious Studies and Middle East South Asia Studies, University of California, Davis

Maisha Prome, PhD Candidate, Yale University

Malek Abisaab, Associate Professor McGill University

Mandy Turner, professor of conflict, peace and humanitarian affairs, University of Manchester, UK.

Marcela Alvarez PÃ©rez, BenemÃ©rita Universidad AutÃ³noma de Puebla

Marcela Pizarro , Lecturer, Goldsmiths, University of London

Margaux L Kristjansson, Mellon Postdoctoral Fellow in Native American and Indigenous Studies, Bard College

Maria Bhatti, lecturer, School of Law, Western Sydney University

Maria Cristina Paciello, researcher, Caâ?? Foscari University of Venice

Maria Federica Moscati, Reader in Law and Society, University of Sussex.

Maria Haro Sly, Ph.D. Candidate, Johns Hopkins University.

Maria LaHood, Deputy Legal Director, Center for Constitutional Rights.

Maria Rashid Fellow, Gender Studies Department, London School of Economics.

Maria Tzanakopoulou, Lecturer in Law, Birkbeck, University of London

Mariam Motamedi Fraser, Reader in Sociology, Goldsmiths, University of London

Mariana Gkiati, Assistant Professor, Tilburg University

Marianne Hirschberg, Faculty of Human Sciences, University of Kassel, Germany.

Marieke Potma, PhD-candidate, University for Humanistic Studies.

MarilÃ¹ Mastrogiovanni, Adjunct professor in Journalism, University of Bari â??Aldo Moroâ?•

Mario Novelli, University of Sussex

Marion Kaplan, NYU, Emerita

Marios Costa, Senior Lecturer, City, University of London

Marjorie Cohn, Founding Dean, Peopleâ??s Academy of International Law

Mark Goodman, Professor, Sociology, York University, Toronto

Marnie Holborow, Associate Faculty, Dublin City University

Marsha Henry, London School of Economics

Marsha Rosengarten, Professor of Sociology, Goldsmiths University of London

Marta Giallombardo, PhD candidate, Università degli studi di Modena e Reggio Emilia.

Marwa Daoudy, Associate Professor, Georgetown University

Marwa Neji, researcher, Ghent University, Belgium.

Mary Ana McGlasson, Director, Centre for Humanitarian Leadership, Deakin University, Melbourne

Mary Ellen Davis, part-time faculty, Concordia University, Montreal

Marya Farah, Legal Researcher

Maryam Aldossari, Associate Professor, Royal Holloway University of London

Matt Howard, Lecturer, University of Kent

Matteo Capasso, University of Venice, Italy.

Matthew Cole, Lecturer in Technology, Work and Employment.

Maud Anne Bracke, Professor of modern European history, University of Glasgow UK

Maura Finkelstein, Associate Professor of Anthropology, Muhlenberg College

Mauricio Amar, Centro de Estudios Árabes Eugenio Chahuan, Universidad de Chile

Maja Janmyr, Professor, Faculty of Law, University of Oslo

Maya Mikdashi, Associate Professor, Rutgers University.

Mayur Suresh, Senior Lecturer, SOAS University of London.

Mazen Masri, Senior Lecturer in Law, The City Law School, City University of London.

Maziar Behrooz, San Francisco State University

Meera Sabaratnam, Associate Professor, University of Oxford

Mehmet Erken, İstanbul University

Mehrdad F. Samadzadeh, University of Toronto

Melania Brito Clavijo, PhD candidate; Universidad Autónoma de Barcelona

Melanie Richter-Montpetit, Senior Lecturer in International Security, Department of International Relations, University of Sussex.

Melinda González, Assistant Professor, Georgetown University

Micah Khater, Assistant Professor, University of California-Berkeley

Michael Daniel Yates, Professor Emeritus, University of Pittsburgh

University of Pittsburgh

Michael Fakhri, Professor of Law, University of Oregon.

Michael Rodríguez-Muñoz, Associate Professor, University of California, Berkeley

Michael Rothberg, Professor of English, Comparative Literature, and Holocaust Studies, UCLA.

Michel Feher, Editor/Publisher, Zone books, NY.

Michelle Burgis-Kasthala, Senior Lecturer in Public International Law

Michelle Hartman, Professor, McGill University

Michiel Bot, Associate Professor, Tilburg Law School.

Miguel Valderrama, investigador adjunto Instituto de Filosofía, Universidad Diego Portales.

Mikki Stelder, Assistant Professor Global Arts and Politics, University of Amsterdam.

Minoo Moallem, Professor, UC Berkeley

Miriam Ticktin, Professor, CUNY Graduate Center.

Miriyam Aouragh, Professor, University of Westminster.

Mirjam Twigt, Leiden University

Moara Assis Crivelente, Researcher in the Centre for Social Studies, University of Coimbra

Mohamad Arnaout, Associate Professor, Lebanese International University

Mohamed Ali, PhD Candidate, Georgetown University

Mohamed Mathee, Senior Lecturer, University of Johannesburg.

Mohamed Sayed, Associate instructor and PhD candidate at Indiana University

Mohamed Wajdi Ben Hammed, Assistant Professor at UC Berkeley

Mohammad Ataie, Lecturer, University of Massachusetts Amherst.

Mohammad Fakhreddine, Assistant Teaching Professor, Georgetown University

Mohammad Shahabuddin, Professor, University of Birmingham

Mohammed Abukhdeir. Abukhdeir family President

Mohammed Sawaie, Professor, University of Virginia

Mohan Rao, former professor at JNU, New Delhi

Mohsen al Attar, Reader, Associate Dean, XJTLU

Mona Baker, University of Oslo

Monisha Das Gupta, University of Hawai'i

Mridula Mukherjee JNU India Retired Professor

Murad Idris, Associate Professor, University of Michigan

Myria Georgiou, Professor, LSE

Mythri Jegathesan, Associate Professor, Santa Clara University.

Nabil Al-Tikriti, Professor, University of Mary Washington

Nabil Salih, graduate student at Bard College

Nada Elia, Visiting Professor, Western Washington University

Nadeem Karkabi, Associate Professor of Anthropology, University of Haifa

Nadera Shalhoub-Kevorkian, Lawrence D Biele Chair in Law, The Hebrew University of Jerusalem and Global Chair in Law, Queen Mary University of London.

Nadia Abu El-Haj, Ann Whitney Olin Professor, Barnard College & Columbia University.

Nadia Ahmad, Associate Professor of Law, Barry University; PhD Student, Yale School of the Environment

Nadia Guessous, Colorado College

Nadia Silhi Chahin, PhD researcher, Law School at University of Edinburgh

Nadine El-Enany, Professor of Law, University of Kent.

Nadje Al-Ali, Professor of Anthropology and Middle East Studies, Brown University

Nahla Abdo, Professor, Carleton University.

Naiefa Rashied, Lecturer: School of Economics, University of Johannesburg, South Africa.

Nalini Mohabir, Associate Professor, Concordia University.

Namita Wahi, Senior Fellow, Centre for Policy Research.

Nancy Gallagher, professor emerita, UCSB

Nandini Chandra, Associate Professor, University of Hawaii at Manoa

Naomi Taub, Postdoctoral Fellow, UCLA

Naoual El Yattouti, PhD Researcher University of Antwerp

Natalie Kouri-Towe, Associate Professor, Concordia University

Nathalie Khankan, Continuing Lecturer, UC Berkeley

Nathaniel George, Lecturer in Politics of the Middle East, SOAS, University of London

Naveed Ahmad Mir. PhD student and GTA, Kent Law School.

Naveeda Khan, Associate Professor, Johns Hopkins University

Nazia Kazi, Associate Professor of Anthropology, Stockton University.

Nesrine Badawi, Associate Professor, The American University in Cairo

Niall Meehan, Head, Journalism & Media Faculty, Griffith College, Dublin (retired)

Niamh Rooney, Assistant Lecturer, Dept. of International Development, Maynooth University

Nichola Khan. Professor, University of Edinburgh

Nicola Perugini, Associate Professor, University of Edinburgh.

Nicola Pratt, Professor of the International Politics of the Middle East, University of Warwick

Nicola Soekoe, Counsel, Pan African Bar Association of South Africa (PABASA).

Nicole Beardsworth, Wits University

Nicole Ranganath, Assistant Professor, UC Davis

Nicos Trimikliniotis, Professor, University of Nicosia.

Nida Kirmani, Associate Professor, Lahore University of Management Sciences

Nikhita Mendis, Anthropology PhD Student, University of Chicago

Nimer Sultany, Reader in Public Law, SOAS University of London.

Nimet Cebeci, PhD Candidate, Harvard University

Nina Eliasoph, University of Southern California

Nina Farnia, Assistant Professor, Albany Law School

Nisha Kapoor, Associate Professor, University of Warwick

Nivi Manchanda, Reader in International Politics Queen Mary University of London

Noah Salomon, Associate Professor, University of Virginia

Noam Peleg, Senior Lecturer,

Noor Gieles, MD & PhD student, Amsterdam UMC.

Nora E.H. Parr, Research Fellow, University of Birmingham

Norma Rantisi, Concordia University.

Nour El Kadri, Professor, University of Ottawa

Noura Erakat, Associate Professor, Rutgers University, New Brunswick.

Noura Nasser, PhD student, LSE.

Noureddine Jebnoun, Center for Contemporary Arab Studies, Georgetown University

Ntina Tzouvala, Associate Professor ANU College of Law.

Nusrat S Chowdhury, Associate Professor, Amherst College

Olga Grau, Universidad de Chile

Olga Touloumi, Associate Professor, Bard College

Oludamini Ogunnaike, University of Virginia

Oliver O. O. T. Aw, Associate Professor of Philosophy, Georgetown University

Omar Al-Ghazzi, Associate Professor, London School of Economics and Political Science

Omar Farahat, Associate Professor, McGill University

Omar Jabary Salamanca, Postdoc Fellow, Université libre de Bruxelles.

Omer Bartov, Samuel P. Hays Professor of Holocaust and Genocide Studies, Department of History; Faculty Fellow, Watson Institute for International & Public Affairs, Brown University.

Omid Safi, Professor, Duke University

Omnia El Shakry, Professor of History, Yale University

Omr Kassem, University of Chicago

Osama Siddique. Inaugural Henry J. Steiner Professor of Human Rights. Harvard law School.

Osman Bakar, Professor of Islamic Thought, International Islamic University Malaysia

Othman Belkebir, Ph.D researcher, Geneva Graduate Institute.

Ozlem Biner Senior Lecturer in Anthropology, SOAS

Pablo Oyarzun R., Universidad de Chile.

Paola Rivetti, Associate Professor, Dublin City University

Paola Zichi, Postdoctoral Research Fellow, Warwick Law School

Patricia Sampedro, postgraduate student in International Development at the University of Oxford

Patrick Shi Timmer, Postgraduate Student, King's College London.

Paul Michael Garrett, PhD, D. Lit, MRIA, University of Galway

Paula Chakravartty, James Weldon Johnson Associate Professor of Media Studies, NYU

Pauline Martini, Doctoral researcher, Queen Mary University of London.

Pete W. Moore, Associate Professor, Case Western Reserve University

Peter Drury, Kent Law School, PhD Student.

Peter Hallward, Professor of Philosophy, Kingston University UK

Pietro Masina, professor, University of Naples L'orientale.

Pınar Kemerli, Assistant Professor, Bard College

Polly Withers, Leverhulme ECF, LSE

Pooja Rangan, Associate Professor of English in Film and Media Studies, Amherst College

Popy Begum, Saint Louis University.

R. Brian Ferguson, Rutgers University-Newark

Rabea Eghbariah, SJD Candidate, Harvard Law School.

Rachad Antonius, retired full professor, Université du Québec à Montréal

Rahima Siddique, Phd Student, University of Manchester.

Rahul Rao, Reader, University of St Andrews

Rami G Khouri, American University of Beirut.

Ran Zwigenberg, Associate Professor of Asian Studies, History, and Jewish Studies, Pennsylvania State University.

Rana Kazkaz, Associate Professor, Northwestern University Qatar

Randa M. Wahbe; PhD student; Harvard University

Randa Tawil, Texas Christian University

Raphael Salkie, Emeritus Professor of Language Studies, University of Brighton

Rasha Bayoumi, Associate Professor of Psychology, University of Birmingham

Rashid Yahiaoui, Assistant Professor, Hamad Bin Khalifa University, Qatar.

Ratna Kapur, Professor, Queen Mary University of London

Raz Segal, Associate Professor of Holocaust and Genocide Studies, Stockton University.

Razan AlSalah, Concordia University.

Rebecca Ruth Gould, Professor, SOAS University of London.

Reem Abou-El-Fadl, Senior Lecturer in Comparative Politics of the Middle East, SOAS University of London

Reem Al-Botmeh, Lecturer, Institute of Law, Birzeit University

Reem Awny Abuzaid, PhD candidate, University of Warwick

Renate Bridenthal, The City University of New York

Renisa Mawani, Professor, Sociology, University of British Columbia.

Reuven Pinnata, Ph.D. Candidate, University of Washington.

Rhys Machold, Senior Lecturer, University of Glasgow

Ricarda Hammer, Assistant Professor, UC Berkeley

Richard Clements, Assistant Professor, Tilburg Law School

Richard Falk, Professor emeritus of international law at Princeton University.

Richard Marcuse, Anthropology, formerly University of Victoria

Richard Wild, Principal Lecturer in Criminology, University of Greenwich

Rita Sakr, Maynooth University

Robert Crews, Professor of History, Stanford University

Roberto Filippello, Assistant Professor at University of Amsterd.

Rochelle Davis, Sultanate of Oman Associate Professor, Georgetown University

Rodante van der Waal, PhD-candidate, University for Humanistic Studies.

Rodrigo C. Bulamah, Professor, State University of Rio de Janeiro

Roger Heacock, Professor of history emeritus , Birzeit University, Palestine

Rohini Sen, School of Law, University of Warwick.

Ronak Kapadia, Associate Professor, University of Illinois Chicago

Ronit Lentin, Retired Associate Professor of Sociology, Trinity College Dublin

Rose Parfitt, Senior Lecturer in International Law, University of Kent.

Rosemarie Buikema , professor of art, culture and diversity

Roxana Pessoa Cavalcanti, University of Brighton

Roxana Pey, académica Universidad de Chile.

Ruba Salih, Professor, Università di Bologna.

Ruth Fletcher, Reader in Law, Queen Mary University of London

S. Hasan Mahmud, retired professor Jamia Millia Islamia, New Delhi

S. Sayyid, Professor of Decolonial Thought and Social Theory, University of Leeds.

S. Yaser Mirdamadi Researcher and lecturer at the Institute of Islamic Studies, London.

Saada Hammad, part time instructor, Holt Spirit University of Kaslik.

Saadat Umar Pirzada, Assistant Lecturer, PhD Candidate, Kent Law School.

Sabreena Ghaffar-Siddiqui Sheridan College

Sacide Ata?, Ph.D. Candidate, Istanbul Medeniyet University

Sadiyya Haffejee, Associate Professor, University of Johannesburg.

Saed Atshan, Associate Professor of Peace and Conflict Studies and Anthropology, Swarthmore College

Sai Englert, Lecturer, Leiden University.

Salem Abdellatif Al-Shawafi, Professor of Philosophy, Community College Qatar.

Samer Abdelnour, Senior Lecturer, University of Edinburgh.

Samer Jabbour, Researcher, Syrian Center for Policy Studies.

Sami Hermez, Director of Liberal Arts Program and Associate professor of Anthropology, Northwestern University in Qatar

Samia Bano, SOAS, University of London.

Samia Henni, Cornell University

Sandro Mezzadra, Professor, University of Bologna

Santiago Alberto Vargas Niño, Lecturer in IH(R)L and ICL, Universidad de los Andes, Bogotá D.C., Colombia

Santosh Anand, Assistant Lecturer, Kent Law School, University of Kent

Santosh Mehrotra, Visiting Professor, institute for Policy Research, University of Bath

Sara Alsaraf, University of Birmingham, UK, PhD Student

Sara Chaudhry, Senior Lecturer, Birkbeck

Sara Dehm, Senior Lecturer, University of Technology Sydney

Sara Elbrolosy, Georgetown University.

Sara Matthews, Associate Professor of Culture and Conflict, Global Studies and Communication Studies, Wilfrid Laurier University

Sara Pursley, Associate Professor, New York University

Sara Razai , Lecturer, University of Westminster.

Sarah Bracke, Professor, University of Amsterdam.

Sarah El-Kazaz, Senior Lecturer, SOAS, University of London

Sarah Ghabrial, Assoc. Prof, Concordia University (Montreal)

Sarah Ihmoud, Assistant Professor of Anthropology, The College of the Holy Cross.

Sarah Irving, Lecturer in History, Staffordshire University

Sarah Keenan, Reader in Law, Birkbeck College, University of London

Sarah Lamble, Reader in Criminology, Birkbeck, University of London

Sarah Phillips, Professor of Global Conflict and Development, The University of Sydney

Sarah Raymundo , Assistant Professor, Center for International Studies University of the Philippines Diliman

Sasan Fayazmanesh, Professor Emeritus of Economics, California State University, Fresno

Scheherazade Bloul, PhD, Deakin University

Scott Newton, Professor of Laws of Central Asia, SOAS University of London

Sean Lee, Assistant Professor of Political Science, American University in Cairo

Sean T. Mitchell, Associate Professor of Anthropology, Rutgers University-Newark

Sebastin Link, PhD student, Johns Hopkins University.

Selim Can Bilgin, Partner at Kabine Law

Shabbir Agha Abbas, PhD Candidate, University of Arizona

Shabnam Holliday, University of Plymouth

Shahd Hammouri, University of Kent.

Shakuntala Banaji, Professor, LSE

Sharika Thiranagama, Associate Professor, Stanford University Dept. of Anthropology.

Sharmila Parmanand, Assistant Professor, London School of Economics and Political Science.

Sheer Ganor, History, University of Minnesota, Twin Cities.

Shehnaz Abdeljaber, University of Pennsylvania

Sherene Seikaly, UCSB

Shirin Saeidi, University of Arkansas

Shohini Sengupta, Associate Professor, O.P. Jindal Global University, India

Siddhartha Deb, Associate Professor, The New School

Siggie Vertommen, Assistant Professor at University of Amsterdam.

Sigrid Schmalzer, Professor of History, University of Massachusetts Amherst

Silvia Groaz, Professor of Architecture History, ENSA Paris-Est

Silvia Posocco, Reader in Social Anthropology, Birkbeck, University of London

Simidele Dosekun, Assistant Professor, London School of Economics and Political Science

Simon McKenzie, Lecturer, Griffith Law School

Simone Sibilio, Associate Professor, Ca Foscari University of Venice

Sin ad Mercier, PhD Researcher (international law), University College Dublin

Sinead Ring, Lecturer School of Law and Criminology Maynooth University

Siobh n Wills, Director of the Transitional Justice Institute, Ulster University

Sivamohan Valluvan, Associate Professor, University of Warwick

Sladjana Lazic, Assistant Professor, University of Innsbruck.

Sneha Annavarapu, Yale-NUS college

Sophia Brown, postdoctoral researcher, Freie Universit t Berlin

Sophia Stamatopoulou-Robbins, Associate Professor of Anthropology, Bard College

Sophie Richter-Devroe, Associate Professor, Hamad Bin Khalifa University

Souheir Edelbi, Lecturer, School of Law, Western Sydney University

Stefan Kipfer, York University

Stephanie Deig, PhD Candidate, University of Lucerne

Steven Alan Carr, Director, Institute for Holocaust and Genocide Studies, Purdue University Fort Wayne (affiliation for identification purposes only).

Steven I. Levine, Research Faculty Associate, Dept. of History, University of Montana, USA

Sujith Xavier, Associate Professor & Associate Dean, Research and Graduate Studies.

Sultan Doughan, Lecturer, Goldsmiths, University of London.

Sumathy Sivamohan, Professor, University of Peradeniya.

Sumayya Kassamali, Assistant Professor, University of Toronto

Sumedha Choudhury, PhD candidate, Melbourne Law School

Sumi Madhok, London School of Economics.

Sune Haugbolle, Professor, Roskilde University

Surabhi Ranganathan, Professor of International Law; Director of Postgraduate Education, University of Cambridge

Suraya Khan, Assistant Professor, San Antonio College

Susan M. Akram, Clinical Professor, Boston University School of Law

Susan Power, Head of Legal Research and Advocacy, Al-Haq

Susanne Wessendorf, Professor of Social Anthropology, Coventry University

Suzana Rahde Gerchmann, PhD candidate and GTA at City, University of London.

Swati Chattopadhyay, Professor, University of California, Santa Barbara

Sydney Chuen, Georgetown University.

Syed Muhammad Omar, PhD Research, University of Kansas

Syeda Masood, Phd candidate, Brown University

Talal Asad, Distinguished Professor Emeritus, City University of New York

Tamanisha J. John, Assistant Professor at York University

Tamsin Phillipa Paige, Senior Lecturer, Deakin Law School

Taner Akcam, Director of Armenian Genocide Research Program at Promise Armenian Institute, UCLA.

Tani Barlow, Professor of History, Rice University

Tania Saeed, Associate Professor, Lahore University of Management Sciences (LUMS), Pakistan

Tanya Serisier, Reader in Feminist Theory and Criminology, Birkbeck, University of London

Tanzil Chowdhury, Associate Professor of Public Law, Queen Mary University of London

Tarik Nejat Dinc, Visiting Assistant Professor, Reed College

Tariq Khan, Associate Professor, Govt College Township Lahore.

Tasniem Anwar, Assistant Professor, Vrije Universiteit Amsterdam

Tendayi Achiume, Professor of Law UCLA School of Law

Teresa Almeida Cravo, Associate Professor, University of Coimbra, Portugal

Terri Ginsberg, Faculty, City University of New York

Thalia Kruger, Professor, Faculty of Law, University of Antwerp

Thomas Blom Hansen, Professor of Anthropology, Stanford University.

Thomas Cowan, University of Nottingham

Thomas Earl Porter, Professor of Russian, Modern European and Genocide Studies, North Carolina Agricultural & Technical State University

Tim Lindgren, Postdoctoral Fellow at Amsterdam Law School, University of Amsterdam.

Tim Lindgren, Postdoctoral Fellow in International Law at Amsterdam Law School, University of Amsterdam

Timothy Mitchell, Professor, Columbia University

Tom Frost, Senior Lecturer, Kent Law School.

Tom Pettinger, Research Fellow, University of Warwick

Tor Krever, Assistant Professor in International Law, University of Cambridge

Tori Fleming, Doctoral Student, York University

Traek Z. Ismail, CUNY School of Law

Trevor Lies, Ph.D. Candidate, University of Kansas.

Trevor Ngwane, Senior Lecturer, University of Johannesburg

Triestino Mariniello, LJMU

Ubeydullah Ademi, PhD Student, Northwestern University

Umair Pervez, Instructor University of Calgary

Usha Natarajan, LPE Faculty Fellow, Yale Law School

Valentina Zagaria, Research Associate, Anthropology Department, University of Manchester

Valerie Forman, Associate professor, New York University

Van Aken Mauro University of Milan-Bicocca, Italy

Vanessa Ramos, Asociación Americana de Juristas, President

Vasiliki Touhouliotis, Adjunct Faculty and Independent Scholar, Portland State University

Vasken Markarian, PhD, University of Texas at Austin

Vasuki Nesiah, Professor of Practice in Human Rights and International Law, The Gallatin School, NYU.

Victoria Sanford, PhD, Lehman Professor of Excellence, Lehman College and the Graduate Center, City University of New York.

Victoria Veguilla del Moral, Pablo de Olvide University

Vida Samiian, Professor & Dean Emerita, CSU Fresno

Vidya Kumar, Senior Lecturer in Law, SOAS, University of London

Vikki Bell, Professor of Sociology, Goldsmiths, University of London

Vivan, Itala, Professor, Università degli Studi, Milano, Italy

Wade McMullen, international human rights lawyer, Robert F. Kennedy Human Rights

Wail S. Hassan, University of Illinois Urbana-Champaign

Walaa Alqaisiya, University of Venice-Italy.

Waqas Tufail, Reader in Criminology, Leeds Beckett University

Waseem Yaqoob, Lecturer, History of Political Thought

Wassim Naboulsi, Research Associate in IR, University of Sussex.

Wendy Brown, Professor, Institute for Advanced Study.

Wendy DeSouza, Adjunct Professor in Women and Gender Studies, Sonoma State University

Wendy Gifford, Professor, University of Ottawa

Wendy Pearlman, Professor of Political Science, Northwestern University.

William I Robinson, Distinguished Professor of Sociology, University of California at Santa Barbara

William Mazzarella, Neukom Family Professor of Anthropology, University of Chicago

Yaseen Noorani, Associate Professor, University of Arizona

Yaser Amouri, PhD, Public International Law, Birzeit University, Palestine

Yasmeen Azam, graduate student, UC Berkeley

Yasmeen Hanoosh, Professor, Portland State University

Yasmine Kherfi, PhD Student, LSE

Yasmine Nahlawi, Legal Consultant.

Yolande Jansen, Professor, University of Amsterdam

Yosefa Loshitzky, Professor, University of London, UK

Yusuf Ahmed, Tutor, SOAS.

Zahra Ali, Assistant Professor at Rutgers University-Newark.

Zahra Moloo, PhD candidate, Human Geography, University of Toronto

Zakia Salime, Associate Professor, Rutgers

Zeina Jamal, PhD, Queen Margaret University

Zoã© Samudzi, Visiting Assistant Professor, Strassler Center for Holocaust and Genocide Studies, Clark University

Zoha Waseem, University of Warwick Zoya Hasan, Professor Emerita, Jawaharlal Nehru University, New Delhi

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1. #petition #gaza

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