



September 14, 2020

The Honorable Gregory Gonzalez
Counsel to the Assistant Attorney General for National Security
National Security Division
Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530

Re: Unlawful provision of material support to designated foreign terrorist organization by San Francisco State University

Dear Mr. Gonzalez:

As a brief introduction, I am an attorney and write on behalf of The Lawfare Project, a non-profit legal think tank and litigation fund based in New York City that focuses on matters of civil and human rights, discrimination, anti-Semitism, and counter-terrorism.

I write to bring to your attention that Leila Khaled—a notorious member of the Popular Front for the Liberation of Palestine (the “PFLP”), which is a U.S.-designated foreign terrorist organization¹—is scheduled to speak at an online event (the “webinar”) that will be hosted by San Francisco State University (“SFSU”) on September 23, 2020.² Given Khaled’s membership in the PFLP, we are deeply concerned that her participation in this webinar and SFSU’s provision of this platform to communicate directly to U.S. college students (and others) may give rise to violations of 18 U.S.C. § 2339B, which makes it unlawful to provide material support or resources to a foreign terrorist organization. Accordingly, we urge the U.S. Department of Justice to investigate the webinar and take appropriate action.

Khaled’s membership in the PFLP is well-documented. After she was blocked from entering Italy in 2017,³ the PFLP issued a statement condemning Italy for denying her entry and, on its English-language website, explicitly acknowledged Khaled as a “member of [the terrorist organization’s] Political Bureau.”⁴ It is also well-documented that Khaled played a critical role in two airplane hijackings, one of which resulted in the loss of life.⁵ The terrorist activity of the PFLP has been so egregious that, in 2018 and 2019, PayPal barred a UK-based charity and a

¹ <https://www.state.gov/foreign-terrorist-organizations/>

² <https://www.facebook.com/events/754000115385200/> (appended as Exhibits A and B)

³ <https://www.jpost.com/international/italy-bars-pflp-terrorist-and-bds-advocate-leila-khaled-515546>. The PFLP is also designated as a terrorist organization by the European Union.

⁴ <https://english.pflp.ps/2017/12/01/pflp-deporting-comrade-leila-khaled-from-italy-will-not-silence-the-voice-of-the-palestinian-people/> (appended as Exhibit C)

⁵ https://www.vice.com/en_us/article/9k99k7/leila-khaled-first-female-hijacker-profile



North America-based NGO, both closely tied to the PFLP, from using its online payment service.⁶

18 U.S.C. § 2339B states, in part:

Whoever knowingly provides material support or resources to a foreign terrorist organization, or attempts or conspires to do so, shall be fined under this title or imprisoned not more than 20 years, or both, and, if the death of any person results, shall be imprisoned for any term of years or for life.⁷

The term “material support or resources” is defined in 18 U.S.C. § 2339A, as follows:

[A]ny property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials[.]⁸

As the U.S. Supreme Court emphasized in *Holder v. Humanitarian Law Project*, the U.S. Congress deliberately crafted a broad definition for material support because it found that "foreign organizations that engage in terrorist activity are so tainted by their criminal conduct that any contribution to such an organization facilitates that conduct."⁹ The Court clarified that material support includes "advocacy performed in coordination with, or at the direction of, a foreign terrorist organization,"¹⁰ and detailed other ways that material support meant to "promote peaceable, lawful conduct"¹¹ can further terrorism.

Per the webinar invitation, it is being co-sponsored by two SFSU academic departments, the Arab and Muslim Ethnicities and Diasporas Studies Program (“AMED”) and the Women and Gender Studies Department (“WGS”).¹² Two SFSU professors, Rabab Abdulhadi (Senior Scholar of the AMED)¹³ and Tomomi Kinukawa (a lecturer in the WGS), are listed as the webinar moderators,¹⁴ and the invitation indicates that the webinar will be held using an SFSU-associated video conferencing service.¹⁵ This SFSU-associated video conferencing platform, and

⁶ <https://www.thejc.com/paypal-withdraws-donations-to-uk-charity-accused-of-having-terror-links-1.471410>;
<https://www.jns.org/paypal-among-online-payment-platforms-that-shut-down-services-to-bds-group-with-terror-links/>

⁷ 18 U.S.C. § 2339B(a)(1)

⁸ 18 U.S.C. § 2339A(b)(1)

⁹ *Holder v. Humanitarian Law Project*, 561 U.S. 1, 5 (2010).

¹⁰ *Id.* at 24,

¹¹ *Id.* at 5.

¹² <https://www.facebook.com/events/754000115385200/>

¹³ <https://amed.sfsu.edu/content/rabab-abdulhadi-profile>

¹⁴ <https://wgsdept.sfsu.edu/people>

¹⁵ The invitation provides a hyperlink to register for the webinar, and this hyperlink is associated with the SFSU web domain: https://sfsu.zoom.us/webinar/register/WN_ycpMqzqcReO3HCQJKShi5g



Abdulhadi's and Kinukawa's moderating of the conversation, can constitute material support or resources for purposes of 18 U.S.C. § 2339B. Therefore, SFSU, Abdulhadi, and Kinukawa can each be found liable for violating the statute by providing, and/or conspiring to provide, such material support or resources to Khaled.

As to the statutory requirement that prohibited material support or resources must be provided "knowingly," SFSU is on notice of the upcoming webinar and that inclusion of Khaled can amount to a criminal violation of 18 U.S.C. § 2339B. The webinar has received significant and widespread press coverage, the invitation to the webinar is publicly available, and The Lawfare Project has sent a letter similar to this to Lynn Mahoney, President of SFSU. In fact, it has been reported that President Mahoney has *supported* the webinar and Khaled's participation therein.¹⁶

It is important to emphasize that the nature and content of Khaled's conversation during the webinar is wholly irrelevant to criminal liability under 18 U.S.C. § 2339B. The mere facts that Khaled is member of a designated foreign terrorist organization and is being provided with a platform on which to speak can give rise to a violation, even if she chooses to speak about a topic completely unrelated to terrorism. Relatedly, any suggestion by SFSU that Khaled's inclusion in the webinar must be permitted to avoid infringing on First Amendment rights is erroneous. The courts have consistently held that criminal conduct receives no free speech protection merely because it is in the form of or involves speech.¹⁷ More specifically, the U.S. Court of Appeals for the District of Columbia Circuit has specifically held that the 18 U.S.C. § 2339B prohibition against providing material support or resources to a foreign terrorist organization does not violate the First Amendment's guarantees of freedom of speech and association because the statute controls conduct rather than communication.¹⁸

I appreciate the Department's time and consideration of this important matter and hope it will be addressed with the gravity it deserves.

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Ryberg", written over a horizontal line.

Benjamin Ryberg, Esq.
Chief Operating Officer & Director of Research
The Lawfare Project
(212) 339-6995
Ben@TheLawfareProject.org

¹⁶ <https://forward.com/fast-forward/453867/san-francisco-state-university-president-stands-behind-terrorist-leila/>

¹⁷ See, e.g., *Giboney v. Empire Storage & Ice Co.*, 336 U.S. 490 (1949). In *Giboney*, the Court found that picketing with placards unlawfully restrained trade, even though "the agreements and course of conduct here were . . . brought about through speaking or writing." *Id.* at 502. As the Court stated, "[I]t has never been deemed an abridgement of freedom of speech or press to make a course of conduct illegal merely because the conduct was in part initiated, evidenced, or carried out by means of language, either spoken, written, or printed. *Id.*

¹⁸ See *People's Mojahedin Org. of Iran v. Dept. of State*, 327 F3d 1238, 1244 (D.C. Cir. 2003).

EXHIBIT A

Teaching Palestine: Pedagogical Praxis and the Indivisibility of Justice

WHOSE NARRATIVES? GENDER, JUSTICE, & RESISTANCE: A CONVERSATION WITH LEILA KHALED

PARTICIPANTS

Leila Khaled
Rula Abu Dahou
Ronnie Kasrils
Sekou Odinga
Laura Whitehorn

CO-MODERATORS
Dr. Rabab Abdulhadi
Dr. Tomomi Kinukawa

23

Open classrooms of Rabab Abdulhadi (AMED Studies) and Tomomi Kinukawa (Women and Studies) for a historic roundtable conversation with Palestinian feminist, militant, and leader Leila Khaled, followed by Q&A discussion with students, activists, and scholars.

WEDNESDAY, SEPTEMBER 23, 2020 AT 3:30 PM – 5:30 PM

Whose Narratives? Gender, Justice, & Resistance: A conversation with Leila Khaled

Online Event

Go With Friends

[See All](#)

398
GOING

1.7K
INTERESTED



Andrew is going



Whose Narratives? ...

Interested

Going

Invite



Devora Cohen

Invite

Popular With Friends



MON, SEP 14 AT 8 PM

Virtual Cooking Class with Michael Solomonov



Diana and Ariella

Interested



MON, SEP 14 AT 7:30 PM

End-of-Summer Backyard BBQ Bash

Chabad Heights



Ezriel

Interested



MON, SEP 14 AT 6:30 PM

Sep 14th - NYs Biggest Tech Entrepreneur & Bizz Networking Mixer

PHD Rooftop Lounge at Dream Downtown



Virag

Interested



THIS SUNDAY AT 8:30 PM

Buffy the Vampire Slayer Trivia Fundraiser (via Zoom- Live Host)

Zoom Virtual Room (East Coast time) Live Host



Gina

Interested

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Details

2.1K people responded



Wednesday, September 23, 2020 at 3:30 PM – 5:30 PM

Public · Hosted by **AMED Studies at SFSU, Yalla Indivisible** and 5 others

Online Event

Join the open classrooms of Professor Rabab Abdulhadi (AMED Studies) and Professor Tomomi Kinukawa (Women and Gender Studies) for a historic roundtable conversation with Palestinian feminist, militant, and leader Leila Khaled, followed by Q&A discussion with students, activists, and scholars at 12:30-2:30 pm PST (3:30-5:30 pm New York, and 10:30pm-12:30 am in Palestine and Jordan).

Register in advance for this webinar:

https://sfsu.zoom.us/webinar/register/WN_ycpMqzqcReO3HCQJKShi5g

Participants:

Leila Khaled

Rula Abu Dahou, Acting Director, Institute for Women's Studies at Birzeit University, Palestine

Ronnie Kasrils, Palestine solidarity anti-Zionist activist and member of uMkhonto we Sizwe, 1961-1990

Sekou Odinga, Black Liberation Army, 1960s & '70s, and 33-year prisoner in US jails

Laura Whitehorn, Co-founder of Release Aging People in Prison, RAPP, and 14-year-captive political prisoner

Moderators:

Dr. Rabab Abdulhadi

Dr. Tomomi Kinukawa

Co-Sponsors:

Al-Awda: The Palestinian Right to Return Coalition

Alliance for Water Justice in Palestine

Jewish Voice for Peace- Bay Area

Jewish Voice for Peace- Boston
Samidoun Palestinian Prisoner Solidarity Network
SJP at UCLA
Workers World Party
Within Our Lifetime
Yalla Indivisible
See Less

Other **Online**

Hosts



Yalla Indivisible

Community Organization · Nonprofit Organization



Al-Awda, The Palestine Right to Return Coalition

Nonprofit Organization · Charity Organization · Education



Jewish Voice for Peace Boston

Nonprofit Organization · Political Organization · Non-Governmental Organization (NGO)



Within our Lifetime • United for Palestine

Community Organization · Community



Workers World Party

Political Organization



Samidoun Palestinian Prisoner Solidarity Network

Community · Political Organization



AMED Studies at SFSU

College & University · Community

EXHIBIT B

Teaching Palestine: Pedagogical Praxis and the Indivisibility of Justice

WHOSE NARRATIVES? GENDER, JUSTICE, & RESISTANCE: A CONVERSATION WITH LEILA KHALED

PARTICIPANTS

Leila Khaled
Rula Abu Dahou
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Laura Whitehorn

CO-MODERATORS
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Dr. Tomomi Kinukawa

Join the open classrooms of Rabab Abdulhadi (AMED Studies) and Tomomi Kinukawa (Women and Gender Studies) for a historic roundtable conversation with Palestinian feminist, militant, and leader Leila Khaled, followed by Q&A discussion with students, activists, and scholars.



Leila Khaled



Rula Abu Dahou



Ronnie Kasrils



Sekou Odinga



Laura Whitehorn



Dr. Rabab Abdulhadi



Dr. Tomomi Kinukawa

REGISTRATION

bit.ly/319EFeo

SPONSORED BY



Arab and Muslim Ethnicities and Diasporas
Studies Program, SFSU • amed.sfsu.edu

Women and Gender Studies Department,
SFSU • wgsdept.sfsu.edu

September 23, 2020 12:30-2:30pm PST, 3:30-5:30pm EST, 10:30-12:30am Palestine and Jordan

EXHIBIT C



- [Home](#)
- [Statements and Positions](#)
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Dec
01
2017

PFLP: Deporting Comrade Leila Khaled from Italy will not silence the voice of the Palestinian people

The Popular Front for the Liberation of Palestine strongly condemned the action of the Italian authorities in denying entry to Comrade Leila Khaled, member of the Political Bureau of the Front, canceling her visa and forcing her to board the next plane to Amman. She was invited to Italy for a series of political events organized by the Arab Palestinian Democratic Union in Italy to coincide with the 50th anniversary of the launch of the PFLP.



The Front emphasized that this action followed upon a racist campaign waged by the Zionist movement and the forces of the fascist right wing in Europe over the past months against the Popular Front and the Palestinian and Lebanese Resistance. This action by the Italian authorities is part of this ongoing campaign, which will only be met with more insistence on transmitting the voice of our people to the world.

The Front further considers that the leading role of the struggler Leila Khaled and her revolutionary and symbolic role on a Palestinian, Arab and international level has enraged the Zionist state and its allies in Europe, pushing the forces of the Zionist movement to demand her arrest or deportation. They have failed to prevent her from giving public talks and appearances in Germany, Spain, Belgium, and elsewhere in Europe.

Further, the Front emphasized that this action on the part of the Italian authorities is a blatantly political decision in favor of the occupation state and racist Zionism. It does not reflect the position of the progressive, democratic forces in Italy or the values of the Italian people who reject war, racism, fascism and occupation.

The PFLP emphasized that it will, in cooperation with friends and supporters in Europe in general and in Italy in particular, continue to pursue the issue of the expulsion of Comrade Leila Khaled on political, media and legal levels.

The Front also praised all of the Italian and European voices, personalities, parties and organizations that expressed their condemnation of this unjust decision and their support for the rights of the Palestinian people and their just struggle for liberation, return and the establishment of an independent Palestine with Jerusalem as its capital.

The PFLP expressed its appreciation of the comrades in the Arab Palestinian Democratic Union for refusing to cancel the scheduled events honoring the launch of the Front despite the wave of incitement, pressure and Zionist provocations.

The Front urged all left-wing forces and supporters of Palestine in Italy to expand the campaign to boycott the Israeli occupation state and build campaigns of solidarity with the Palestinian people and their legitimate rights.

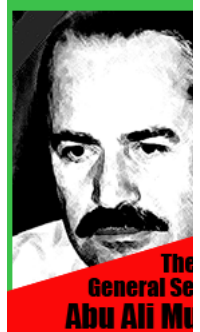
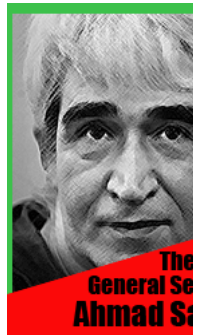
It saluted all of the efforts being made in this period against the Giro de Italia, an international cycling competition, demanding an end to the collaboration with the occupation state and that the launch of the route be removed from occupied Palestine, where it is scheduled to begin in May 2018.

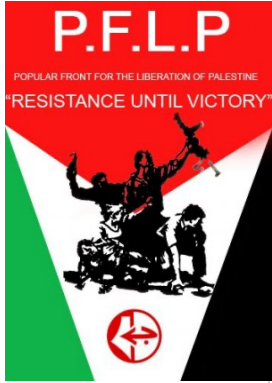
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Leaders of the PFLP





In conclusion, the Front emphasized that the voice of the resistance, represented by the struggler Leila Khaled and all of the progressive and freedom-loving forces in the world, will not be silenced and will continue to pursue the occupation, its allies and supporters everywhere.

Popular Front for the Liberation of Palestine
November 29, 2017



Sorry, the comment form is closed at this time.

PFLP: Attack on the Resistance is a U.S.-Zionist decision with Arab agents

PFLP: Our struggle - not Trump - will decide the fate of Jerusalem

Arabic: Strategy for the Liberation of Palestine

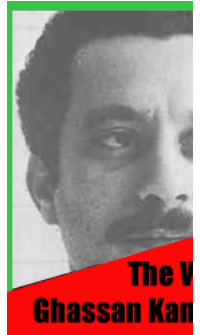


Sixth Conference of the PFLP

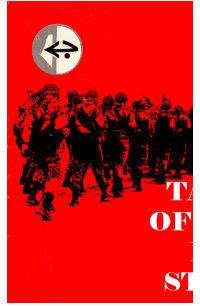


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