

## Open Letter to United Nations Secretary General Ban Ki-moon

### Re: FIDH Deeply Concerned by the Composition of UN Panel of Inquiry in the Flotilla Events

New York, August 6, 2010

Your Excellency,

As the President of the International Federation for Human Rights (FIDH), I take note of your announcement of the creation of a Panel of Inquiry into Israel's actions on May 31, 2010 in international waters against a six-ship humanitarian flotilla heading to Gaza and resulting in the killing of eight Turkish nationals and one Turkish-American. FIDH wishes to express to you its serious concerns with regards to the composition and mandate of this UN investigation.

In its Presidential Statement released on June 1<sup>st</sup>, 2010, the UN Security Council called for « *a prompt, impartial, credible and transparent investigation conforming to international standards* » into the flotilla attack. According to your statement delivered on August 2<sup>nd</sup>, the Panel should fulfill its mandate in accordance with the Security Council statement. However, we do not think that the Panel, as currently composed, is capable of meeting such standards. We are concerned that in failing to do so, while being the highest-level inquiry to date into these acts, it will not only shadow, but possibly hinder or discredit other efforts towards independent investigation, including the probe launched by the UN Human Rights Council. In failing to meet the standards of an effective investigation, this probe risks contributing to a culture of impunity.

As of now, the Panel's mandate has not been clearly defined and seems to be limited to simply assessing national investigation reports. This would clearly not be sufficient to bring to light the circumstances of this tragedy and bring those responsible to account, in an independent and impartial manner.

Of primary concern is the highly political composition of the Panel. In order to ensure an objective inquiry, lawyers, former prosecutors or former judges, with an expertise in impartial investigations, should be supervising such an inquiry. This is not the case here.

In particular, FIDH finds the nomination of outgoing President of Colombia, Mr. Alvaro Uribe, as Vice-Chair of this Panel, to seriously damage the credibility of the Panel. It could also affect the trust that should exist for the United Nations, as the proposition itself could be seen as an affront to victims.

Mr. Uribe's actions as President of Colombia during the ongoing armed conflict – currently under analysis by the International Criminal Court – raise serious concerns. Thousands of extrajudicial and summary executions, massacres, enforced disappearances, internally displaced persons and other grave international crimes have been documented by the United Nations themselves in Colombia under Uribe's Presidency<sup>1</sup>. Some of his closest

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<sup>1</sup> Please see, among others, Human Rights Committee, Final Observations, 4 August 2010 (CCPR/C/COL/CO/6) ; Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston, Mission to Colombia, 31 March 2010 (A/HRC/14/24/Add.2) <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/132/38/PDF/G1013238.pdf?OpenElement> ; Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Colombia, 4 March

collaborators, members of his political party, and members of the army under his command, have been accused of very serious crimes before Colombian courts. The individual responsibility of Mr. Uribe for some of those crimes is also in question. In addition, Mr. Uribe has repeatedly attacked the independence of the judiciary, and has waged a continuous stigmatization of human rights defenders and others who have pointed to his government's involvement in human rights violations. His actions prove that he lacks the political will to hold the authors of international crimes to account.

We also have concerns regarding Mr. Uribe's partiality with respect to the subject matter of the inquiry; in the past he has publicly looked to reinforce Colombia's military relationship with Israel and has developed security cooperation conventions during his mandate.

On the basis of the above, FIDH does not believe that the inquiry resulting from this Panel can present the level of objectivity and impartiality that must characterize an investigation mandated by the United Nations. While we understand the difficulties you have met in order to achieve the creation of such a Panel with the collaboration of Israel, we urge you to reconsider the composition of this Panel and to ensure the participation of neutral and independent figures. We recall that all United Nations Member States are under an obligation to "fulfill in good faith the obligations assumed by them in accordance with the [UN] Charter".

We also wish to restate the need for Israel to collaborate with other on-going efforts to shed light on the flotilla attack, especially with regards to the probe launched by the United Nations Human Rights Council and we hope you can use your good offices to ensure this is the case. The latter probe, composed of three independent experts including a former judge and a former international prosecutor, must indeed proceed.

Thank you for considering our concerns and recommendations.

Ms. Souhayr Belhassen  
FIDH President

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[http://www.hchr.org.co/documentoseinformes/informes/altocomisionado/Informe2009\\_eng.pdf](http://www.hchr.org.co/documentoseinformes/informes/altocomisionado/Informe2009_eng.pdf) ;  
Committee against Torture, Final Observations, 19 November 2009 (CAT/C/COL/CO/4)