

The Second Conference for the Lawyers of the Victims of the Freedom Flotilla Doha, October 23-24, 2010

As a follow-up to the first conference of the Freedom Flotilla lawyers held in Istanbul on 15 July 2010, a second meeting was held in Doha from 23-24 October 2010 and was attended by 70 lawyers from 20 different countries. The workshops at the conference discussed the following topics:

- Legal, Judiciary and administrative proceedings at a national level
- Procedures and international and regional mechanisms
- Co-ordination mechanism
- Media plan to generate support

Eleven working papers were presented in addition to a CD that compiled most evidences and victims' testimonies. After an exchange of expertise and opinions the participants expressed their conviction in the necessity of co-ordination and exchange of information.

The conference concluded with a number of recommendations, which will be translated into strategies and an action plan at a later date for legal and media action:

Topic one: Legal, Judiciary and administrative proceedings at a national level

Analysis of jurisdiction in various states and summary of work done to date

Turkey

Elmadag confirmed that the Turkish prosecutor has accepted that prosecutions can be brought under code 8, code 12 and code 13. Because the Mavi Marmara was under Turkish ownership any victim on that boat can seek justice in Turkish court regardless of nationality under universal jurisdiction.

Elmadag have testimony of over 300 passengers plus forensic evidence from Mavi Marmara and post-mortem evidence.

South Africa

Lawyers for South African victims have lodged a complaint with the public prosecutor because South Africa has ratified the Rome Statute South African victims can seek justice in South African courts. The complaint has been drafted by John Dugard and they are also focusing on the crime of apartheid as it relates to the situation Gaza.

Arab States

Lawyers in Jordan have been testing universal jurisdiction principles and the courts appear to have been receptive so far but they are hampered by a lack of legal expertise in this area.

There are lawyers acting for victims in Kuwait and Bahrain, but because neither country has diplomatic relations with Israel, there is no prospect of any Israeli suspect visiting those regions.

Greece

Efforts of Greeks lawyers have been focussed on securing the return of ships still held in Ashdod. The dispute centres on the payment of towing fees, which will run to hundreds of thousands of Euro's.

Italy

Lawyers are seeking compensation for some Italian victims but not bringing UJ cases yet. There may be a prosecutor in Rome who is carrying out investigations of human rights violations of his own motion, but we don't have details. There is significant political opposition in Italy to UJ prosecutions.

Spain

Spanish victims can seek justice against Israel in their national courts. Spanish lawyers are seeking to bring prosecutions and are experienced in doing so but they have little practical support in Spain and public prosecutors are hostile.

UK

UJ laws are well developed in the UK and there is no need for the victims to be UK citizens or have any connection to the UK in order to prosecute. Lawyers have successfully obtained an arrest warrant for Tzipi Livni, amongst others, as a result of which many Israeli officials cannot currently visit the UK. The UK government will attempt to change the law, although there will be opposition to this and the details of the proposals are not yet clear.

Recommendations

- Elmadag will bring prosecutions on behalf of non-Turkish victims who cannot or do not wish to bring cases in other jurisdictions and seek help from lawyers of non-Turkish victims in doing so.
- Where possible, lawyers in other jurisdictions should seek to bring UJ prosecutions in order to share the burden with and take the heat off Turkey
- Victims in countries which do not have universal jurisdiction should seek to instruct lawyers in Turkey, Spain and the UK.
- Lawyers for victims outside of Turkey to communicate with Elmadag and provide them with evidence – e.g. statements, medical reports etc
- All lawyers must ensure that the highest evidential standards are upheld e.g. that statements are taken in proper evidential form (avoiding hearsay evidence). Lawyers will share knowledge about the evidential rules in their own jurisdictions.
- Elmadag will set up a database, including all the evidence they have obtained. It will be categorised, i.e. witness statements, photographs, video footage and medical evidence – only to be used as evidence. Appeal to any person in possession of footage, photographs etc to make available to Elmadag with guarantee that it will be treated confidentially and only used for legal purposes
- We will seek to identify dual nationality suspects who may be prosecuted in their national courts.
- To consider using maritime law as well as more conventional human rights law in order to bring challenges in national courts. E.g the convention for the Suppression of Unlawful Acts

against the Safety of Maritime Navigation 1988. A huge number of states have ratified the convention and would be able to prosecute suspects as long as the victim is resident within the jurisdiction.

- To use the law in each country to protect IHH and co-operating partners against defamatory attacks
- To pursue legal action for return of the boats and compensation for any damage and liaise with insurance companies.

Topic Two: Procedures and international and regional mechanisms

6 broad points in 3 topic areas

International Criminal Court

1. There have been 4 communications to ICC from 3 different countries - France, Turkey, Indonesia and the United Kingdom. The participants welcomed the communications made and would invite the other countries to follow their lead.
2. The participants resolved that those who have submitted communications will support and share evidence, information and legal research with others that wish to do the same.
3. Other lawyers interested in making communications to the ICC Prosecutor can request training and advice from lawyers who have already done so.
4. The crimes alleged in communications to date cover war crimes and crimes against humanity.
5. The substantive focus of individual communications is to be left to the discretion of individual legal teams. It is to be noted that communications focussing on both the siege and the flotilla have already been made.
6. Encourage synergy and coordination between all legal teams.
7. Call upon the Turkish government to recognise the jurisdiction of the ICC in respect to the freedom flotilla. We further call on the Turkish government to use its current role as President of the UN Security Council to highlight the UNFFM and push for a resolution to refer the Israeli raid of the freedom flotilla to the ICC.
8. Enter into a dialogue with various governments so that they strengthen their position in support of the freedom flotilla case.

Co-ordination

1. There should be a central email for all lawyers involved
2. There should be a central committee to coordinate between all lawyers (refer to coordination workshop)

NB, the participants hope that Fakhoora or another organisation should facilitate this.

Other international mechanisms

1. The participants agreed to widen their focus beyond the ICC and to explore all available options for justice and redress for the victims aboard the freedom flotilla.
2. In addition to international law relating to human rights and international humanitarian law, the participants agreed to explore international maritime conventions. This includes, for example, the Convention on the Law of the Sea and the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988. It is to be noted that the 1988 convention, to which both Israel and Turkey are state parties, provides jurisdiction for the attack on the freedom flotilla to be referred to the International Court of Justice.
3. Utilise mechanisms at the UN level such as 1235 and 1503 communications procedures to the Human Rights Council in addition to relevant convention committees.
4. To use regional mechanisms to exert pressure on parties to hold Israel accountable.
5. Not recognising the legitimacy of the Turkel commission while reiterated the legitimacy of the United Nations Fact Finding Mission.
6. We support the UNFFM and request the Uribe Panel report to be fair and accurate to the victims of the Israeli raid of the freedom flotilla, and to pay regard to the findings and recommendations of the UNFFM. We request the Uribe Panel to pay due regard to the findings and recommendations of the UNFFM.

Topic Three: Co-ordination mechanism

Recommendations:

1. A coordination mechanism is needed to provide a framework for the following groups:
 - Lawyers of victims
 - Other lawyers, part of human rights organisations or interested in taking part
 - Non-lawyers, in human rights organisations or others
 - The Coalition that planned the flotilla (consisting of 6 groups)
2. The focus should be on the flotilla, but should recognise that the flotilla is part and parcel of the bigger picture.
3. A full-time funded secretariat/project manager is required to ensure communication between the different committees/groups. It is hoped that Al Fakhoora or another sponsor will fund this position.
4. A legal steering committee to be established consisting of the 6 coalition partners:
 - IHH
 - Free Gaza
 - Ship to Gaza Greece

- Ship to Gaza Sweden
- European Campaign
- International Campaign

And victims' lawyers from the following regions:

- Turkey (2)
- US
- Europe
- Arab Countries
- South Africa
- South East Asia

Turkey to have 3 representatives in total (one from IHH lawyers) in recognition of the of the fact that they represent the most victims.

Lawyers working inside Israel will not be included in the legal steering committee as it will prove problematic for them domestically, but can be members of the lawyers group to ensure regular communication.

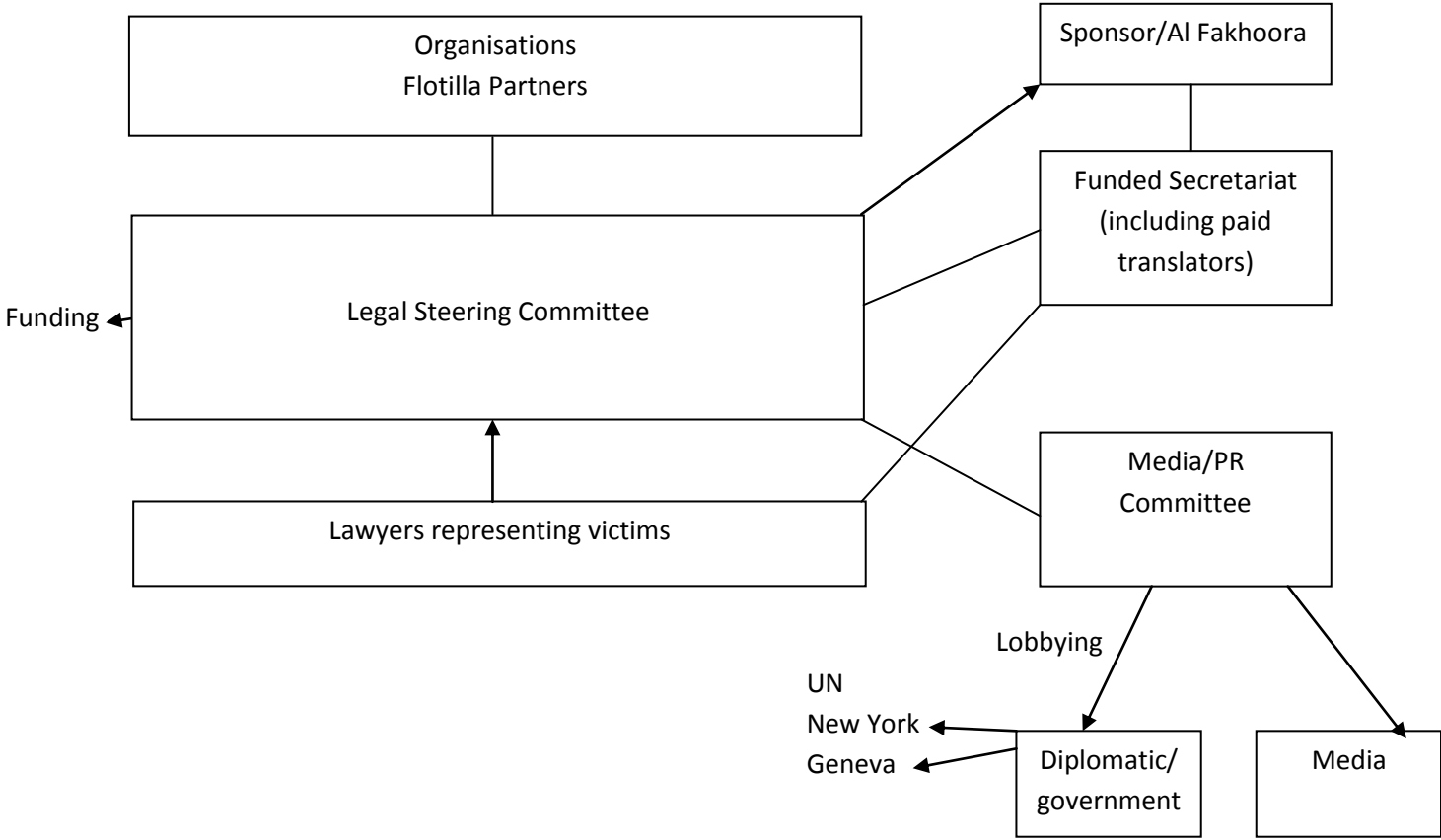
5. Two distinct email groups to be set up for the Legal Steering Committee and the Lawyers group to enable them to share information. The secretariat/project manager will manage both email groups and ensure regular information flow.
6. There will be a media/PR committee and diplomatic/government relations group and the relationship with the steering committee will be discussed and decided following the conference.
7. Lawyers from each region will produce a short, regular report on activities to be compiled into a pro-forma report by the secretariat/project manager. The highlights of this report will need to be translated into 4 different languages: Arabic, Turkish, French and English. Translation will be organised by the secretariat/project manager. Funds need to be raised for this.
8. A Trust to be created for funds raised centrally that would be designated to specific legal actions. Lawyers standing to benefit from the funds cannot be a part of the Trust but it would include other members of the steering committee.
9. Issues to be discussed by the legal steering committee include:
 - Property issue
 - Comoros and Greece
 - Turkel Commission
 - Freedom Flotilla UN fact-finding mission report
 - Uribe Report
 - Universal Jurisdiction work that's already being carried out
 - Legal work in Turkey
10. The co-ordination mechanism seeks to create a wider secretariat in the future to address the need for a full archive of legal documents and expand its activities.

Flotilla Justice Group/Justice for Flotilla Group

Recommended Co-ordination Mechanism:

Legal Steering Committee to include representatives from:

- IHH
- Free Gaza
- Greece
- Sweden
- European Campaign
- International Committee
- Turkey (2)
- US
- Europe
- Arab Countries
- South Africa
- SE Asia



Topic Four: Media plan to generate support

Goal: a media strategy to support flotilla campaign.

Key opportunities to implement the strategy:

1. Anniversary of flotilla
2. Future flotillas
3. The March UNHCR report
4. The Uribe Report
5. Human stories regarding families of victims

13 recommendations:

1. Establishing one website for the entire coalition which lists the various spokespeople in different countries in different languages
2. Identify 10-12 spokespeople in various countries/languages
3. Provide the spokespeople with minimum level of media training (provided by professional company/pr firm with the possible cooperation of Al Jazeera)
4. Agree on the messages (occupation, war criminals, big coalition for flotilla, public outcry, incorporation of human interest story as opposed to legal technicalities when delivering message to media).
5. As part of the PR / public outreach aspect, organise high level meeting/delegations to get media coverage
6. Social media training for a different group than the spokespeople (one person per country)
7. Assigning a no. of legal experts to assist the spokespeople and social media people in responding to legal documents/affairs in the media
8. Transition period: initially one point of contact for journalists everywhere so that this contact can connect journalists to proper spokespeople
9. We encourage all lawyers to be present in all international fora.
10. Establish a couple of media/PR offices (USA, Europe) to support the campaign
11. Obtain professional support from media and PR companies
12. Support people preparing books/documentaries etc
13. Provision of all types of support responding to the defamation campaigns launched against IHH and other partners in the coalition.

Conclusion

Encourage other state parties to the ICC to take actions for the flotilla raid, such as the Comoros Islands, Greece, Jordan and Cambodia. The participants agreed to draft letters to governments to support and strengthen all legal efforts to obtain redress and justice for the victims.

The attendants also agreed on drafting a letter addressed to the state of Qatar requesting financial, legal and media support.

Participants also agreed the necessity of convening a third conference for consultations after a couple of months, from this date, to evaluate follow-up and execution. A meeting or an extraordinary meeting can be arranged if necessary. In conclusion, the participants would like to thank the Al Fakhoora Campaign for the facilitations it provided in holding this conference and for all of its efforts in making this conference a success.

On this occasion, we pay tribute to the martyrs of the Freedom Flotilla and their families.

Doha, 24 October 2010