



International meeting

Recent Events in the Arab Countries: Horizons, Challenges and Consequences for the Rule of Law and Justice Reforms

23 & 24 May 2011 | The Hague, The Netherlands

Opening speech by Sam Muller, director of Hiil

Monday 23 May 2011

Welcome **Marhaba bikum**

Ladies and gentlemen,

It gives me great pleasure to welcome you to The Hague, the “Legal Capital of the World”. We are gathered today at the Peace Palace, a historic symbol of striving for peace and justice. Justice—and the rule of law—are the notions that brought us together today, against the backdrop of the ‘Arab Spring’ that we have all been witnessing with astonishment since early this year. We are here to listen. To exchange. To learn. To take the first step in a process to find a match between political, technical, and financial resources from one part of the world with possible needs, aspirations, realities of another.

Two words are most critical here:

The word ‘*listen*’. And the word ‘*process*’. I will say more about both later but already ask you now to hold on to them.

Most of you have travelled long distances to participate in this important informal meeting of stakeholders and experts. I am honoured to see in the room such distinguished participants from the MENA region, in particular from Tunisia, Egypt, Jordan, Lebanon and Yemen. We highly appreciate your effort.

Special words of welcome and gratitude are ought to our colleagues from the *Arab Center for the Development of the Rule of Law (ACRLI)*, the co-organisers of this meeting. ACRLI is one of the key organisations in the Hiil-convened Hague Rule of Law Network. I thank Dr. Wassim Harb, Mr. Roger Khoury and Ms. Joyce Hakme for all the extremely hard work in the last couple of months to make this event possible, on such short notice.

I would also like to welcome key members of the *Hague Rule of Law Network*, whose vast knowledge and experience-based wisdom regarding the rule of law field will greatly benefit our discussion today and tomorrow.

Last but not least, I would like to welcome members of the staff of the *Ministry of Foreign Affairs of the Netherlands*, the Chair and the Executive Secretary of the (Dutch) *Advisory Council on International Affairs*, and experts from the *Folke Bernadotte Academy* in Sweden, who are also here with us today.

Dear friends,

This meeting and the process that we aim to start with it draws on they key strength of Hiil: that of bringing together to create knowledge and innovative solutions for a more effective rule of law. We are very proud to be able to combine our strengths with those that you bring to the table.

Arab Spring

Five months ago, following an individual's act of desperate protest, unrest in Tunisia developed in a dramatic pace, leading to the fleeing of the long-ruling President Ben-Ali less than a month later. Another month ahead, Hosni Mubarak, the hitherto powerful President of Egypt, has also been forced to step down. We have seen unrest spread to Bahrain, Libya, Yemen and Syria but there, ruthless regimes that cling to power have responded with brutal violence. Troubling news keeps on coming. In Libya, this weekend NATO widened its air campaign against Khadafy's regime; in Syria, several dozens of protesters were shot dead during last weekend, raising the total count to approximately 900. And in Yemen a Gulf Cooperation Council-brokered transition deal that is supposed to ease President Saleh out of Power within a month has fallen through. Due to this very recent development, two of the invitees to our meeting, Mohammed Naji Alaw, and former Prosecutor General Mr. Al-Alofi, had to cancel their participation in the last minute as he is nominated to continue negotiations on behalf of the opposition.

In Tunisia and Egypt, the situation remains volatile, pending elections that are announced to take place in both countries within a couple of months. Two days ago, Mohamed El-Baradei said that Egyptian society is disintegrating and that politically the situation is "*like a black hole*, we do not know where we are heading." Uncertainty thus remains *the* key word in describing the current situation. Fundamental political and legal transitions do not end with the toppling of an authoritative ruler or even with the subsequent announcement of general democratic elections. That is only where the journey starts, and history has taught us that the way forward is always long, scattered with potholes, full of unexpected turns, and without shortcuts. In this respect I would like to quote Carl Bild, Minister of Foreign Affairs of Sweden, who recently stated at the opening of the Doha Forum that:

"what we have seen so far is a revolution of rising expectations - but what we must focus on are the policies necessary to prevent this from some years down the road turning into a revolution of failed expectations".¹

The role of the West

Western governments have not been very quick to respond to the Arab Spring with concrete support and commitment to help. But significant initiatives are now underway.

Just a few days ago, President Obama held a long-awaited speech on the Middle East. The speech was meant "*to mark a new chapter in American diplomacy*". Obama correctly pointed out that the changes we are witnessing are of an enormous magnitude, and that it will be years before the story reaches its end. He promised that the United States will support economic and political reforms over the next years, including "*equality for men and women under the rule of law; and the right to choose your own leaders*".

In Europe, the EU Parliament was the first institution to pronounce support in clear and strong terms. Subsequently, the European Commission together with Lady Ashton, the High Representative for Foreign Affairs and Security Policy, issued a 'joint communication' on a *Partnership for Democracy and Shared Prosperity with the Southern Mediterranean*. Work is now under way to devise a comprehensive strategy, based on a commitment to democracy, human rights, good governance and the rule of law. The EU wants to base such a partnership on three core elements:

- Democratic transformation and institution-building, with a particular focus on fundamental freedoms, constitutional reforms, reform of the judiciary and the fight against corruption;

¹ Remarks by Carl Bild, Swedish Minister of Foreign Affairs, at the Opening of Doha Forum 2011, 9 May 2011, available at: < <http://www.sweden.gov.se/sb/d/14186/a/168063>>

- A stronger partnership with the people, with specific emphasis on support to civil society and on enhanced opportunities for exchanges and people-to-people contacts with a particular focus on the young;
- Sustainable and inclusive growth and economic development.

A key and potentially very useful idea, which I hope will also resonate in our debates today and tomorrow, was given to us by the World Development Report 2011: that of '*legitimate institutions*'. The Report argues – with some empirical support – that states that have legitimate institutions have the best chances of dealing with external and internal stresses. Those that do not generally remain in an almost perpetual cycle of violence and turmoil. Rule of law is a key component of legitimate institutions. And legitimate institutions are a key component of rule of law. We would be very interested to learn how our colleagues from the MENA region view the EU approach and what you think of the analysis of the World Development Report and how it might be used in making strategy.

EU Member States are also working hard to reshape their own approach towards the region and to identify areas where they want to contribute and make a difference. The governments of The Netherlands and of Sweden have expressed a particular interest in assisting with rule of law reforms. The Minister of Foreign Affairs of The Netherlands has recently requested the Advisory Council on International Affairs to give advice on its MENA policy. We are very pleased that Professor Joris Voorhoeve and Mr. Mark Waanders, the Chair and the Secretary of the Committee which is preparing this advice, are present here. We trust that the fruits of our discussions will find their way to the advice which they are about to complete.

Importance, goals and format of this meeting

Impact

Our meeting today and the process that we wish it to be a first step in is thus extremely timely. And I now first come back to the word 'listen' that I asked you to remember in the beginning: this meeting is first and foremost about facilitating discussion and exchange of experiences, practices and views among the MENA participants. We, non-MENA participants, will listen, probe, and try to fully understand.

Then, I recall the second word: 'process'. This is not a one-off event. It is intended as the beginning of a process. And we must lay the foundations for that in the coming two days. Rule of law is not built in one day.

Thirdly: we must ensure that our meeting, and the process it launches, provides relevant, useful, high level input into the strategies that the Netherlands, Sweden and the EU, and others we deem relevant, are now shaping.

To encourage you: during a speech last week, Mr. Ben Knapen, the Dutch Minister for European Affairs and International Cooperation mentioned that he was very pleased to learn that HiiL and ACRLI have taken the initiative to organise this meeting.

Dear friends,

We want to reach conclusions, provisional as they may be, with respect to the following headings:

1) Priority needs, problems and topics for rule of law reforms

By definition, the 'Arab Spring' has common features in various countries across the region. To some extent it should be possible to describe, with a thick brush and using general terms, reform needs that are typical to the region and would thus justify a regional approach.

At the same time, we all know very well that 'one size does *not* fit all'. Notwithstanding the commonalities of the legal systems in Arab countries, no country in the region is the same and the specificities of each of them must be the focus of inquiry. The EU also emphasised that its new strategy for the region will be based on a *differentiated* approach.

Accordingly, we will also identify and prioritise, per country, the main specific needs for rule of law reform.

2) *Strategies and paths to pursue reforms*

No less important is the question of how could such reforms be successfully pursued and implemented. History has taught us that the 'what needs to be reformed' question is often easier to answer than the 'how to achieve it' question.

Format and programme

Before giving the floor to my colleague Roger Khoury, I would like to conclude by saying a few words about the format of our meeting and the programme for today and tomorrow.

- This opening plenary session will feature two eminent keynote speakers, who will be presented by Mr. Khoury. After a short break, Prof. Julio Faundez will say a few things about lessons learned from rule of law reforms.
- We will then very briefly introduce the two working groups and subsequently will split and continue the discussion in two parallel workshops for the rest of today.
- The discussion part of today's programme ends at 17:30. You will then be able to retreat to your hotel for a short while, before we meet again for dinner at 19:00. We will arrange for your transport from the hotel to the dinner venue.
- Tomorrow morning we shall meet again in plenary. The first session will be devoted to reporting from the working-groups and will also allow participants of each group to express their views regarding the topics discussed in the other group. In the following session, we will merge the conclusions reached in the two groups and will reach provisional (conclusions).
- Tomorrow, after lunch, we will have a short 30-minutes session when we will present the meeting's conclusions and the way forward.
- Finally, I would like to stress that while we advocate full transparency, to encourage an open and free debate, the meeting will be held under the *Chatham House Rule*, which means that the meeting report will not attribute specific statements to the individuals who stated them.

With this, I would like to give the floor to my colleague Roger Khoury of ACRLI.