

**Forum for the Future
Manama, 11-12 November 2005**

Parallel Meeting of the civil society 7-8 December 2004

The Forum for the future: a tool for reform in the “Broader Middle East and North Africa”?

The International Federation for Human Rights (FIDH) welcomes the holding of the second meeting of the Forum for the Future in Bahrain on 11-12 November 2005, as a sign of the commitment of G8 countries and countries of the Broader Middle East and North Africa (BMENA) to enhance democratic reforms and human rights in the region. The Forum for the Future initiative comes after the approval during the G8 in June 2004 at Sea Islands of the priorities of the “Partnership for Progress and a Common Future” in the political, social and cultural and economic spheres, the Forum for the future being the main tool for dialogue around these reforms.

The first meeting of the Forum for the Future which took place on 10-11 December 2004 in Morocco concluded with the reaffirmation of the necessity to expand the cooperation between the participant States in support of the region's reform efforts and defined several actions and among them, the establishment of the « Democracy Assistance Dialogue » (DAD) which aims at supporting democratization and public participation.

FIDH welcomes the opportunity of an in-depth dialogue between civil society and representatives of national authorities in the scope of DAD meetings organized during 2005 on the initiative of Turkey, Italy and Yemen. On the other hand, FIDH welcomes the « Civil Society Dialogue », part of the G8 BMENA Plan of support, encouraged by the United Kingdom in facilitating meetings gathering civil society actors to discuss about four key issues identified at the previous civil society meetings: « Transparency and Corruption »; « Rule of Law », « Women in Employment »; and, « Human Rights », issues which will be tackled in the next Forum agenda.

FIDH and its member and partner organizations in the region have long advocated for reform and respect for human rights in the region. For decades independent human rights NGOs in the Broader Middle East and North Africa have raised their voice, though being the constant target of repression, for reforms and democratization in their countries. The objective of the FIDH is to push for these demands to be taken into account in this forum.

FIDH thus welcomes the calls for reform and the commitment to respect human rights by governments of the region themselves (Summits of Arab League, Algiers in March 2005 and Tunis in May 2004, Final declarations of the conferences of Sanaa in January 2004 and Alexandria in March 2004).

However, FIDH notes with concern that these calls are not yet reflected in reality: infringements on freedoms of expression, assembly and association including repression of human rights defenders, violations of right to a fair trial, violations of women's rights and violations of economic and social and cultural rights are widespread.

In order to achieve its objectives, FIDH recommends the Forum for the Future takes into account the following elements:

1) The internal requirements for reforms

Any initiative for reform must be based on the assessment of the needs of the region based on NGOs reports as well as on the UNDP reports on Arab development. In addition to the dialogue established with civil societies in the scope of the Forum plan of action (DAD and Civil society dialogue), the States which participate in the Forum should other internal calls for reforms such as those underscored by the first Conference of the civil society parallel to the « Forum for the Future » in December 2004 including the following points:

- Freedom of possessing mass media and the flow of information;
- Freedom of establishing and running political parties, syndicates and NGOs;
- Freedoms of expression, particularly the right to assembly and meeting;
- Ending the state of emergency - wherever applied - and repealing the laws and exceptional courts;
- Ensuring the rights of women and ending all forms of inequality and discrimination against women in the Arab states;
- Immediate release of the advocates of reform, human rights defenders and prisoners of conscience;
- Adhering to the rules of transparency and accountability and combating corruption;
- Confirming the relation between the economic reform and comprehensive political reform based on the respect of democracy and human rights;
- Devising policies and mechanisms providing effective insurance network for the vulnerable segments affected by structural reforms particularly women, the poor, children and the historically marginalized ethnic groups;
- Urging governments to revise the contents of religious discourse in the religious and secular curricula and feeding them with the renewing ideas. All religions and creeds should be equally treated in the media and educational curricula.

While the settlement of the conflicts of the region should not be a pre-condition for the launching of reforms, FIDH believes that any initiative for democratization in the region will lack suitable momentum unless there is a tangible action for a fair settlement of the Israeli-Palestinian conflict, and the recovery of sovereignty of the Iraqi people.

FIDH takes note that this partnership will “*respect the will and specific characteristics of each country*” and welcomes the acknowledgment that any reform must take into account national situations which do vary a lot from Morocco to Pakistan. **However, FIDH rejects any tentative to undermine the universality of human rights under the pretext of cultural specificity. The FIDH recalls international human rights treaties enshrine universal principles and values.**

2) Partnership with Civil society

The success of any initiative of the Forum for the future supposes that all actors of civil society, including human rights NGOs, development NGOs, political parties, trade unions etc, be consulted by the governments in the determination of priorities for reform and their implementation.

The principle of participation in decision making includes the rights of those affected by key

decisions to participate in the relevant decision-making processes. The right to participate is reflected in numerous international instruments, including the International Covenant on Economic, Social and Cultural Rights.

However, many governments in the region rather than facilitating participation of all these actors, are engaged in repression of political opponents and reformists, including human rights defenders. Many countries of the region do not recognize freedoms of expression, association and assembly : it is nonexistent in Libya and Saudi Arabia, very restricted in Algeria, Tunisia, Bahrain, Syria...

The FIDH thus calls for the Forum for the future to commit to respect freedoms of expression, association and assembly, and to associate in the determination and implementation of reforms all actors of civil society at the local, national and regional levels.

3) Human Rights must prevail in all bilateral and multilateral relations between G8 countries and countries of the Broader Middle East and North Africa

While the FIDH welcomes the agenda for reforms and human rights to be discussed during the next meeting of the Forum for the future, it recalls that any initiative from G8 countries towards countries of the region, be they bilateral or multilateral must be consistent with their human rights obligations.

Whereas countries commit to respect and promote of human rights within the Forum for the future, they sign agreements which may undermine the enjoyment of human rights. In particular, the FIDH is concerned by the impact on human rights of anti-terrorist policies and of trade agreements including within the Euro-Mediterranean area.

a) The fight against terrorism must respect human rights

One of the main priorities of the G8, especially after September 11, 2001, has been counter-terrorism on the global level.

Each G8 country has been pressuring non G8 countries to adopt domestic counter-terrorism measures. The G8 adopted at the Evian Summit in 2003 an Action Plan on “Building international political will and capacity to combat terrorism” focusing on the measures to be adopted by third states “to deny terrorists the means to commit terrorist acts (...); second, to deny terrorists a safe haven and ensure that terrorists are prosecuted and/or extradited (for example to accelerate the conclusion of counter-terrorism conventions and protocols, to deny terrorists entry into a country and to reinforce law-enforcement agencies); and third, to overcome vulnerability to terrorism (for example to enhance domestic security measures (...))”. It is stated in the Action Plan that such activity should be seen as complementary to initiatives to strengthen good governance, the rule of law, human rights and judicial reform, and to the analysis of factors which contribute to the emergence of terrorism.

Several countries of the region have adopted new counter-terrorism legislations in the past three years. These new legislations shows a clear trend of numerous States to sacrifice the most basic human and civil rights in the name of the fight against terrorism, or even in the name of the « global war on terror ». For example, Morocco adopted in May 2003, just after terrorist attacks had been committed in Casablanca a new legislation, extending to 12 days the time police can hold a suspect before he is brought to a judge and to 10 days the time he can be held without access to a lawyer. The legislation further introduces a vague definition of terrorism... The UN Human Rights Committee criticized these severe provisions in November 2004. Tunisia adopted a counter-terrorist law on 10 December 2003 which also include a sweeping definition of terrorism. This law also provides for control on financing of NGOs and political parties, enabling the authorities to control, limit or prohibit funding of NGOs, including human rights NGOs.

Other countries, such as Egypt, Algeria, or Libya, which have been governed under state of emergency law since many years, have found a new legitimization of the repressive legal provisions existing under the state of emergency. State of emergency laws have been widely criticized as infringing upon civil liberties and human rights.

The FIDH notes with deep concern that the necessary and legitimate repression of terrorist activities has been used by governments across the world and in BMENA countries in particular to legitimize human rights abuses, arbitrary detentions, torture, violations of the right to life, of the right to a fair trial by an impartial and independent tribunal, violations of the right to freedom of expression, private life and property, or refoulement of asylum seekers and expulsion of migrants suspected of taking part in terrorist activities to countries where they may face torture or cruel, inhumane or degrading treatment. For example, Saudi Arabia used struggle against terrorism to further restrict human rights in the country. It is reported that hundreds of people were arrested and detained without any legal statute. It is also reported that the United States have handed over suspects to countries practising inhumane treatments and torture.

Further, the G8 has encouraged countries to accelerate accession to counter-terrorist conventions. However, regional conventions against terrorism, in particular the African Convention against terrorism and the Arab Convention against terrorism raise serious concern as to respect of human rights. For example, the Arab Convention allows for handing over terrorist suspects to another State party in disregard to the Convention against Torture which prohibits the extradition of suspects to countries practicing torture.

b) Economic and social rights must be taken into account

The FIDH welcomes the commitment of the Partnership for Progress and a Common Future towards democracy and the rule of law, respect of cultural diversity and equality between men and women. Certain economic and social rights are targeted by the Partnership such as the right to education.

However, there is very little said in the Partnership about the right to health, the right to water, the right to adequate housing, etc, in spite of the alarming situation of economic and social rights in the region. Despite existing resources, most people face poor access to education, water, health care, labour. Women and vulnerable groups suffer discrimination and are particularly affected by this situation.

It is important that indivisibility of all human rights be recognised in this partnership. Furthermore, all initiatives of the forum should take into account possible effects on enjoyment of economic and social rights.

– Primacy of Human rights on trade, economic and financial agreements

One objective of the “Partnership for Progress and a Common Future with the region of the Broader Middle East and North Africa” is to encourage open market economy. *“To expand opportunity, promote conditions in which the private sector can create jobs, we will work with governments and business leaders to promote entrepreneurship, expand trade and investment, increase access to capital, support financial reform (...)”*. If the FIDH welcomes the commitment to foster economic development in the region, it would like to recall that all policy linked to development or to economic and commercial issues should be conceived within the human rights framework established by the Universal Declaration of Human Rights and its subsequent texts. In addition to being a legal obligation, it is also an efficient policy. It has now been widely accepted that respect for human rights does not harm economic development, but on the contrary might promote and reinforce it.

Several countries of the region have suffered from structural adjustment programmes and privatization of public services. Indeed, liberalization policies, encouraged or imposed by

international financial institutions have had an impact on the realisation of economic and social rights. The setting up of a free-trade area between the EU and its Mediterranean Partners in the framework of the Euro-Mediterranean Partnership has for sure an impact on human rights which needs to be assessed.

One of the objectives of the Forum for the future is to promote intra-regional trade. At the same time, the G8 intends to foster entrance of BMENA countries into the WTO. Bilateral trade agreements are also signed between G8 countries and BMENA countries, for example between the United States and Morocco, as well as within the Euro-Mediterranean Partnership.

Most BMENA and G8 countries are party to international conventions relating to human rights. Thus, they all have the legal obligation to respect, protect and implement human rights. States have to make sure that their other commitments including in economics, trade or finance be in conformity with international human rights law. This is particularly important as to the WTO, which has never acknowledged the principle of primacy of human rights law over the agreements negotiated within the WTO.

The FIDH calls for the Forum for the Future to make sure that any initiative relative to trade, investment and economic reform do not contradict the human rights objectives set by the partnership, as well as the human rights obligations of states.

- Responsibility of all actors

Economic actors are among the main partners of governments in the Forum for the Future. Indeed, the Forum intends to foster economic development by encouraging private investments in the Broader Middle East and North Africa. It is acknowledged that activities of corporations do have an impact on the enjoyment of human rights. The FIDH would like to recall that all members of society, including private corporations do have the obligation to respect human rights.

The UN Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with regard to Human Rights represent a major progress that the Forum for the Future should support. In addition, the FIDH recommends that private corporations participating to the Forum join the UN Global Compact.

4) Impunity should be addressed to enhance reconciliation

The FIDH believes that there can be sustainable peace and reconciliation if impunity of authors of serious human rights violations is not addressed.

In an independent and impartial judicial system, victims of human rights violations have to receive justice and reparation. However, impunity of authors of human rights violations is widespread in the Broader Middle East and North Africa. Indeed, national justice systems have not been able or willing to prosecute authors of serious human rights violations. The FIDH believes that it is important to tackle this issue to foster national reconciliation in parallel to the launching of democratic reforms.

First, impunity for past violations should be tackled. There is a need for transitional justice mechanisms to be established in close consultation with victims and NGOs. In particular the FIDH calls for transitional justice mechanisms to be set up in Iraq, Algeria, Lebanon...

While many obstacles exist at the national level to obtain justice and reparation, a complementary international justice system, which may establish responsibilities and sanction authors of the most serious human rights violations is necessary. Further, the accession to the International Criminal

Court is a way to prevent serious human rights violations in the future. In order to be as effective as possible, the Statute of the ICC should be ratified by as many countries as possible and the Statute should be implemented in national legislations. To date, however, only one country of the Broader Middle East and North Africa (Jordan) is a party to the ICC. The FIDH praises efforts of certain member countries of the G8 to promote the accession of as many countries as possible to the ICC, while it denounces the policy of the United States and Russia undermining the universality of the Court.

The FIDH recommends that the countries of the BMENA ratify the ICC Statute and denounce the bilateral impunity agreements concluded with the United States.

The FIDH also welcomes the establishment of an African Court for Human and People's Rights, which concerns some countries of the BMENA area and calls upon the Forum for the future to encourage the accession of countries of the African Union to this Court.

RECOMMENDATIONS

The FIDH recommends to the Forum for the Future to:

- Take due account of internal requirements for reform;
- Continue to closely associate all actors of society at the local, national and regional levels in the determination of priorities and implementation of reforms;
- Urge States of the region to fully respect freedoms of expression, association and assembly as a first step towards democratic reforms;

Concerning the fight against terrorism,

- Urge States to comply with their international obligations in the field of human rights, humanitarian and refugee law while countering terrorist activities;
- Urge States of the region to abolish state of emergency laws;
- Urge all States to amend their internal counter-terrorist legislations, so as to comply with their human rights obligations;
- Urge the G8, when assisting third states to adopt counter-terrorist measures, to make sure these comply with international human rights law;
- Urge States who didn't ratify the International Convention against Torture to do so and to implement its provisions, including adopting internal legislations repressing acts of torture;
- Call upon States that are member of the African Union, League of Arab States to amend the Organization of African Unity Convention on the Repression and Combating of Terrorism and the Arab Convention on the Suppression of Terrorism so that they comply with international human rights standards;

Concerning economic and social rights,

- Urge States to take due account of human rights' obligations when negotiating, concluding and implementing commercial and economic and financial agreements;
- Urge States to take all necessary measures to prevent non-state actors from violating economic and social rights;
- Support the adoption of U.N. Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises and urge private corporations to adhere to the Global Compact;
- Elaborate procedures to provide an adequate and effective follow-up to the projects initiated within the Partnership for Progress and a Common Future.

Concerning the fight against impunity of authors of the most serious crimes,

- Support the establishment of transitional justice mechanisms in cooperation with civil society and victims where serious human rights violations have been committed (Lebanon, Iraq, Algeria);
- Urge all States to ratify the Statute of the ICC and implement the Statute into domestic law;
- Denounce bilateral impunity agreements concluded with the United States.