



**Dialogue
between peoples and cultures:
actors in the dialogue**

**Dialogue
des peuples et des cultures:
les acteurs du dialogue**

Brussels, 24 and 25 May 2004
Bruxelles, 24 et 25 mai 2004



European Commission
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European Commission
Directorate-General for
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Jean Monnet project

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Direction générale
de l'éducation et de la culture
Action Jean Monnet

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W O R K S H O P 5

Euro-Mediterranean dialogue
and the international challenges
(The dialogue in the international context)

A T E L I E R 5

La nécessité du dialogue
euro-méditerranéen
et les enjeux internationaux
(Le dialogue dans le contexte international)

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‘Though this be madness, yet there is method in ‘t.’ (*Hamlet*, ii.2.207)

I. 31 décembre 2004 – Beyrouth – Présentation

Tout au long de l’année 2004, les tremblements de terre qui secouent le Moyen-Orient, et dont l’épicentre est l’Iraq, semblent emporter les «agents du dialogue» comme autant de fûts de paille. La terreur est à l’ordre du jour, et on peut douter de la capacité humaine à endiguer le flot de l’histoire, lorsque, bien plus modestement, penser cette violence au quotidien est déjà une gageure.

Malgré ces contraintes évidentes, nous avons essayé, à l’occasion de rencontres qui ont eu lieu sur les cinq continents, de tracer en 2004 le fil d’un engagement pour un Moyen-Orient comprenant plus de dialogue, et donc moins de violence. Au gré de contributions présentées à des audiences diverses et soigneusement choisies, en Europe, aux États-Unis, en Australie, en Afrique et en Asie du Sud-Ouest, cette quête a pris des formes variées, dont certaines, militantes, revêtaient à dessein un caractère organisationnel. Cet article en regroupe les moments et les écrits les plus expressifs en trois langues euro-méditerranéennes (et un peu d’italien; les documents originellement en arabe paraissent ici en version anglaise ou française). Les textes sont introduits par une brève présentation contextuelle, l’appareil critique ayant été allégé au strict nécessaire.

Qui dit «militance» dit redites et répétitions, et ces textes ne s’en défendent pas. On y retrouvera autant les balbutiements de l’individu à la recherche d’un monde meilleur que les leitmotifs de thèmes et de crises à caractère universel: crises d’Iraq, de Palestine, du Liban, du Darfour; thèmes de démocratie, de liberté et de justice.

II. Décembre 2003–février 2004 – Bagdad – «Plan» d’accélération de la souveraineté démocratique

Note: Lors de deux visites en Iraq à la fin de 2003 et au début de 2004, à la suite des réunions de travail avec le Deputy Secretary of Defence américain, M. Paul Wolfowitz, nous avons tenté de formuler, avec les principaux acteurs au Conseil de gouvernement à Bagdad, un passage plus rapide à la souveraineté qui soit informé par la préservation de l’union nationale et l’enclenchement d’un processus démocratique reposant en premier lieu sur les Iraquiens. Les deux textes publiés dans le *New York Times* rendent compte de ces visites et du «plan» auquel elles ont donné lieu. L’article suivant, publié dans *L’Orient-Le Jour*, prend acte des retards et erreurs qui ont conduit à la suppression, dans le chaos, du Conseil de gouvernement iraquien. Le dernier article a pour origine une lettre adressée au ministre iraquien des affaires étrangères Hoshiyar Zebari, un collègue de l’époque militante au sein de l’International Committee for a Free Iraq. Parmi ces recommandations, deux ont été inscrites dans la version finale de la résolution 1546 du Conseil de sécurité de juin 2004.

II.1. Note to the UN: hands off Iraqi politics ⁽¹⁶⁷⁾

When members of the Iraqi Governing Council and L. Paul Bremer III, the American administrator in Baghdad, open talks at the United Nations today, nothing short of the future of the

⁽¹⁶⁷⁾ *New York Times*, 19 January 2004.

region will be at stake. Having come under increasing pressure over its plan to form an Iraqi government without direct elections, the United States is counting on greater United Nations involvement both to help ease the resistance and secure a lasting democracy.

Beyond the involvement of additional stakeholders like France and Germany, can a more determined role on the part of the United Nations translate into government-building? Considering the organisation's dismal record of silence during Saddam Hussein's 30 years of totalitarian rule, I'm not so sure.

Having visited Iraq last month to meet with the leadership there, I think the better solution already lies within the nation's borders. To spend a day at the 25-member Iraqi Governing Council headquarters is to learn what all honest people in the Arab world already admit: the most representative of all governments in the Middle East sits in Baghdad. With all its shortcomings and contradictions, the Council covers the fullest possible spectrum of Iraqi society, from the Islamists to the Communists, and all the strands in between, including Shiites, Sunnis, Kurds, Turkmens and Christians.

The continued disagreements in the United Nations over the justification for overthrowing Saddam Hussein and problems with securing post-war peace mask the one major achievement in the new Iraq: within the Governing Council and outside, freedom reigns supreme. It may sometimes look or sound messy to the rest of the world, but a fledgling democracy often does.

In a heartening sign, no one in Iraq, no matter what side of the debate he is on, is afraid to speak his mind. At the Baghdad airport, for example, an Iraqi employee expressed to me his regret that Saddam Hussein had been caught, and his hope that resistance will survive his arrest.

On the other hand, when I asked Dr Ibrahim Bahr al-Uloum, Iraq's Interim Oil Minister, about criticism by Baathists within his ministry for his close ties to the United States, he shrugged off the possibility of silencing them. This is especially remarkable, given that he had lost several family members to Saddam Hussein's repression.

During my trip, I visited the Bahr al-Uloum home in Najaf, where some 50 tribal leaders from the middle Euphrates valley sang of their attachment to Iraq, Shiism and national unity from the mountain to the marsh. The family's patriarch, Sheikh Muhammad Bahr al-Uloum, a member of the Governing Council and an old friend, is optimistic about Iraq's future. But Sheikh Uloum, who like many struggled for decades against Saddam Hussein's dictatorship, is also upset at what he perceives as mismanagement of his country by the United States. More than eight months after the passing of the *ancien régime*, the scene is of intermittent electricity and phone service, no airport service and surreal lines for gas in a country with the second largest oil reserves.

But security, despite newspaper headlines, is a fleeting concern. After all, armed resistance to the new democratic order has no chance of success against the new spirit of freedom if basic services are restored, and if the national political process takes root. This is clearly the dual challenge ahead, and Iraqis rightly feel they are in the best position to run their country.

The way forward, then, is simple. The 10 members of the Governing Council whom I met with agree on this: the Council, as a national unity government, should be unconditionally recognised as in charge of Iraq's destiny, with the support of the United States-led coalition and whoever else who wishes to join in a democratic course of reconstruction.

As such, the Council would be deemed the official interim government of Iraq – making the United States' plan to select a national assembly by 1 July unnecessary. The Council would be

empowered to draft a constitution and set the parameters for what a new government would look like and when and how it would be elected. In the long term, this would consolidate the whole process of democracy – something Iraqis both in and outside the Council want.

Strengthening the power of Iraqis over their own affairs can come with the proviso that any contender who furthers his own political agenda by violent means should be punished by either being banned from a leadership post or being brought to trial by an international court for those crimes. Human rights monitors, supported by the United Nations or the coalition, should be deployed to further ensure international commitment to the cause of democracy and non-violence.

Today's meeting at the United Nations provides the perfect opportunity to focus the future of Iraq in the right direction: inward. When I met in Baghdad with Naseer Chaderji, a liberal Sunni Arab who sits on the Governing Council, he voiced scepticism of the United States' reaction to a request for an acceleration of Iraqi self-governance. While Paul Bremer was a good listener, Mr Chaderji explained, he was not following suggestions made by Iraqi leaders.

But after discussing the issue with other council members – including Ahmad Chalabi and Ibrahim Jafari, an Islamist Dawa leader – as well as with American officials committed to Middle East democracy, including Paul Wolfowitz, I am more hopeful. I sense that Iraqis and Americans are far more in agreement on the country's future than the controversies there suggest.

Now that the most dictatorial system in the region has been undone, the rest of the world owes Iraq's long-ignored victims a commitment to their national unity government.

II.2. East meets West, at least on paper ⁽¹⁶⁸⁾

It was a rare scene of historical redemption on Monday when Sayyed Muhammad Bahr al-Uloum, a 76-year-old religious scholar and one of the first Iraqis imprisoned and exiled by the Baathist regime in the 1960s, presided over the Iraqi Governing Council as it unanimously approved the country's interim Constitution. But beyond the symbolism of Mr Uloum's role, the document should be seen as an important text for the entire world: in it, East and West meet in an unprecedented manner; it incorporates a salute to Islamic law along with the adoption of federalism and Western-style personal rights for citizens.

Perhaps the most important phrase in the Constitution is in the preamble: the people of Iraq 'reject violence and coercion in all their forms, and particularly when used as instruments of governance'. Agreement on this principle, so contrary to an inordinately cruel 35-year rule, is the most remarkable achievement of the members of the Governing Council. If it holds in their future dealings, and is respected by their followers in power, then Iraq will have achieved its democratic transition.

However, having read the entire 62-article text in Arabic, I have a few problems. It may seem minor, but the language lacks literary elegance, which is particularly unfortunate considering the richness of the classical tradition. It is vital that the final Constitution incorporate phrasing that takes into account the unique Mesopotamian contributions to world legal history – from Hammurabi's tablets to the Iraq Civil Code of 1953, which incorporated concepts and rules of both secular and Islamic law.

⁽¹⁶⁸⁾ *New York Times*, 11 March 2004.

As for the document's content, the West's main concern should not be about the prevalence of Islam – it and all other religions of the Iraqi population are protected against excesses and provocations. Nor should one worry that federalism is not sufficiently stressed – it is frequently mentioned in the text and has been a shared desire of most of Iraq's new leaders since at least 1992, when their colleagues at the University of London demonstrated to them how Malaysia and Nigeria were strengthened as nation States by the adoption of federalism. So long as the Kurdish political leaders, who have enjoyed de facto autonomy for the last decade, accept that federalism means a single nation State, the risk of the issue turning sour is limited.

What most concerns me, however, is the fuzziness and uncertainty over the transition to a permanent and democratically elected government. Sovereignty is to be returned to the Iraqis at the end of June, but there will be no elections this year and no referendum on a final Constitution until 2006. Who will rule in the interim?

The new document mentions the emergence of a government to be decided upon after 'wide consultations'. This body will adopt a series of laws for the creation of a National Assembly of 275 members, to be elected before February 2005. But the text does not further specify how electoral law will be organised. With no stated criteria and no models better than the one that led to the emergence of the unelected Governing Council, how can we hope for smooth and fair elections?

Once the 275-member Assembly is created, not only will it have to do the long work of drafting a final Constitution, it will also choose a 'Presidency Council' of three officials, who will decide on a variety of matters including the appointment of a temporary government and prime minister.

Those familiar with the Iraqi opposition in its long exile have seen this sort of leadership structure before. The Iraqi National Congress, the umbrella group of exile organisations created in Vienna in 1992, had a leadership council of three men, who chose an 'executive committee' with a president. The Iraqi National Congress fell apart because of personal dissension at the top, and the onset of the civil war among the two main Kurdish factions in 1993. Is it truly sensible to resurrect this power-sharing scheme?

In addition, Article 37 of the Constitution holds that once this Presidency Council is chosen, it can rule only by unanimous decision. That apparently means one man can effectively paralyse the Council.

Two weeks ago in Baghdad I talked with several Governing Council members about my concerns. It became clear to me, if not to them, that disbanding the Council and dismissing the governmental ministers in June will create uncertainty and tension that will far outweigh the benefits gained from forging a more representative body.

It is hard to advocate any shift from the vision of this wonderful new Constitution. But in the interest of Iraq's stability, it would seem wise to abandon the vague plan for new interim bodies and simply have the Governing Council continue to carry out its task for another year. This would allow each of the 25 Governing Council members to get a chance to hold the rotating presidency, including the three women waiting their turns. It would enhance the strength of the Governing Council, allow the return of sovereignty to Iraqis, and remove the stigma of continued occupation. And it is likely the best way to ensure that the Iraqi people will have a chance to vote on the truly democratic government and final Constitution they need.

II.3. Malgré tout, une leçon de démocratie à Bagdad ⁽¹⁶⁹⁾

Adnane Pachachi a payé le prix de son ambition. Quant au jeu d'apprentis sorciers de MM. Powell, Brahimi, Blackwill (l'assistant de Condoleezza Rice qui, avec Paul Bremer, s'est rapidement transformé en un haut-commissaire de l'époque coloniale), il leur a explosé au visage. Il faut espérer qu'ils en tireront la leçon en laissant plus de liberté aux Iraquiens pour décider de leur avenir. Quant à leur candidat Pachachi, qui a laminé ses collègues au Conseil de gouvernement au profit de l'envoyé d'une Organisation des Nations unies (ONU) honnie par les autres leaders iraqiens, les choses se sont finalement retournées contre lui. En novembre 2002, il avait déjà empêché que ne se constitue un gouvernement provisoire en Iraq kurde; il a ignoré depuis novembre dernier un plan d'accélération de la souveraineté iraquienne que la plupart de ses collègues, ainsi que le Pentagone – encore puissant –, soutenaient contre un rôle superfétatoire de l'ONU. Sa carrière politique, à 81 ans, paraît terminée. Il faut espérer que la déconvenue d'Adnane Pachachi comme celle de nombre de protagonistes centraux dans le drame de l'Iraq – Lakhdar Brahimi, Ahmed Chalabi, Paul Wolfowitz, tous des personnages que j'ai bien connus, appréciés et critiqués au fil des ans, tous des personnages qui n'ont pas réussi à faire de l'Iraq le havre de paix et de démocratie auquel ils aspiraient – ne les empêcheront pas de poursuivre cette mission avec enthousiasme, mais avec un peu plus de détachement.

Nous ne sommes pas au bout de nos surprises en Iraq; certaines interviendront au fil d'une violence qui n'est pas prête de s'arrêter. Le dénouement d'hier a surpris, celui qui a porté Iyad Allaoui et Ghazi al-Yaouar, respectivement, à la tête du gouvernement transitoire et de la présidence du pays, comme ont surpris la disgrâce du Pentagone à la suite du scandale d'Abou Ghraib et celle d'Ahmed Chalabi, qui avait combattu ouvertement les Nations unies et appelé à une enquête iraquienne sur les malversations liées au programme «Pétrole contre nourriture» de l'ONU.

Deux réflexions, *in media res*, s'imposent: la première est négative, qui montre combien les disputes au sein de l'Administration américaine, le cynisme de la vieille Europe, les contradictions qui ont précédé et suivi une victoire éclair obèrent l'espoir d'un Iraq démocratique après une dictature de trente-cinq ans. Il faut prendre acte de la réussite des factions violentes – l'organisation qu'a laissée derrière lui Saddam Hussein, les mouvements radicaux à Falloujah, la brutalité de Moqtada Sadr – à empêcher la normalisation. À cela doivent s'ajouter la grande erreur des Américains de ne pas avoir engagé les Iraquiens dans le processus de changement dès avant l'invasion ainsi que l'incertitude qui a dominé leur discours sur la «libération». Dans un kaléidoscope à l'échelle planétaire, chacun donnera une réponse différente à l'échec américain. Le dénouement de ces derniers jours offre cependant une certitude, c'est le message négatif de la journée d'hier: le nouveau gouvernement iraquien est un gouvernement de seconde classe, contrairement au Conseil précédent. Les deux grands leaders kurdes sont représentés par leurs assistants, l'ensemble de la faction Chalabi est mise à l'écart, le courant du libéralisme chiite au sein de la hiérarchie religieuse, dans la figure exceptionnelle des Bahr al-Ouloum, est réduit à néant, et maintenant Pachachi, tous sont pour l'instant écartés. L'union nationale qui caractérisait le Conseil de gouvernement a été galvaudée au profit d'un groupe réduit de dirigeants dont le passé ne présente pas beaucoup de convictions libérales. Mais il y a également un message positif. Le renoncement d'Adnane Pachachi, proclamé président par des fuites téléguidées par l'entourage de MM. Bremer et Brahimi (ce qui a détruit son ambition auprès de ses pairs), n'en est pas moins remarquable comme message d'avenir. Il aurait pu, comme Iyad Allaoui il y a quelques jours, s'accrocher à cette «nomination» et attendre que le monde, et les Iraquiens malgré eux, reconnaissent lentement ce fait accompli. Dans un geste d'homme d'État, il a refusé. L'histoire le lui reconnaîtra, et nous autres démocrates à la recherche désespérée de

⁽¹⁶⁹⁾ *L'Orient-Le Jour*, 2 juin 2004.

leaders capables de dire non au poste suprême quand il se profile devant eux, non au *forcing* brutal pour arriver au pouvoir, nous nous devons de le saluer.

Conscient de ces deux messages contradictoires, l'important est de considérer le gouvernement actuel comme un gouvernement transitoire, mais aussi comme un gouvernement effectif. Les Iraquiens ont besoin de paix avant tout, d'une paix qui ne soit pas celle de la peur, mais celle de la légitimité. Pachachi, Chalabi ainsi que les autres leaders iraqiens écartés du gouvernement joueront, il faut l'espérer, un jeu démocratique qui les ramènera peut-être au pouvoir. Le prochain drame, lui, se passera la semaine prochaine au Conseil de sécurité sur la souveraineté en Iraq.

II.4. Letter to the Foreign Minister of Iraq: fixing Security Council Resolution 1546 (adoptée le 8 juin 2004) ⁽¹⁷⁰⁾

HE Hoshyar Zebari
Foreign Minister of Iraq

3 June 2004

My dear Hoshyar,

It is 15 years ago now since we first met in that obscure room of London University as guests of our London colleague, Sami Zubeida – another great Iraqi talent that brutal intolerance lost to the West. We were heartened that day to discover that more people cared for the fundamental rights of Iraqis than transpired on decision-making during the Gulf War. Against *realpolitik*, we have since doggedly worked for a federal, democratic Iraq, in a long, painful effort that has taken us to Vienna, Iraqi Kurdistan, New York, London, and so many other places, and which has now brought you as the foreign minister for the most sensitive country on earth.

The journey towards Iraqi democracy may have just started with, at last, an Iraqi democrat making his voice heard in the making of the next UN resolution. This is an occasion for which it is difficult to conceive a more important responsibility, and it will be useful to expose again – as you did to much effect earlier this year – some of those leaders in the UN and on the Security Council who are trying to claw back their role in Iraq on the setbacks of US policy: they should be openly reminded how they supported, until the last minute, the dictator in power.

... Now to the long-winded, arrogant current UN draft. Being in the trade, you and I know that diplomats and lawyers are verbose, and you must ensure that this ridiculously long resolution is pared down to what is essential. You recall our distress with Resolution 687 of 3 April 1988 which, despite remaining the longest in the history of the UN, managed to keep Saddam Hussein in power after the liberation of Kuwait.

How should the resolution be reduced to what is essential to enhancing the chances for Iraqi democracy? Let me suggest you restrict it to four key thoughts: withdrawal of foreign troops, common sense, federalism, and human rights monitors, and four simple clauses.

Withdrawal of foreign troops. By suggesting that the Iraqi government can request the withdrawal of the occupying armies, be they UN or multinational, an improvement of sorts has been achieved in the current, second, draft. But you know how weak the present government is,

⁽¹⁷⁰⁾ Texte publié en arabe dans le *Nahar* du 5 juin 2004.

which does not even include the two historic Kurdish leaders in positions of responsibility. Something more convincing is needed, which is a timetable for effective withdrawal of non-Iraqi troops over a period of months. Such withdrawal can be achieved in stages, with the proper surrendering of power to the Iraqi authorities as fits the situation in the various regions. There is a risk for redoubled violence being meted out by all kinds of bloodthirsty and immoral factions to prevent normalisation. If that happens, there is no harm in coming back to the Security Council to ask for a different arrangement. But it is imperative that Iraqis start seeing foreign soldiers withdrawing, and not more boots on the ground which keep sovereignty as a sham. You have already done it in Kurdistan, where I understand less than 300 soldiers remain to support the local authorities. This should be your model, and here is your first clause: 'Withdrawal of non-Iraqi troops will start at once, according to a timetable agreed with the Iraqi government, to be completed within two years...'

Common sense about elections. While the new condition of the second draft of the UN resolution under discussion — achievement of the political process — may appear at first as a good idea, the reason why elections have not taken place yet in Iraq is because of brutal factions who do not want a new, peaceful Iraq to emerge. These people, the Zarqawis, Muqtada Sadrs and Duris will continue to kill indiscriminately, you can be sure. Still, you will not be able to convince your people, let alone the world, that the presence of foreign troops is transitional if one does not see a tangible process that starts immediately in consonance with everyone's hopes, including for US soldiers who should never have been asked to sacrifice their lives for the sake of Iraqi democracy.

Now much has been vested over the past year in the electoral process, and the draft text (and the interim constitution) insist on elections taking place before January 2005. That would be great, but here is where common sense is needed. Let us be serious: how can you conduct national elections in Najaf or Kufa today, or in Falluja? The same groups which have committed all these killings will not stop in their search to restore the old order or some sectarian, messianic concept of Iraq. They must not be given dates to tamper with. The electoral system should be severed from any other contingency, and more flexibility built into it. This is your business, not that of the UN. Let them just acknowledge your interim arrangements, and we can help you conduct free elections in Kurdish Iraq as we did in May 1992 in the teeth of the US government and all regional actors, as a model for the rest of the country to follow. So clause 2 of the SC resolution consists in ridding it from most clauses linking elections to 'Iraqi sovereignty' and/or 'military arrangements'. You just need to have it declare that the occupation is over, and that Iraqis are in charge of their democratic destiny. And while you are paring down the verbosity of lawyers and diplomats, please make sure that the 'leading role' ascribed to the UN and its representative disappears from the text.

Federalism. Only through a federal system can the various sections that compose Iraq be offered some protection. It is unfortunate not to see a Kurd as the president of Iraq, or as Prime Minister. You know the argument emphatically put to Masoud Barzani and Jalal Talibani since our early encounters in London in 1990: unless Kurds are secured a serious say in decision-making *in Baghdad*, there will be no end to their marginality and oppression. This is what federalism means: an effective participation in decision-making at the centre. This active participation in central decision-making is more important than the rights of Kurds in Kurdistan, which even Saddam could only dispute by the use of chemical weapons and systematic fear. We must not shy before this word, either for our peoples in Iraq and the Middle East at large, or internationally. Defend its inclusion in the Security Council resolution.

Human rights monitors. All the above is secondary to the deployment of human rights monitors in Iraq. You know how much we fought for that, the support to Max van der Stoep, the UN

special representative for human rights in the wake of our joint demands, and the resistance of Boutros-Boutros Ghali and then Kofi Annan to the idea. We shared, time and again, the efforts at the UN and elsewhere, especially during the terrible days of the Kurdish civil war, to have human right observers on the ground. You should convey to a world eager to hear what you will request openly from that resolution, that human rights should be monitored, especially after Abou Ghreïb and the continued violence by brutal factions in Iraq against everyone: passers by, foreign soldiers, Governing Council members, let alone systematic sabotage to prevent a modicum of daily security. The whole role of the UN is superfluous, including all the monies promised, without a rule of law emerging in Iraq. Get rule of law in Baghdad, and everything, including foreign investment, will follow. So one short final clause: human rights observers in Iraq. Again, they could be deployed in Kurdish Iraq as soon as tomorrow morning.

Good luck. Your success in New York will determine also our future.
Yours in all seasons,

III. 3 avril 2004 – Palerme – Pour une Méditerranée cosmopolite ⁽¹⁷¹⁾

Note: Au début d'avril 2004, une conférence réunie à Palerme sous l'égide de syndicats chrétiens européens, notamment le Movimento Cristiano Lavorato d'Italie, a permis de tendre un pont vers la société civile européenne sur un sujet tout aussi réel que symbolique du conflit entre les deux rives. Nous avons choisi l'occasion pour traiter de Jérusalem, ville cosmopolite par ses trois religions.

We are here for the vindication of a plural, cosmopolitan, Mediterranean. We know the gap between the southern and eastern shores, and the northern ones, included or about to be all included in the EU. And since the most significant frontier for the European Union is clearly the non-European Mediterranean, this presentation focuses on one of the most egregious rejections of plurality in the whole region, both in material and in symbolic, spiritual terms.

We do not need to belabour the symbolic dimension, save perhaps to say that symbol and reality merge tragically in Jerusalem. My closer interest in the city comes from the alleged floundering of the Oslo accords during the last negotiations between Israelis and Palestinians, at Camp David in the summer of 2000, over Jerusalem. And it is in Jerusalem that the Intifada started physically, in the wake of the visit of Ariel Sharon on 28 September to the city. 'Ariel Sharon knew what he was doing on September 28, 2000'. (Amos Elon, 'The Deadlocked City', *The New York Review of Books*, 18 October 2001.) The deliberate provocation achieved what he hoped for: demonstrations against Sharon's visit, leading in turn to the unleashing of Israeli violence which claimed several Palestinian casualties. The Second Intifada, as an unusually consensual narrative admits it, 'officially' started on 28 September 2000. One will note that all the plans forged in Washington and at the UN to bring a halt to the killings put the collapse of the Oslo peace process at this very date.

Because this basic fact is forgotten, it is important to underline it. Ariel Sharon 'officially' started the Intifada, which has not stopped since, and its first victims were all Palestinian. The Intifada will not end so long as the engineer of violence that day, a man who started it in a classically Machiavellian way to become Prime Minister of Israel, remains in a position of responsibility.

⁽¹⁷¹⁾ 'Il Mediterraneo tra esperienze cosmopolite e isole-monoculturali: il caso di Gerusalemme', Conference on the EU and the Mediterranean, organised by the Movimento Cristiano Lavorato, the Europäisches Zentrum Für Arbeitnehmerfragen, and the Ente Addestramento Lavoratori, Palermo, 2 to 4 April 2004.

So Jerusalem, city of peace, has turned into the focal point of intolerance in the Middle East, both symbolically and materially. This, alas, is not new, and the synthetic history of Jerusalem presented by Bernard Wasserstein (*Divided Jerusalem: The Struggle for the Holy City*, Yale University Press, 2001) shows the regularity over the past century of a pattern of cataclysmic Arab versus Israeli violence starting or culminating in the Holy City. Beyond that dimension, which will continue to elude those searching for peace for a long time to come, the present study wishes to dwell on a structural phenomenon which makes the issue graver and even more intractable.

Any discussion of Jerusalem has so far operated within the general framework of the Arab-Israeli framework. For the full historic mosaic of the city to obtain, this is simply not sufficient, because it carefully eludes the main trait that has ignored a critical component of Jerusalem: its Christian dimension.

For this different, even more tragic development in the modern history of the city, one can start with the conclusions of a paper completed two years ago by one of the best specialists of Jerusalem, Drew Christiansen SJ, namely that preserving the city's Christian population, and by extension, the Christians of the Holy Land, 'would require a miracle'. In other words, Christian Jerusalem is no more, because there are no Christians left in Jerusalem. The dramatic decline of Christian residents of the city is patent: in 1893, Christians represented 13 % of the people of the Holy Land, in 2000, they are barely 2 %. In Jerusalem proper, 30 000 Christians lived in 1944. They were still some 27 000 in 1967, when Israel occupied the city. According to some accounts, they are now fewer than 4 000.

In the Camp David negotiations four years ago, two phenomena stuck out in the otherwise traditional clash over sovereignty between the undifferentiated categories of Israelis (i.e. Jews), and Arabs (i.e. non-Jews), — alternatively of Israelis (i.e. Jews), and Palestinians (i.e. non-Jews). The first oddity was that in the marathon discussions under President Clinton's aegis, the impossibility to bridge the gap between the conflicting sovereignty claims of the two leaders assumed, throughout, that Ehud Barak was speaking for Israeli sovereignty over the whole city, while Yasser Arafat wanted the recognition of full (or quasi-full) Palestinian sovereignty over the eastern Arab side of the city.

The question was not, one noted then already, that simple: was Barak defending Israeli or Jewish sovereignty, and was Arafat standing for Palestinian or Muslim interests? Were we witnessing in the conflict over sovereignty a simple national clash for Jerusalem as capital of the State of Israel as against the capital of the (State of) Palestine?

Or should the complexity be extended much further afield to Jerusalem as the Holy City for the three great historical monotheistic religions? On this qualification depends the future of Jerusalem and the Holy Land, and, I would respectfully submit, a plural Mediterranean.

Despite the tireless rhetoric over the sacredness of Jerusalem for the three religions, the little which has surfaced from the two-week pow-wow in Camp David sounded dominantly sectarian: Barak, no doubt, was talking about the eternal capital of the Jews, and his 'one Israel', we have learned over the past 50 years, is an exclusively 'one Jewish Israel'. In a sense, the equation of Israel with Jewishness, at the expense of the equality of all its citizens, is hardly surprising. Israel is, by definition, a Jewish State.

The case on the other side is more troublesome. The so-far muted alliance of convenience between Christians and Muslims, an alliance largely driven by the Judaisation of Jerusalem — incidentally a problem for less fanatical Jews themselves — fails to secure Christian rights as a key component for any solution vesting in plurality.

This is at the core of the first oddity, which is that Christians of the Holy Land continue to be represented vicariously, while their physical presence is dwindling to the point of oblivion.

The second oddity emerged from a brief declaration by Madeleine Albright in her visit to Rome on 1 August 2000, as the talks were going on: 'At Camp David certainly, the issue of internationalisation was not the solution to it,' she said. What does this reference to internationalisation entail, and why was the US Secretary of State so dismissive of it?

The two oddities are not unrelated, and disregard at Camp David for the international status of the city – which is the arguably established position in international law over Jerusalem – results from the absence of formal Christian representation at the negotiating table. Insofar as Jewish and Muslim representation dominated the negotiating table, and the American broker was hardly a Christian broker, one understands better the exercise in damage limitation which was carried out in the Vatican, after the fact, by the Secretary of State.

For better or worse, then, including the risk of tying a further knot to an already intractable file, Jerusalem must be reclaimed as the Holy City for Christians also. The recurring rhetorical reference to its sanctity and importance for all three religions cannot be pursued if we are serious about preserving the city's symbol status of a plural Mediterranean. For that, is needed a dual breakthrough: a diplomatic position forcing Christian representation on the negotiating table, on equal footing with the other two religious representatives, and a legal position that does not relegate Christians to a mere rank of pilgrims and tourists under the sufferance of Jewish or Muslim sovereignties.

Let us probe further these two avenues. Neither representation nor legal status is a simple proposal. While it will come as shocking, at first, for Christians to take some distance from equally victimised Muslim Jerusalemites, the logic of 'city holiness' is simply too powerful for such fig-leaves to endure any longer. And while this approach risks provoking a grave split within Palestinian society along sectarian lines, a direct representation of Christian interests is needed because the fig-leaf cannot mask a dominant sectarian logic playing itself out with no restraint.

One understands, in Israel's continuous victimisation and hemming in, with a purpose to drive them out, of all Jerusalemites of non-Jewish denominations, why Muslims and Christians huddle in as a tight front under 'Arab' leadership. But the tragic fate of Christian Jerusalem requires those directly interested in not disappearing from the map – literally, the first time since Christ – to reclaim the mantle of their representation. Who can bear such a mantle is a difficult question in view of the ethnic cleansing of the Holy Land's Christians over the past century, but Camp David has forced the issue of Christian Jerusalem on the world in a way which needs to be henceforth addressed in more attentive terms.

As for the contours of the 'final' legal status, here also a revolution of sorts is needed, because Muslim (even presented as Palestinian) and Jewish (Israeli) sovereignties exclude, by their very nature, Christian rights. In other words, the legal status of Jerusalem must also accommodate the right to Christian sovereignty over the city. True, Christians are far less numerous than Muslims and Jews, but this is as much a fact of the ruthless policy of Judaisation over the century, doubling up recently in the counterlogic of Islamisation, as it is because of their improper representation at the negotiating table. This will not be possible until a more serious re-examination of 'internationalisation' as legal solution. Innovation here is not needed, and a firm international law precedent can be found in the UN-adopted Statute of the City of Jerusalem known as the 'corpus separatum'. That statute, approved by the UN Trusteeship Council in 1950, consecrates in law Jerusalem's 'special international regime'.

A seachange is needed for an approach to Jerusalem which would conform with a view of international law in tune with a plural philosophy of the Mediterranean, including both the symbolic and material status of the city for all three world religions. Diplomatically, a full, comprehensive, representation is needed at the negotiating table for Christianity. In law, a determined share of sovereignty is required to acknowledge the Holy City's special international regime. Without those two conditions, there is no future for Christian Jerusalem, let alone for a plural Mediterranean. Considering the reality of physically vanishing Christians in the Holy Land, part of that mantle needs to be donned from outside. Hence the choice of the present, important forum to conjure up this dark reminder of what is needed on the eastern shores of the Mediterranean for it to be plural and cosmopolitan.

What can be done? The technical dimensions of international law, with the several layers of texts since the frozen *Corpus Separatum* should not dent a resolve based on the principle of a City for all three religions, and governed by members of all three religions. Even in the tight discussions between the Israeli government and the Vatican, the concept of equality (for Christians) was carefully preserved in the 1993 Treaty between the two parties. That concept has been systematically undermined ever since by an active policy of discrimination against Jerusalemites of all non-Jewish persuasions through a full-fledged panoply of administrative measures and budgetary constraints, physical vexations, curtailment of freedom of movement, prevention of return, limitations on permits, land expropriation, and an enhanced policy of Jewish settlements.

Each one of these policies is identifiable, stoppable, and reversible under established principles of international law, and the Israeli government will be forced, hopefully by a majority of decent Israeli citizens, to confront these violations sooner or later. Nor is the discrimination limited to East Jerusalem and the neighbourhoods occupied and annexed in 1967. Christian Jerusalemites in particular know that their greatest density was in West Jerusalem since the end of the 19th century, and that the properties confiscated upon their forced flight in 1948 are not confined to the Old City.

Lawyers will find a way out once the principle of coexistence, of mosaic, of humanism, of tolerance are admitted as the centre of the preoccupation with the Arab-Israeli conflict. The EU offers many a model, not least the one about to be established in Cyprus, and it may take the enlargement to encompass Lebanon and Israel, as in the proposal of a traditional 'Zionist', to make the Land holy again. (See Mallat, 'George Weidenfeld's bright idea', *The Daily Star*, August 2003.) Even more than Paris, Jerusalem deserves a mess.

IV. 14 mai – Vienne – Asymétrie et *Ungeheuer* ⁽¹⁷²⁾

Note: À l'invitation de l'ancien vice-chancelier autrichien, Dr Erhard Busek, un texte sur les «formes nouvelles de la guerre» avait été préparé pour le colloque qu'il organise à Vienne annuellement sur la globalisation. Ce texte, qui fait partie d'une étude plus approfondie en cours, s'étant avéré trop technique pour être présenté à la rencontre, les remarques impromptues suivantes l'ont remplacé, sur le thème du «monstrueux (en allemand *Ungeheuer*)», thème introduit en matinée par un jeune militaire orientaliste autrichien, Joseph Schröfl, citant une maxime célèbre de Nietzsche. Nous avons été présentés par Dr Busek pour parler *on behalf of the Arab world*, dans une séance qui comprenait également l'ambassadeur américain au Luxembourg offrant le point de vue de son gouvernement.

⁽¹⁷²⁾ Vienna, Vth Globalisation Symposium, 13–14 May 2004.

As you can easily surmise, I am not mandated to speak on behalf of the Arab world. Not that I blame you for having invited me, as it would be particularly dull if any of the foreign ministers or presidents in the Arab world nowadays came to speak to you. I do not speak on behalf of the Arab world, but one central problem in the representation in the Arab world is that ordinary people are better equipped to speak on its behalf than its anointed leaders.

The speech I originally prepared is part of academic work in progress which has been pursued over a number of years on those very issues that we are concerned about in this seminar: globalisation, terrorism, new forms of warfare. But we are running slightly late and it may be more useful to depart from that speech and react to some of the very excellent comments we heard this morning: this will allow a discussion where I am hoping to learn much from you in matters that are particularly difficult, uniquely complex as Dr Busek said. It involves a template of paradigms that are not all too clear yet and that requires much more work in order to see more clearly into the nature of evil that one confronts at the dawn of the 21st century, and into the solutions one could find for this evil.

Evil is a loaded, unpleasant word, and the quote from Nietzsche – the master who went beyond good and evil – which introduced '*Ungeheuer*' into our debate is therefore particularly enriching. One cannot even start any form of discussion or reflection to improve upon things if one does not note the particular grotesque form of evil which is growing amongst us, this monstrous, *Ungeheuer* dimension that we are witnessing nowadays in the crudest forms of violence, latest the killing of the young American chap and the video that was made of it. Neither is outside the realm of the *Ungeheuer*, what we saw in the past few weeks rightly shaking America and the world in what has emerged from within the jails of Iraq.

Globalisation and asymmetry are taking place against intolerable forms of monstrosity which involve a public dimension necessitating some reflection on the vectors it chooses for open display. This is internationalisation or globalisation with a particular spatial dimension, and has taken, *inter alia*, the images carried in the horror video released on websites yesterday.

I would like, on a related matter, to focus a bit more on the subject that we are assigned this morning, which is the issue of asymmetry.

I am grateful for Dr Schröfl because it is important to understand what is, and what isn't, novel in the concept. The fact that he has been able to trace asymmetry back to biblical times should warn us against the lure of expressions that seem to offer a novelty because they suddenly sound right. Identification of conceptual novelty is a particularly daunting task. Asymmetry requires therefore some more focused attention.

The other concept which also needs some reflection in terms of its 'novelty' is terrorism, and the following comment should also be viewed as a reaction to the speech of the US Ambassador. It seems to me that the failure of legions of jurists and law makers to define the concept of terrorism over 200 years should perhaps encourage us to think through that concept, which is currently suggested as a 'new' type of modern warfare. I have from my very narrow legal point of view chosen, also out of conviction, never to use that in order to depict the political violence that we are witnessing nowadays.

What other words can we use? Well, as a lawyer from the Arab world, the greatest problem we have faced since the attacks of September 11 is the bandying about, with little critical sense, of the concept of 'terrorism', both from Western governments and our own. 'Attack' is another puzzling word. There was something special in 9/11 that should force us to wonder why these horrors have been called 'attacks' and why the legal concept that has been paralleling this word was 'terrorism'.

This, I have argued elsewhere, is a serious, strategic mistake on the part of the United States government, which imposed the word and the world view that derives from it at a time when many of us lawyers have learned on the very benches of US law schools that it was impossible, counterproductive and mistaken to try incorporating the concept of terrorism as crime under international law: 'terrorism' simply does not bear enough specificity in order to be differentiated from other crimes that trigger responsibility and punishment. To be more specific, we have learnt in working towards the Convention of Rome in 1998 that resulted in the establishment of the International Criminal Court that the four concepts that trigger action by the prosecution in the International Criminal Court do not include terrorism. However, they do include the particularly important concept of 'crimes against humanity'. One has endeavoured, like Antonio Cassese, like Mary Robinson, to correct this erring, with the failure that you can hear every day in the repetitive incantations about 'terrorism' the world over.

As for the depiction that what happened on 9/11 was an attack: of course it was an attack. But much more important is the question we should ask ourselves about what characterised this attack, as against thousands of attacks that take place across the globe every single day. The answer is relatively simple: what happened on 9/11 is a massacre. We actually never conceive of 9/11 as a massacre, discuss it as such, and examine the legal category that attaches to what, in lay parlance, is considered a 'massacre': the category known in international law as crime against humanity.

So instead of massacre and crime against humanity, we keep hearing of attacks and terrorism. But unless we work to replace your definition, Mr Ambassador, we are bound to confront, time and again, a dead-end. Terrorism as you use it appears to derive from a considered definition, but it inevitably fails, including because of the political dimension that it carries. The United States and the rest of the world, reacting to this *Ungeheuer*, a continuous monstrosity that will strike again, I am sure, must use the tools that seasoned law offers, because it is in law that the difference gets made between a process that leads to the punishment of people who are using violence for purposes that are political and those who may be exercising a legitimate use of force. It is this rooting in law that makes a difference over the years between the two types of violence, that is between the sort of asymmetric violence sub-national groups are exercising in ways that are not acceptable and the violence in return that States carry out, both domestically and internationally, and which might, in some circumstances, be accepted, even occasionally required.

The strategic problem that the United States has faced since 9/11 gets exposed primarily by the fact that it is not ready to consider that a legal process is necessary – even if the financial dimension, for example, tends to be carried out by the US government through law. And yet the legal process is vital to make the difference in the use and misuse of political violence as the central battle for the 21st century.

Within this strategic choice there are problems, sure. There is the problem of efficiency, and that of asymmetry. And to mention also the EU, because Mr Voggenhuber [Austrian MEP and speaker at the Vienna conference] has worked on the Convention, one should consider, facing the *Ungeheuer* that has plagued us in such a dramatic way since 9/11, one great failure of the European Convention in addressing *Ungeheuer* by means that are, for all intents and purposes, legal. This is indeed the problem for the European Union's 21st century, and gets illustrated by the absence of a European prosecutor emerging out of the Convention. By striking out the proposal of a European prosecutor, the EU has shot itself in the foot by closing a major avenue to deal legally with *Ungeheuer*. I am sorry, Europol is not capable on its own to deal with *Ungeheuer*. It requires a judge for the legal process to make sense. Similarly the army, as we saw in Iraq, is incapable, on its own, of addressing violence, without some legal process usually over-

seen by a judge. Only that judicial control can raise the reaction to *Ungeheuer* from one which is routed in pure violence – and eventual *Ungeheuer* itself – to one which can be acceptable to civilisations defining themselves primarily in terms of States ruled by law.

Let me try to end with two problems that come with an alternative world view that privileges law as its defining criterion, in an area of conflict which is still governed by the extraordinary template of war that Clausewitz has offered us in *Vom Krieg*. One faces indeed, against that template, two types of dilemmas: one is technical. In the history of warfare there is an element that is always unpredictable and, Dr Schröfl will correct me, that is technological change. We must therefore think more carefully about the brutal, basic and unintelligent – one is tired from hearing that the uses of mass murder are 'brilliant' – use of planes to hit the twin towers; we must think hard about the use of sarin gas in Tokyo's underground as a serious prodrome of what the change in warfare might mean, with warfare being extensively defined as human beings doing mass harm to other human beings. The nature of a technological change and its globalisation is one that requires a lot of work. Since it is impossible to predict how technological changes develop and how you can control them to avoid weaponisation, especially when they become so accessible and so 'democratised', we will not have easy answers, including to the dirty little bomb that one or the other *Ungeheuer* agent will be able to manufacture before too long and deliver. This is one aspect requiring more Clausewitzian, in-depth reflection.

There is another important area of the vexing dilemma brought about by asymmetry: we could describe it as the fact that all these sub-national units operating internationally would not be able to operate internationally if between them and the international scene there were a State that subjected their operations to some form of control. The problem one faces, and that brings us back to Dr Busek and the problem of 'representation of the Arab world', is that none of the Arab countries – and there is a Middle Eastern specificity in 9/11, offers a model of a State governed by rule of law. Not one country in the Middle East is a democracy, and it is on these States that one is relying to hem in the monstrosity that has emerged in 9/11. That creates a serious dilemma, because you Westerners rely on States that do not believe in the rule of law.

Indeed, the most effective convention amongst Arab countries is the Convention against Terrorism which was passed in 1999. Terrorism is the perfect tool for the arbitrariness of Arab governments dealing with their dissidents. And foremost among these dissidents those who use mere words to ask for change. We have to think a bit more creatively on the issue of the lack of democracy in the Middle East as one major, decisive, dimension in the limitations to be put on this *Ungeheuer*. One is asking *Ungeheuer* systems to put an end to the state of *Ungeheuer* which characterises the Middle East, and the ensuing dilemma can only be described as serious. Ladies and gentlemen, the Saudi system is a monstrosity: unless this is seriously being dealt with, we are not going anywhere, and there is, in the Gulf, a century-long history of Western collusion with the *Ungeheuer*, with its characteristic propensity to ignore the very peoples that it governs.

This is true across the Middle East: no exception, and I am talking as an academic here. It is not customary for the US Ambassador here present (nor for other European Ambassadors) to include Israel as a non-democratic State in the region. This is wrong, and we have discussed this matter at length on other occasions, because Israel is part and parcel of *Ungeheuer* that has plagued the Middle East ever since its establishment in 1948, as is part of it the dedicated support it has received from the West over the past 50 years. Support to Israel is one additional problem of association with governments that are anything but *Ungeheuer*.

These forms of asymmetry result, I am afraid, in international monstrosities such as we saw on 9/11. In the Middle East, Israel should be defined for what it is, a monstrous State, which

emerged from the replacement by force of the population from its native land by one brought from outside. This same pattern continues to date: Israel controls not only the Jewish population present in historic Palestine, but it has controlled for the past 50 years of its existence an ever larger non-Jewish segment, part of which remains on its territory and part of which has been forcibly expelled from that territory and remains outside it by the sheer exercise of force. Unless this *Ungeheuer* gets addressed in candid and express terms; unless one stands up to President Bush giving away a right of return that has been recognised internationally for over 50 years, a right without which Dr Busek could do little in the Balkans; unless we ensure that very basic right for the individual who has been forcibly expelled and continues to be prevented from returning by sheer coercion to his native land, we will not be relieved from *Ungeheuer* in the Middle East. Unless we consider seriously whether we can genuinely talk of Israel as a democracy, I am afraid that the war to end all wars will not even have started.

V. 25 mai – Bruxelles – Note critique sur le «rapport des Sages» de la Commission européenne

Note: Au printemps 2004, Belén Bernaldo de Quiros, la responsable extrêmement dynamique de l'action Jean Monnet à la Commission européenne, nous a proposé de commenter le rapport des Sages réunis à l'initiative du président de la Commission Romano Prodi. Ce commentaire a été présenté à Bruxelles dans le cadre de la conférence «Les acteurs du dialogue» qui a suivi la publication du rapport. La séance était présidée par Catherine Lalumière, alors vice-présidente du Parlement européen.

De ce rapport des Sages, nous devons retenir le mieux, critiquer le moins bien et écarter le pire.

Le pire, c'est le parlement euro-méditerranéen suggéré. Nos parlements, au sud et à l'est de la Méditerranée, sont des chiffres molles, le lieu privilégié de la corruption politique des gouvernements. En attendant des élections nationales libres, évitons les parlementaires arabes comme acteurs d'un dialogue *utile*.

Le moins bien, c'est le trémolo des «dialogueurs» actuels: il faut faire face à cette réalité amère, qui veut que ceux qui participent au dialogue ne sont importants que dans la mesure où ils sont capables d'aborder la masse des laissés-pour-compte traînant loin derrière par ignorance ou à dessein, et de les intégrer au dialogue.

Ce rapport est bien intentionné, mais l'enjeu mérite plus d'intégrité intellectuelle, voire de cynisme. «Aimons-nous les uns les autres» est un slogan qui appartient aux églises et aux religions, pas aux acteurs d'un dialogue *critique*. Il faut des dialogueurs de choc, et un style franc.

Le meilleur du rapport est sa conscience d'un «retour du politique», souligné en son début, qui l'article sur une *politique* de proximité prônée par la Commission sur la base de la vision de son président, elle-même axée en puissance sur un principe *constitutionnel* (article I-56 du projet de Constitution, «l'UE et son environnement proche»). Oui donc à ces institutions culturelles qu'on veut établir avec fortes finances, oui à une recherche forte sur la Méditerranée (mais en sachant qu'on n'a pas inventé la poudre – voir le projet dirigé pendant près d'une décennie par Robert Ilbert), oui à un plan Marshall de la culture – apprentissage des langues, centres de recherches, diplômes communs, débouchés de travail *libres* –, mais dans un esprit critique qui évite le verbiage creux. Condition d'éviter l'écueil: établir ce «dialogue» avec la société civile par-delà et, si nécessaire, contre les gouvernements autoritaires du Sud. Retour au politique donc, sans ruse de la raison et du style, par le «pouvoir des mots en histoire» (Lucien Febvre, *Michelet et la Renaissance*, Paris 2002, original 1942-43, page 21: «Définition,

formules... Mais précisément, ce que voudrait être ce cours – c'est, en dernière analyse, un essai sur le pouvoir des mots en histoire.». Il faut donc privilégier les acteurs internationaux d'un dialogue-rupture. La paix en Méditerranée, c'est la victoire d'autres acteurs du dialogue que ceux qui, au Sud et à l'Est, y ont jusque-là présidé. Investir dans la culture est une perte de temps si l'objectif *déclaré* du dialogue, dialogue par définition non violent, mais dialogue de rupture musclé et critique, n'affiche pas son objectif de changer les présidents, rois et autres dialogueurs en chef dans les gouvernements du sud et de l'est de la Méditerranée. Au Nord, ce changement est naturel et s'appelle «alternance».

VI. 15 juin 2004 – Beyrouth – Dictating to dictators ⁽¹⁷³⁾

Note: Deux semaines plus tard, le père John Donohue, directeur du Centre d'études sur le monde arabe moderne (CEMAM) à l'université Saint-Joseph (USJ), organisait une table ronde, avec les collègues libanais Michael Young (op-ed rédacteur du *Daily Star*) et Farid Khazen (professeur en sciences politiques à l'université américaine de Beyrouth), pour voir plus clair dans la pléthore de propositions de réformes occidentales et arabes fusant de toutes parts sur fond d'immobilisme politique et de violence redoublée. Nous avons trouvé utile de présenter une critique des propositions européennes dans le prolongement direct du texte de Bruxelles.

Voici donc ma contribution à la Commission européenne à Bruxelles. Sa dimension un peu abrupte face à des dialogueurs tous azimuts a choqué, mais la crise qui nous enveloppe ne permet plus de mettre les gants d'antan, et force une reconsidération franche qui nous porte – par «nous», j'entends démocrates arabes, européens et américains – à mettre la démocratie à l'ordre du jour.

La différence n'est pas de mise. Le discours de Bruxelles, de Washington et du Caire doit répondre à la vision humaniste que nous partageons. Il y a deux ans déjà, en mai 2002, à la demande d'Anna Lindh, nous avons transmis un texte pour la considération des ministres des affaires étrangères européennes, qui insistait aussi sur les illusions de miser sur l'Amérique contre l'Europe ou vice versa. Ces fossés, illusoire ou réels, ne sont pas utiles, et nos dirigeants tenteront longtemps de jouer le jeu d'une vieille Europe contre une jeune Amérique ou vice versa, comme l'a fait avec un succès mitigé Saddam Hussein. Ces contradictions ne sont pas utiles à des humanistes qui partagent des valeurs fondamentales aussi évidentes que sûres. Au sein même de tous ces pays d'Occident, la fracture est inhérente aux divers acteurs: dans l'insistance sur la démocratie au sein du pouvoir aux États-Unis, les deux factions, avec leurs contradictions secondaires, sont aujourd'hui prises dans une lutte sans merci. En Europe, la situation est plus complexe par le fait de la reproduction de cette fracture dans chacun des pays, et au sein des institutions européennes.

À ce niveau de l'examen des projets, il est plus facile de faire de la prospection prescriptive que de l'analyse. L'analyse se perd aisément entre texte et réalité, et rien n'est plus élastique que la «science politique» autant que les «relations internationales». Après trente ans d'analyse, et vingt ans d'écrits et de militance pour les droits de l'homme, nous couperons, encore une fois aujourd'hui, comme il y a deux semaines à Vienne, comme il y a une semaine à Bruxelles, comme la semaine prochaine au Caire, au plus court: on ne peut dicter aux dictateurs, aux rois du Golfe, de Jordanie et du Maroc, aux dynasties absolues ainsi qu'aux militaires en uniforme présidentiel qu'un seul message: l'alternance. La dictature est aujourd'hui un crime contre l'humanité, après avoir longtemps été un crime contre le peuple.

⁽¹⁷³⁾ CEMAM Seminar USJ, «Dictating to dictators», 15 juin 2004.

L'abandon du pouvoir peut avoir bien des modalités, mais c'est là le point de départ. Nous n'avons pas attendu l'Europe ou les États-Unis pour le dire; leurs dirigeants sont d'ailleurs très en retard; voyez les grandes réceptions qui continuent de plus belle pour tel ou tel potentat de la région, sans compter les criminels de guerre vieux monde comme Ariel Sharon et Muammar Kadhafi, dont le seul lieu moral et politique de réception est derrière les barreaux de la prison. Il faudra penser ces modalités dans une tentative continue d'affûter le débat, les demandes et l'action. Alternance en Égypte, en Tunisie et au Liban, c'est le respect d'une demande constitutionnelle, échue en octobre 2004, de ne pas rester au pouvoir. Alternance en Syrie, ou en Arabie Saoudite, c'est une demande d'un gouvernement d'union nationale, dont le modèle, trop bref hélas!, a été le Conseil de gouvernement iraquien.

Le reste, ce sont des détails utiles à l'alternance du pouvoir exécutif, mais des détails. Le message n'est pas encore passé en Europe, ou aux États-Unis, à lire toute cette littérature qui nous envahit. Pour le faire passer, les partenaires humanistes des deux côtés de la Méditerranée doivent se retrouver sur ce même message: alternance pacifique au sommet du pouvoir exécutif.

VII. 7 juillet 2004 – Le Caire – Lancement d'un mouvement démocratique arabe

Note: La pléthore de propositions de réformes s'est naturellement assortie d'une pléthore de rencontres. Ces rencontres s'accompagnaient de grandes déclarations qui portaient souvent le nom de la ville où elles avaient lieu: déclarations de Beyrouth, de Sanaa, d'Alexandrie... Après avoir pris part à un certain nombre de ces rencontres, il était clair que leur utilité devenait, en l'absence de structures de maintien et de continuité, de plus en plus mineure. Nous avons tenté d'y remédier à l'occasion d'une rencontre au Caire en juillet grâce au soutien du D' Shaha Riza, responsable de la société civile dans le département «Moyen-Orient» de la Banque mondiale et penseur efficace de la démocratie dans le monde arabe, en aidant à l'établissement d'un noyau de démocrates arabes appelé «Forum pour la réforme démocratique dans les États arabes». Les deux textes qui suivent reprennent, pour le premier, la contribution à la rencontre du Caire sur la réforme et des grandes crises régionales. Le texte suivant est la première déclaration du groupe sur la crise au Darfour soudanais.

VII.1. Défis externes et priorité ignorée: «La libération de la Palestine et de l'Iraq est-elle une condition pour réformer les États arabes?»⁽¹⁷⁴⁾

Nous avons conclu lors d'études précédentes que la priorité ignorée dans toute discussion sur l'ouverture démocratique était l'alternance présidentielle, car l'alternance de la personne responsable des plus hautes décisions dans tout État est la première condition de démocratie dans l'histoire humaine. Cela, bien sûr, n'empêche pas que l'alternance soit tout aussi nécessaire, de manière également non violente et volontaire, pour le reste des postes politiques dans la société, notamment dans les assemblées législatives, au niveau des parlementaires comme à celui de leurs présidents, ainsi qu'aux divers niveaux de ce qu'on appelle communément la «société civile». Il n'est pas déplacé de rappeler à l'occasion la nécessité de s'opposer à une tendance patente dans de nombreuses organisations civiles – partis politiques ou institutions non gouvernementales traitant de la chose publique – à perpétuer les mandats de leurs dirigeants. Il faut veiller en permanence à la protection du principe d'alternance régulière et organisée à la tête de ces organisations.

⁽¹⁷⁴⁾ «*Tahaddiyat al-kharej wal-awlawiyya al-da'i'a: hal tahrir falastin wal-'iraq shart lil-islam fil-'alam al-'arabi?*» («Les défis externes et la priorité perdue: la libération de la Palestine et de l'Iraq est-elle une condition de réforme dans le monde arabe?»), contribution au colloque sur la réforme organisé par divers centres pour les droits de l'homme en Égypte, 5-7 juillet 2004.

Le principe d'alternance à tous les niveaux de la société — dans la lignée du document d'Alexandrie en son point 6 — conforte les demandes par la société de l'appliquer à la tête du pouvoir exécutif, et suggère une nouvelle méthode qui s'y rapporte dans la question de la Palestine et celle de l'Iraq, qui sont les deux *crises centrales* de notre histoire proche. Car si la question iraquienne a rejoint, par l'intensité des souffrances qui ont affecté le peuple iraquien sur une période de quatre décennies, la crise dominante dans la région arabe au XX^e siècle qui est celle de Palestine, il faut garder à l'esprit les autres crises persistantes dans le monde arabe, chacune spécifique dans sa sphère étatique, au Sahara occidental, en Algérie, au Soudan, en Somalie, sans compter le registre tragique du gouvernement libyen pendant trente-cinq ans, les guerres passées au Liban et au Yémen, la violence montante au cœur du Royaume d'Arabie saoudite...

La Palestine et l'Iraq ne sont donc pas une exception. Si guerres et crises forment l'intitulé caractéristique de la région, nous devons nous baser sur l'expérience des drames «secondaires» pour traiter des deux crises centrales, drames qui n'en sont pas différents quant à la méthode: nous ne retardons pas notre préoccupation pour la démocratie dans nos États à cause de l'un ou l'autre de ces drames secondaires, qu'il soit interne, comme en Algérie ou en Arabie saoudite, ou régional, comme au Sahara occidental. Il faut donc suivre une méthode semblable pour les deux crises centrales, et nous ne voyons pas l'utilité de l'argument suivant lequel la démocratie devrait être retardée au sein de nos pays sous prétexte de la crise en Palestine, ainsi que tous nos gouvernements continuent à le prôner pour faire l'impasse sur la réforme interne, y ajoutant récemment la crise iraquienne dans un même style de logique approximative et d'argumentation élastique.

Cette habitude de faire l'impasse sur le changement démocratique sous prétexte de la crise en Iraq ou en Palestine ne leurre pas — il me semble — les démocrates arabes sincères, et je ne pense pas que cela soit un argument sérieux dans notre concertation. Mais les tragédies iraquienne et palestinienne requièrent un traitement supplémentaire inspiré de la cohérence dans la vision démocratique de la région dans son ensemble, en ce que cette vision comprend pour faire face aux violations des droits de la personne et des droits collectifs propres à ces deux crises.

Nous devons accepter notre échec dans le traitement des deux crises centrales avec efficacité et conviction, car nous avons souvent ignoré les dimensions démocratiques qui s'y rattachent intrinsèquement. Dans la crise iraquienne autant que dans la crise palestinienne, notre intérêt pour les droits de la personne et pour la démocratie est constamment resté secondaire par rapport à la thèse de l'«intérêt supérieur» avancé par nos gouvernements pour nous détourner de l'exigence du changement interne qui leur est demandé.

Dans notre attitude face au tunnel iraquien pendant près de quarante ans, il s'agissait de couvrir la violence du régime sous prétexte de son opposition à Israël et à l'impérialisme, même lorsque Saddam Hussein avait engagé son pays dans la guerre contre l'Iran, puis dans la conquête du Koweït. Malgré les supplications répétées des opposants irakiens pour les aider dans leurs misères quotidiennes, notre monde arabe dans son ensemble — au niveau gouvernemental comme pour les élites et dans la «rue» — a persisté dans son refus de prêter attention aux demandes de soutien contre la dictature à Bagdad. Nous avons avalisé l'argument de l'«intérêt supérieur» dans la guerre contre l'Iran sous le couvert de l'Iraq formant la «barrière est» du monde arabe, ainsi que l'argument suivant lequel la route de Jérusalem passe par le Koweït.

La réalité est que les choses n'ont pas bien changé après la libération de Bagdad de la dictature et son occupation par les forces américaines et britanniques. Le soutien de la résistance violente sous toutes ses formes passe toujours avant la défense de ce qui permettrait aux Irakiens de gouverner

sans violence. Cela ne veut pas dire qu'il est possible d'asseoir la démocratie sans opposer l'occupation américaine sous ses formes les plus brutales, d'Abou Ghraïb jusqu'à sa confiscation du pouvoir national. Mais toute action sérieuse pour aider à établir un Iraq démocratique passe dans la rue arabe et chez ses dirigeants par une patronisation des Iraquiens au gouvernement — là aussi, sous prétexte de leur manque de légitimité, comme si les membres des gouvernements arabes pouvaient prétendre à plus de légitimité que des gens qui ont lutté des années contre la dictature, et qui tentent aujourd'hui de réussir la transition démocratique en diminuant les pressions extérieures et en organisant des élections nationales — et par une satisfaction affichée à l'égard d'actions dont le moins que l'on puisse dire est qu'elles défient tout sens humain.

Quant à la question palestinienne, elle aussi est grevée de cet «intérêt supérieur» aux droits de l'homme dans cette terre maudite depuis un siècle. Elle aussi bénéficierait d'un traitement différent de celui qui domine dans nos milieux, notamment pour pousser les dirigeants palestiniens à rendre compte de manière démocratique de leurs actions et infractions, d'abord dans l'alternance à la présidence, poste dominé exclusivement par le même personnage depuis près de quarante ans, ensuite dans l'activation de la responsabilité des dirigeants israéliens pour des crimes que le droit international qualifie de «crimes contre l'humanité», ou encore dans un traitement en profondeur de l'échec démocratique dans la nature même de l'État d'Israël.

Dans cette quête pour un avenir démocratique sur la terre de la Palestine historique, on ne peut que souligner l'opposition de l'établissement de deux États indépendants au principe de l'égalité des personnes organiquement liées à cette terre, Israéliens et Palestiniens, ainsi qu'au principe du retour des réfugiés dans leur patrie et de leur dédommagement pour une souffrance ininterrompue depuis près de soixante ans. Voilà pour le principe rétrospectif de responsabilisation, la responsabilité étant un pilier fondamental de la pratique démocratique, mais la méthode est la même dans le tracé prospectif du droit de la personne et de la collectivité dans un cadre qui respecte avant toute autre chose le principe de l'égalité et des libertés, en tête desquelles se trouve en Palestine historique la liberté de mouvement.

Il s'agit donc d'un traitement démocratique des deux questions centrales, en Iraq et en Israël-Palestine, et de la remise à l'ordre du jour de la méthode et des critères qu'il faut alors adopter. Le résultat le plus important de cette nouvelle approche est sans doute le renversement des équilibres difformes qui dominent, ainsi que la confrontation des difficultés dans le cadre oublié de la démocratie et des droits de l'homme. Parmi les conséquences de cette nouvelle approche se dégage la nécessité de constater que le système en vigueur en Israël n'est pas démocratique, et ne l'a jamais été suivant les critères universellement reconnus: là se trouve une bataille des consciences et des convictions à un niveau de persuasion que nous devons gagner par des arguments juridiques et connexes, qui sont au cœur d'un message qu'il faut porter au reste du monde pour convaincre ceux qui persistent à prétendre qu'Israël est un État démocratique, car cet argument est le fondement principal de la politique occidentale dans la région.

L'absence de démocratie en Israël-Palestine nous ramène à la priorité ignorée une génération durant dans l'approche suggérée comme fil conducteur d'analyses et de positions. Nos gouvernements — en tant qu'expressions de nos États, dans ce que l'État représente comme sujet de droit à travers son gouvernement dans le monde — ne peuvent vraiment offrir de contribution sérieuse à ces questions tant qu'ils ne respectent pas eux-mêmes le principe d'alternance non violente au sommet; ils ne seront pas écoutés, quelle que soit leur indignation envers les violations par Israël du droit international (en quoi ils ont raison); et nul ne fera attention à leur demande d'égalité en Palestine — par exemple, dans le cas des dirigeants libyens, leur appel grossier à un État nommé «Isratine» — tant que l'égalité entre les gens n'est pas respectée au

sein de nos États dans des formes constitutionnelles effectives qui permettent le droit compétitif à tout citoyen de briguer la présidence par le biais d'élections libres. Cet obstacle est majeur parce qu'il nous ramène au cœur de notre priorité ignorée, priorité suivant laquelle seul le changement démocratique à la tête de nos sociétés permet une action efficace dans les deux crises centrales. Ce changement est en fait la condition de résolution durable de ces crises, dans leurs dimensions autant interne qu'internationale, avec une conscience claire et un argument décisif.

À la question donc de savoir «si la libération de la Palestine et de l'Iraq est une condition pour réformer les États arabes» répond un argument complexe:

1. Il faut remettre à l'ordre du jour la priorité ignorée dans l'ensemble du monde arabe, à savoir l'alternance sur un mode non violent et civilisé au sommet du pouvoir exécutif.

2. Il n'est pas de priorité démocratique qu'un pays puisse avancer comme argument contre un autre pays, ni de priorité d'une crise sur un pays, ou d'un pays sur une crise. Le mode démocratique est un et indivisible, et ne porte pas en soi de contradiction, interne ou régional, ou de contradiction provisoire ou partielle.

3. Il revient à ceux qui œuvrent pour la réforme démocratique dans leur pays de dénoncer son retard historique sous prétexte d'«intérêt supérieur», que ce soit dans la question de la Palestine ou dans la crise iraquienne, et d'examiner les moyens de corriger cette vision structurellement erronée.

4. Les deux crises centrales se distinguent par des violations accusées et continues des droits de la personne et par l'absence aggravée d'un processus démocratique qui rendent plus urgent, sans avancer une crise contre l'autre, leur traitement humain et juridique.

4.1. Ce traitement se fera en Iraq par le rejet de la violence et par l'habilitation du gouvernement dans ses efforts de transition démocratique, que ce soit dans la mise en œuvre de la responsabilité pour les crimes passés ou dans la réduction des interventions étrangères sous forme de colonialisme, d'occupation ou de domination. Il requiert la création d'instruments de soutien arabe, notamment auprès des organisations de la société civile qui souhaitent aider les Iraquiens à dépasser les scories de la dictature et les drames de l'occupation.

4.2. En Israël-Palestine, l'impératif démocratique impose un changement fondamental dans l'approche, notamment dans les conséquences politiques et pénales dérivant dans chacune des deux sociétés de la responsabilité de leurs dirigeants pour la profonde impasse historique qui prévaut au sein de chacune de ces deux sociétés, comme dans leurs relations entre elles. Il faut repenser une solution démocratique qui consacre le droit de tous, individuels et collectifs, sur la base de l'égalité et de la liberté.

Donc si cette question est juste — et nous pensons qu'elle ne l'est pas, pour être mal posée dans son traitement préférentiel de telle tragédie sur telle autre —, il faut y répondre en avançant la réforme démocratique dans l'expression d'alternance présidentielle dans le monde arabe comme condition de libération de la Palestine et de l'Iraq, et pas le contraire.

VII.2. Forum for Democratic Reform in the Arab States: Declaration on Darfur

We, the undersigned, members of the Forum for Democratic Reform in the Arab States, join our voices with those Arab and international personalities and institutions who denounced and continue to forcefully denounce the crime of ethnic cleansing in the region of Darfur in Sudan. We are disturbed by the lack of open denunciation of these practices by Arab governments and by a large number of Arab parties, NGOs and opinion leaders – in contrast with the active involvement of regional and international organisations – and demand that the wall of silence typical in current Arab political practice, official and non-official, be henceforth breached. Silence towards the atrocities in Darfur is no different from the blanket ignorance of the systemic racial violence of Saddam Hussein's rule towards the Kurds, and from American support to, and European tolerance for, the brutal Israeli actions against Palestinian civilians in the Occupied Territories.

We underline the fact that recent events in Darfur, in their origin and consequence, reveal yet again the degree to which a sectarian and dictatorial government can go in undermining the fate of a nation for the mere purpose of remaining in power, a practice honed by the Sudanese government over years: this is why the emergence of a government elected democratically is an urgent necessity not merely for the protection of liberties, but also for the national survival of the country.

We call upon the Sudanese government to stop immediately the killings, rapes, destruction of homes and farms, expulsion of residents, directly or indirectly by way of its militias, as has been reported by respected international institutions, in a region which has long suffered from drought, desertification and poverty, and we request an Arab/international investigation into the Darfur atrocities, which will consolidate the principle of bringing to trial those responsible for such mass crimes.

22 July 2004

Forum for Democratic Reform in the Arab States:

Hafez Abu Sa'da, Mustafa Bouchachi, Ghanem Jawad, Buchra Belhaj Hamidam, Baheydin Hasan, Dalal Bizri, Isam Khafaji, Muhammad Rumaihi, Jihad Zein, Hussein 'AbdalRazeq, Kamal Labidi, Usama Ghazali Harb, Chibli Mallat, Nehad Nahhas, Farida Naqqash, Murad Allal, Abdelaziz Khamis

VIII. Septembre 2004 – Beyrouth – Retour sur le drame fondateur en Palestine ⁽¹⁷⁵⁾

Note: L'étude présentée dans cette section peut sembler de prime abord incongrue. Traitant du drame fondateur en Palestine il y a maintenant plus d'un demi-siècle, elle ne s'inscrit pas naturellement dans le souffle urgent qui sous-tend les autres occasions choisies. Nous l'avons cependant incluse dans cette quête non violente d'un Moyen-Orient meilleur, car elle rappelle la souffrance continue que constituent certains événements marquants de l'histoire de la région, et qu'il serait futile d'évacuer sous prétexte d'ignorance ou d'obsolescence.

I have rarely encountered so much internal resistance to finish a landmark work such as the one discussed in this review. This is not a function of the length of the book. True, *The Birth of the Palestinian Refugee Problem Revisited*, almost three times the size of the original work published in 1988, is a work of unique archival research. But one often regrets that good books are not longer, so captivating do they become as the argument unfolds. Nor did the difficulty in finishing it lie in the fact that it does not carry the full story. True, the author suggests that the narrative will remain incomplete so long as the archives of the Arab capitals are not open, but it is unlikely that they will yield much to undermine the central argument, though archives elsewhere would offer an additional dimension to the history of 1948 Palestinian refugees. In the case of Jordan, it was carried out in Avi Shlaim's seminal work, *Collusion Across the Jordan* (Oxford, 1998), and for other Arab countries in a collection of good essays edited by Eugene Rogan, *The War for Palestine*, Cambridge, 2001, including a chapter by Benny Morris and a formidable concluding essay by the late Edward Said. But *The Birth* is self-sufficient, and the wealth of material, together with the scrupulous attachment to their literal yield, makes it a particularly sober book. So it is not a matter of comprehensiveness. Finally, my difficulty in finishing the book is not because of the author's style. True, the turn-of-phrase is turgid, so interrupted it is by the documentation and its harsh, war-zone military prose. But the material is so rich that style weighs little against the thoroughness and wealth of information.

For me, the labourious effort in reading *The Birth* had a deeper reason, and a simple one at that: nausea. As I picked it up time and again to plod through a few pages, or a chapter, I was taken repeatedly by nausea, that special mental type of nausea where there is nothing physical to give up; a historic-like nausea in reading about the Saint Bartholomew massacre, or Nazi episodes in World War II; a nausea, though, which is not Sartre's or Camus' *mal de vivre*; a nausea which often comes with a report by Amnesty International of a massive human rights violation, or when television stations expose a horror without being gory about it; a nausea that continues to take you over Darfur, Iraq or Central Africa; the nausea of continuous, massive crime. *The Birth* is an occasion for nausea over 600 pages of systematic, relentless, unpunished brutality. This, I think, is why it took me so long to complete it.

The central agent in this brutality is the Jewish community of Palestine. The central victims are the Palestinians. The story recounted by Morris is simply harrowing. He describes five waves of organised violence which afflicted, over a few months, a hapless population with a view to cleansing Palestine of non-Jews – cleaning, cleansing, purifying are recurring words in the archives cited. The first wave started soon after the UN Partition resolution on 29 November 1947, which divided the country in two and gave half of the land to a population which constituted hardly a third of the people living on the Mandate Territory (600 000 Jews, 1 400 000 Arabs), numerically, and owned a mere 6 % of the land – who could accept that, and more importantly, what constituency could claim to express such acceptance? The efforts at cleansing the land were redoubled in March, with the infamous Plan D where the survival of the

⁽¹⁷⁵⁾ *Daily Star*, 4 septembre 2004. «La nausée and Al-Nakba: rewriting 1948», Review of Benny Morris, *The Birth of the Palestinian Refugee Problem Revisited*, Cambridge, 2004.

Jewish community was premised on expelling all Arabs in the way or left behind, and continued through the declaration of Israeli independence on 14 May 1948.

Many cleansing 'plans' and 'operations' followed. The third wave took place over a period of 10 days in July, with an exacerbation of the frenzy of killings, rapes and expulsions – a typical statement from one of the soldiers under Moshe Dayan's command: 'I kill everyone who belongs to the enemy camp; man, woman, old person, child' (p. 426); from Allon to Ben Gurion: 'What shall we do with the Arabs?' Ben Gurion, with a dismissive, energetic gesture: 'Expel them' (p. 429). Result of the 10 days in the third wave: 100 000 Arabs in exile. The fourth wave was carried out after another lull following a pointless intervention at the UN. It took place between October and November 1948, shortly after the 17 September 1948 assassination of Count Bernadotte, who had premised the organisation's role on the return of Palestinian refugees. The result: 'Together, operations Hiram and Yoav and their appendages precipitated the flight of roughly 200 000–230 000 Arabs' (p. 492).

While the Israelis adopted 'by consensus' a refusal to accept any return, including a policy to open fire on any villager who tried to return to his house or to harvest land, a fifth wave took place through two subsequent non-war years, from 1948 to 1950. The fifth wave was designed to clear the borders of Arabs with a depth of 5 km to 10 km. Another 40 000 refugees. My own work on the Syrian-Israeli borders, and that of Morris in two other books, shows how the cleansing pattern was consolidated through the 1950s. Any attempt to return is met with death; small villages near the borders, or in demilitarised zones, are emptied of their inhabitants. At the same time, all efforts to reduce the misery of the Palestinian population were reduced diplomatically to naught. Result: some 700 000 (Morris) to 780 000 (Said) Palestinians uprooted. Another 150 000 remained, and 20 % of these were internal refugees who were also prevented from going back to their homes.

Morris does not always express this narrative in so many words, and one would be surprised, if the book were to be put to an easy word-processing test, to see how many 'buts' and 'however's' it includes. Hardly a section, when a particular atrocity is broached, does not include all kinds of qualifiers. While nuances are important, persistent qualifiers against massive ethnic cleansing adds to the feeling of nausea.

Another word-processing exercise would yield more harrowing results. In addition to the killings, what emerges in months of ethnic cleansing is a persistent pattern of looting and, more disturbingly, of rape. I could not keep track of the number of rapes documented in this book, but the sense of nausea is also overwhelming for their recurrence. Documentation of rape as a pattern appears as a particular addendum in the new edition of the book.

The Birth of the Palestinian Refugee Problem has a complex history, and the debate it elicited has not abated. Up until the late 1980s, it was taken not so much as given, but as inviolable and sacred truth, that the soon-to-be-Israeli Yishuv settled on land that its Arab occupants had deserted, and had deserted because their superiors had told them to do so. The Zionist foundation myth went so far as to assert that the land in question had been signed away by King Faisal (then peripatetically looking for a crown, which he later found in Iraq) when he entered into an agreement with the Zionist leadership in 1919. With the publication of Morris' *The Birth* in 1988, all that changed. He, and others who joined him, such as Avi Shlaim, Ilan Pappé and Tom Segev, blew a hole through Zionist historiographical defences and gave birth to what was called the 'Revisionist School' of Israeli history. They made a lot of enemies.

Why did the research by Morris constitute such a watershed? Firstly, because it is serious: the archival work is simply staggering. Secondly, because it undermined a number of received

notions, notions that had in fact become taboo to discuss. He pulled the rug from under the received notion that the emptying of Palestine was a simple exchange of populations — Arab Jews from other Arab countries against non-Jews from Palestine, the dating is clearly circumscribed to a phenomenon of cleansing that goes in one single direction: Palestinians. And he attacked the other central notion that Arab governments had called upon the Palestinians to leave. Morris shows that the alleged call by Arab governments for Palestinians to leave their homes was simply untrue, reinforcing the common sense of any decent person: Exile is a tragedy — no one enters into it willingly. But mostly, Morris' book uncovered patterns of massacre, rape and looting.

Much had, of course, already be written about this, attempting to challenge the official early history of the Israeli State. But it was work produced by outsiders: Erskine Childers and Walid Khalidi, in the early 1960s, then Edward Said and Noam Chomsky in the 1970s. It wasn't kosher. Baruch Kimmerling's masterful *Zionism and Territory*, published with some difficulty at the International Relations Center in Berkeley in 1983, came closest to internal dissent, and is acknowledged by Morris in his preface, but the real explosion had to wait until the late 1980s.

The reason that Morris' *The Birth* is so important is because the entire subsequent history of the Palestinian-Israeli conflict must be traced back to 1948. The moment the political problem in Palestine is set at that date, the solution cannot avoid the refugee problem. The debate may get complicated over time, and in 1967 becomes one dominated by 'occupation' and more refugees, UN Security Council Resolution 242 and other resolutions, while lately it has been dominated by Security Council Resolutions 1397 (12 March 2002) and 1515 (19 November 2003), which establish a Palestinian State by 2005, and the International Court of Justice resolution on the separation wall on 9 July. This is all important but does not efface 1948. The point is: the history of Israel, built on the death of Palestine, starts in 1948, not in 1967 or 2000. And Morris gets this right. And he deserves immense praise for having had the courage to confront the truths of 1948 head-on. But if Morris received the acknowledgment of countless historians for having had the guts not to shy away from the details of 1948, he has also heaped on himself the opprobrium of countless others for the conclusions he draws from those details.

A great many countries are born in sin, in utter, revolting violence. No case is more glaring than the whole settlement in the USA and the rest of the Americas, a genocidal process if any. But in the United States, and differently in most of Latin America, a policy of reverse discrimination prevails, including the creation of tax havens transformed into million-dollar-revenue-generating casinos for the descendants of Indian tribes. The American-Indian argument put forward by Morris was easily picked up by Kimmerling: 'Morris has abandoned his historian's mantle and donned the armour of a Jewish chauvinist who wants the Land of Israel completely cleansed from Arabs. Never has any secular public Jewish figure expressed these feelings so clearly and blatantly as Professor Morris did. And, in order to be completely lucid on this point, he drew an analogy between Israel and North America: "Even the great American democracy could not have been created without the annihilation of the Indians. There are cases in which the overall, final good justifies harsh and cruel acts that are committed in the course of history." I do not know today any American historian or social scientist that agrees that the annihilation of the indigenous population of the continent was a necessary condition for the American nation or the constitution of American democracy.' There are no American Indian — 'native American' — refugees in 2004.

In Israel, the original sin continues.

'History,' said Benedetto Croce, 'is always contemporary'. There are degrees in the intensity inflicted by history on current affairs, and this intensity is man-made. The Holocaust is one example, the Palestinian 1948 Exodus another.

The vectors of memory take many shapes, some expressed in sheer violence – the self-immolation of scores of Palestinians mostly from the refugee camps in the West Bank and Gaza is the crudest and most recent. But memory is the business of historians, and history, as the search of what happened – *'wie eigentlich gewesen'* in the celebrated aphorism of the 19th century German historian Ranke – is search for truth. No truth, no history. Once the truth is laid out, as scientifically and accurately as possible, others take up the mantle as political leaders or lawyers in compensation mega-lawsuits. For events like the Holocaust and the 1948 Palestinian Exodus, the decisive word is the historians'.

This is why the works of Morris, as the leading archival historian of what happened in 1948, are central. The rest, that is the consequences, political, legal or otherwise, is not his business. This should help us focus on the book, rather than the author, who has mired himself in recent months in a bizarre comparison between current events and those of 1948, and appears to suggest that the only way out is to drive the rest of the Palestinians living in Palestine out of it. In an infamous *Haaretz* interview in January 2004, the expulsion of the massive majority of the indigenous inhabitants was vindicated crudely as the need 'to break eggs in making an omelette'. The sense of nausea must also be obtained from the capability of a reasoning human being to go to such lengths as advocating a parallel between 1948 and the current civil war: as if by any standards today, or indeed then (as documented elsewhere in the confidence Ben Gurion had of his clear military superiority), the Jewish community was at risk of disappearance in its Palestine settlement. Ultimately, Morris' ratiocinations on the current situation are not important – this is familiar terrain: With all the war crimes uncovered, Morris insists that the struggle was one of survival. 'No choice' is another harrowing sentence of Israel's persistent mythical history. No choice in 1948, in 1956, in 1967, in 1982? In each case, the Israeli leaders started a massive war. And in the latest instance, on 28 September 2000, the official date for the start of the present war, Israeli Prime Minister Ariel Sharon, backed by Ehud Barak, visited the Jerusalem esplanade. Protest followed, with over 200 people wounded and four killed in unarmed demonstrations over 28 and 29 September. They were all Palestinians.

With all this, and the ensuing nausea, I am prepared to give Morris-as-historian the benefit of the doubt. For once his conclusions, when scientifically sound, are offered, the judgment becomes one that belongs to all of us. His argument for expelling the Palestinians of the West Bank and Gaza today, in the same way they were expelled in 1948 are profoundly disappointing and degrading to him, but the book shows beyond doubt, not only the massiveness of the Yishuv-inflicted tragedy in Palestine, but the responsibility of the international community, including the Arab States, Europe and the United States, in not preventing it, or, when it happened, not reversing it. By any standards, the absence of coercive outside intervention to protect a massively victimised population is the one we saw before World War II, during the uprising of the Warsaw ghetto, through to the tragedy unfolding in Darfur. With all its qualifiers, Morris' work leads to this inescapable conclusion: This belongs to a pattern of atrocities and mass crimes of a special, unique magnitude.

This requires a profoundly different view of the military intervention of the Arab States in May 1948. Nineteen forty-eight is not, as the dominant Israeli (and international, including Arab) view still has it, a matter of 'life and death' for the Yishuv. Arab armies were simply impotent to prevent the mass flight of a people, or to reverse it. It was the neighbouring States' moral duty to intervene, as it was for any other power which could do it at the time. The fact is that the world forsook its legal and moral duty to save the Palestinians from ethnic cleansing in 1948.

Simple, serene work is needed that puts this centre stage 50 years hence. Palestine is one land for two people, and it is no longer possible to write a history of Israel that does not include the one struggle that defines it over the past century, and which is bound to define it for the next.

The history of the struggle defines the history of the two communities, this is a central historiographic change in eternally imbricated populations, and it has now picked up pace in several other excellent books, by Baruch Kimmerling, *The Invention and Decline of Israeliness*, California, 2001, and, with Joel Migdal, *The Palestinian People: A History*, new edition Cambridge, Massachusetts, 2003, by Ilan Pappé, *A History of Modern Palestine: One Land, Two Peoples*, Cambridge, 2004, and, on the other side – or the same one, actually and potentially, in the works of Nur Maslaha, and to some extent Azmeh Beshara and Yezid Sayegh. One needs more sociology and history that insists on this common destiny, because the future of the two peoples will forever be defined in common.

The search for solutions to persistent problems is always complicated by all sorts of conditions. Such, in 1948, is relative to instances of resistance and killings of Jews by Palestinians, the lingering mystery of the small minority of the 100 000 Palestinians not displaced – here more work is to be done on the Christian and Druze factor, not examined closely enough by Morris – the passage of time and further displacement in 1967, and 'occupation'. Still, the norm is simple and universal: Refugees, irrespective of the reasons for their flight, are entitled to return to their homes. They should also be compensated, but this will depend on a number of factors, including criminal responsibility, and Morris has an interesting note about how most reports of large-scale killings remain closed in the archives. Right of return may be qualified, but it remains the point of departure of morality and law, and cannot be emptied. This is the moral and legal departing position, true for Kosovars as well as Darfur refugees, and is embodied in the case of Palestinians in 'the right of return' UN General Assembly Resolution 194 in December 1948. This is still the official position of the EU, of the United States (despite President George W. Bush's insinuations), and of organisations like Amnesty International.

Since *The Birth* is so contemporary, our concern is this: If such are the facts, that the displacement was systematic, took a logic toward the worse as the battles raged, and resulted in a conviction on the winning side that the return of the refugees is unacceptable, why is the Palestinian State on non-1948 territory being pursued, on the Palestinian side, as the solution? Realpolitik is easily argued: A two-State solution is being pursued exactly because the winning side reckons the right of return is unacceptable. To this end, it has written away the 1948 ethnic cleansing. That is, until Morris, which makes silence – and distortion – no longer tenable.

But realpolitik can be argued in the opposite way, and a groundbreaking realpolitik argument for 'one Palestine-Israel' was made in 'Israel: the alternative', an article by Tony Judt in the *New York Review of Books* in October 2003. Judt flows from Morris. If 1948 underlines the moment the problem became intractable, if the history of Palestine and Israel – which is the same thing – can only be seen as an integrated whole, partition is bound to leave that issue unsolved. There are solutions offered by extremists: massive expulsions, targeted assassinations, destruction of property and walls on the one hand, and the killing of civilian Jews in the hope the rest will flee on the other. These are winning the day, but will not solve the issue either way. They will just add more monstrosities to the grim picture. One day, leaders will search for a different way forward, built more on the equality of people than on the division of land. Compromises were sought in the case of Oslo, and at Camp David. Compromise is now portrayed in America as the withdrawal from Gaza. But this is simply not sufficient, because it ignores the fact that history did not start in 1967. Jews and non-Jews living together are the only way forward, and this is something that both sides need to realise, and that Palestinian leaders must stand for, as they did up till 1974. It might take a generation, but after Kimmerling and his school of current Israeli-Palestinian sociology – of whom Morris for that crucial period of birth-through-ethnic-cleansing in 1948 is a vital source – that logic is implacable. It matters little what Morris says about his 'understanding' of why massive expulsion could be repeated, for that part of the argument is just nauseating, and will remain as an unfortunate idiosyncrasy of yet another historian 'mugged by reality'.

IX. Septembre-octobre 2004 – Sydney, Beyrouth, New York – Alternance au sommet: autour de la résolution 1559

Note: Alors que je me trouvais en Australie avec Sadreddine Sadr, le fils de l'imam disparu lors de sa visite officielle en 1978 en Libye, pour lancer la «campagne pour la vérité et la responsabilité» dans l'affaire Musa Sadr, les événements se sont précipités au Liban. Ralliant un soutien fort du gouvernement syrien, contre une résistance libanaise sans précédent autant par son ampleur que par son caractère non violent, le président libanais Emile Lahoud a forcé un amendement constitutionnel pour prolonger son mandat. En réaction, et pour la première fois depuis leurs dissensions en Iraq, les gouvernements américain et français ont joint leurs efforts à l'ONU pour faire passer une résolution condamnant l'amendement et requérant le départ des troupes étrangères. Le premier texte, rédigé à Sydney juste avant le passage de la résolution 1559, annonçait l'imminence de la crise et son sérieux. Deux semaines plus tard, à New York, nous rencontrons Terje Roed Larsen, le responsable à l'ONU du rapport du secrétaire général requis par la résolution. Le deuxième texte est un bref commentaire sur ce rapport.

IX.1. A last-minute plea to Bashar Assad ⁽¹⁷⁶⁾

This is the last day, it seems, to make a plea for reason from Syrian President Bashar Assad and Lebanese President Emile Lahoud. This comes from a person who has learnt to appreciate the difficulty of implementing the rule of law in the Middle East.

The only argument put forward to undermine the most important democratic Lebanese offering to the Arab world – the peaceful alternation of power – was one of expediency and, implicitly, of so-called Syrian 'higher national interest'. This argument is flawed. The draft UN resolution seeking to change Syrian behavior in Lebanon, as the text stood on Thursday, will put the Syrian and Lebanese regimes on a collision course with the international community – and with a Security Council whose Resolution 425 Beirut and Damascus used over a period of 22 years to demand the liberation of South Lebanon from Israeli occupation.

A new resolution may also provoke unprecedented damage to the future of Lebanese-Syrian relations. Those who wish to see the two countries violently split apart, as almost happened in the worst days of the Israeli invasion of 1982, will welcome the UN decision, which calls for a withdrawal of Syrian troops from Lebanon and free and fair elections. While it is true that no decent leader in the world, including the Lebanese and Syrian presidents, would contest the principles of Lebanese sovereignty and democracy, with Syria put on notice to implement these forthwith we could enter a struggle that may tear the fabric of Lebanese society. This, in turn, may undermine any hope of gradual, non-violent reform within Syria and increase the country's regional and international isolation. Given the 'regime change' in Iraq last year, at least some Arab countries will stand openly against Syrian policy in Lebanon.

Even more gravely, the UN resolution may lead to a situation where Lebanon's religious communities enter into conflict one with the other. The deliberate effort to ignore the consensus built around Maronite Patriarch Nasrallah Butros Sfeir – who has adhered to a position supporting both Lebanese sovereignty and democracy, but also cordial relations between Lebanon and Syria – will give way to extremism coming from the worst fringes of Lebanese society, and will be fueled by a logic of international intervention.

However, Lahoud and Assad should also know that the argument put forward by Lebanon's Foreign Ministry, namely that the outside world has no business interfering in Lebanese-Syrian

⁽¹⁷⁶⁾ *Nahar*, 2 septembre 2004. *Daily Star*, 3 septembre 2004. La résolution 1559 a été adoptée le soir du 3 septembre, heure de Beyrouth.

affairs, is erroneous in its reading of international law. Syria's presence in Lebanon and Israel's invasion were always, by their very nature, subject to international scrutiny. When, as has happened in the past two weeks, coercion was so manifestly exercised by Damascus against the will of the Lebanese people and their leaders, it was not only the right, but also the duty, of the international community to intercede.

Worst, Syria's and Lebanon's discounting of the UN resolution would only increase outside pressure. This may eventually lead to calls for the UN's demands to be implemented through sanctions or, even, military means.

That is not necessary. Whatever is said officially in Lebanon in favour of an extended Lahoud mandate, whether by Foreign Minister Jean Obeid (who, everyone knows, is eager to be president), Prime Minister Rafik Hariri, Speaker Nabih Berri, Deputy Speaker Elie Firzli, or others, is simply not an expression of their personal convictions, or that of their followers. It is a grave error to spite the unique unanimity the Lebanese have developed in favour of changing their president, irrespective of the quality of the holder of the position. By ignoring this, however, Lahoud may see his name blackened when this period of Lebanon's history is eventually written about.

Decent Lebanese democrats, who wish to avoid more blood being shed in the Middle East, can help devise an alternative resolution if Lebanon's constitutional process is reinstated. Bashar Assad must change direction and persuade Lahoud, at this strategically key moment for Syria and Lebanon, to stop his unconstitutional, undemocratic bid for an extended mandate.

IX.2. The forgotten side of Resolution 1559 ⁽¹⁷⁷⁾

UN Secretary-General Kofi Annan's words in his report issued last Friday on the implementation of Resolution 1559 and the extension of Lebanese President Emile Lahoud's mandate should be saluted. If taken up seriously by the Security Council this week, they provide a missing ingredient in response to a perennial problem that has afflicted the Middle East during the last four decades: the absence of a regular, non-violent alternation of power at the top.

To quote from Annan's report (written by Terje Roed-Larsen, who nevertheless was quoting from a previous statement of the Secretary-General), 'governments and leaders should not hold on to office beyond prescribed term limits'.

I commend Annan because I have repeatedly had my differences with the Secretary-General on his points of emphasis in various matters Middle Eastern. He has not been forthcoming enough in opposing the positions of the Israeli government of Prime Minister Ariel Sharon, though it has systematically undermined the efforts of the Quartet in its search for a comprehensive peace. On Iraq, Annan was too often ambiguous in his dealings with Saddam Hussein. In 1998, for example, he personally engineered a diplomatic exit for the Iraqi leader at the time of the imbroglio over inspections of the presidential palaces, unnecessarily delaying a showdown with the Iraqi regime. More importantly, Annan was unable last year to chart a way out for the UN amid divisions in the organisation over Iraq, culminating in its post-war departure from the country after the bomb attack against its headquarters in Baghdad.

Many in Syria and Lebanon have already brushed aside Annan's statements on Resolution 1559. However, that does not really matter, as much depends on what the Security Council will do this

⁽¹⁷⁷⁾ *Daily Star*, mardi 5 octobre 2004.

week with the Secretary-General's devastatingly accurate diagnosis of the Syrian-Lebanese relationship.

It is important that there be no letup by the Security Council in addressing, first in order of priority, the regional political deadlock, and second, the assured deadlock in Lebanon in the coming three years thanks to Lahoud's undemocratic extended mandate. Indeed, the Lebanese deadlock claimed its first victim on Friday, in the terrible attack against the former minister, Marwan Hamade, which could have easily killed him, and in which his guard died. Only Parliament's reversal of Lahoud's extension, through the election of an alternative figure before the constitutional end of the president's mandate on 24 November, can defuse the increasing tension inside Lebanon.

It is plain that the clauses in Resolution 1559 on the withdrawal of Syrian forces from Lebanon and the disarmament of Hizbullah will remain matters for international concern in the years to come. Until the Syrians pull their soldiers and intelligence agents out of Lebanon, and until Hizbullah is integrated into some sort of official Lebanese military structure, or simply disbanded, Resolution 1559 will remain unimplemented. Put more strongly, the Lebanese and Syrian governments will stand in violation of international law, and it was always naive to think that Annan's report would conclude anything else in light of the language adopted by the Security Council in the resolution.

However, from a Lebanese, indeed from an Arab, perspective, this was not the most salient point in a month of unusual diplomacy. What was outstanding was the acknowledgment, through a Security Council resolution, and now further underlined in the Annan report, that Lebanon, and in due course Syria and the rest of the Arab world, will stand afoul of international legitimacy if there is no recurrent change of executive power at the head of States.

In this context, one can appreciate the groundswell of opposition to the assured prolongation of the mandates of President Hosni Mubarak of Egypt and of President Zine el-Abidine ben Ali of Tunisia, as their terms formally come to an end this month after two decades in power. However harsh it will be to the ears of the eternal incumbents in the Middle East, these leaders' desire to stay in office indefinitely will only weaken their societies and perpetuate political deadlock in them, encouraging more foreign intervention – especially by Israel. This reality must be grasped as much by Emile Lahoud as by Syrian President Bashar Assad, who must recognise that their mandates can no longer be extended at will.

As seen from New York, the short paragraph in the Annan report on the need for societies to be provided with alternations of power holds the key to reversing the characteristic stalemate in Middle Eastern societies occasioned by the presence of absolutist leaders for life. If Kofi Annan wants to leave behind one thought for posterity, his statement on the matter may be the most powerful.

**X. 24 septembre – New York – Rencontre préparatoire société civile-G8:
3 priorités, 7 thèmes ⁽¹⁷⁸⁾**

Note [by the *Daily Star* editor]. Below is a version of a statement by 40 leading Middle Eastern and North African civil society groups who met in Beirut on 5 September. The text, which may have been amended in its final version, was to have been presented yesterday, 24 September, to foreign ministers from the G8 and Arab countries meeting in New York. The proposals feed into the Forum for the Future that was set up at the G8 summit in Sea Island, Georgia, last June. It

⁽¹⁷⁸⁾ *Daily Star*, 25 septembre 2004.

begins by proposing three 'imperatives' (freedom, democracy and justice), and seven 'programmes' (equality, rule of law, free expression and organisation, inquisitive education, economic inclusion, transparency, creative artistic and literary expressions).

Three Middle Eastern imperatives: freedom, democracy and justice Statement by 40 Mena civil society groups

Democratic and freedom imperatives: We first take the opportunity to welcome and express our appreciation for showing your concern on how the G8 can support political, economic and social freedom in the Middle East. International initiatives for reform are important; the situation is grave in the Middle East, and most governments turn a deaf ear to internal calls for reforms. This meeting could be an important occasion for an open, committed partnership between democrats in our region and like-minded citizens in the international community, both as civil society leaders and as officials in willing democratic governments. While the participation of concerned governments in the region would be welcome, we cannot wait.

We are here, as individuals, simple members of the so-called Arab-Middle Eastern civil society, women and men who believe in the rule of law, an independent judiciary to protect it, an active and freely elected parliament to enact laws, an accountable, freely elected government to carry them through, meaningful human rights, including foremost the freedom of expression. We take pride in a profound and varied tradition that includes some of the most remarkable human achievements in law, theology, literature, arts and science.

We did not wait for this occasion to defend democracy and call for the respect of human rights. All three religions which emerged from our lands have always claimed justice and freedom as their clarion call, and our societies, like all societies on the planet, have time and again resisted 'the patterns of authoritarianism' – Abdelrahman al-Kawakibi, the author of the famous pamphlet with this title in the 19th century was poisoned for his frankness and courage. The fight against colonialism was carried out through immense sacrifices in the 'Liberal Age'. The Arab human development reports and various civil society declarations are the latest expression of a solid and consistent tradition of denouncing the effects of authoritarianism. While the belated rallying of some Western leaders to the central importance of democracy in our States is welcome, Middle Eastern democrats need a more solid commitment. Over a century ago, Kawakibi identified dictatorship as a crime against society.

Dictatorship must now be declared a crime against humanity.

The Kawakibi tradition never abated, but it now suffocates under the joint pressures of authoritarian governments and extremists within our societies. Both continue to remain unpunished for grave abuse of our freedoms, and extremism is coterminous with marginalisation and suppression of intellectual and political movements and leaders. As a handful of us request your attention and action, many more free men and women suffer for their courage by being silenced, more often than not by violent means. We request their immediate release and their right to rehabilitation and integration in a non-violent, meaningful political process.

Releasing prisoners of conscience, supporting their families and rehabilitating them once freed is the first declared commitment we need from this partnership, which must be supported by a multilateral organisation or a special G8 agency and an emergency fund. We can call it the 'freedom imperative'.

We do not claim to represent our societies: only a free vote will, and while most of our countries have parliaments, and occasionally courageous and outspoken members within them, their

power is curtailed by executive power, as indeed is the power of our judges which is constantly undermined by executive interference. What we can confidently claim to represent is a different, pressing voice that calls for ballot-based, non-violent change at all levels of our societies and States, starting from the top. This is the second overarching principled commitment we need from this partnership; we call it the 'democratic imperative'.

The democratic imperative requires, in some cases, constitutional terms for presidential office, in others the establishment of constitutional monarchies where the head of the executive is chosen directly by the people, and is accountable to them and/or to an elected parliament. In Lebanon, as we speak, democracy is endangered by the distortion of the constitutional terms for the sitting president. In Egypt, a large movement has formed under the motto 'no extension of the presidential mandate, no political inheritance, competitive presidential contest'. These come as a common response across the Middle East, whether they are declared republics or monarchies. In all, non-violent change at the top in freely contested elections that includes all those affected by the government is necessary. Here also, a special, wide-ranging agency programme is needed.

Seven programmes for structural reform: These two commitments are needed at once, and should be agreed without delay. Longer-term programmes are also necessary. An 'Arab and Middle East reform agenda' will raise the value of individuals as active and concerned citizens, and we repeat the statement released by 34 NGOs from 14 Arab States on the occasion of the latest Arab summit's acknowledgment of the need to reform.

On the basis of countless civil society meetings across our region, we propose a list of problem areas in which we all recognise profound deficits in need of profound reform. Each one of these is a long, complex programme, and in many cases, civil society has already started addressing it. From Sanaa to Damascus, Rabat, Alexandria, Beirut, Cairo and now New York, these issues have been largely identified:

1. A programme for citizenship equality and participation, especially gender equality, with special attention both to the victimisation of women as a group and the need to include victimised groups and/or 'minorities' in the national process.
2. A rule of law programme. The programme will enhance the independence and role of the judiciary, and monitor and remove laws that violate human rights and international standards. Emergency laws, special and military courts, undue police detentions and regular reliance on torture are now well identified. They must be abolished.
3. A programme that protects and enlarges freedom of expression, especially the freedom of the press and the freedom of organisation.
4. A programme for a thorough revision of education generally, and of religious education where intolerance is actively advocated in its name. Educators, religious and secular, must be encouraged to promote basic and high-quality skills and critical inquisitive thinking.
5. A programme to secure jobs for the 5 to 7 million annual entrants into the job market, especially the poor and those left behind. Civil society comprises by definition an active private sector, and forms of close cooperation are needed with the creators of wealth. Reform is bound to fail if the business sector is not an active part of it. This programme will promote investment in quality services and value-added products, small and micro-enterprises, competitiveness and quality, innovation, environmental sustainability and social services with creative partnerships between the State and the private sector.

6. A programme for combating corruption at all levels to ensure the accountability of bureaucracies and the transparency of organisations, both private and public, and financial institutions.
7. A programme for the promotion of creative arts and culture, and the qualitative enlargement of public space.

We need commitment with us in an open and dedicated manner. We shall be partners with the international community in these programmes and partners with our governments when they are willing. Partnership for reform should include a triangle of international and Arab governments, international and Arab private sectors and Arab civil society, but cannot be stopped by the resistance of those who defend the status quo. To prevent delay and resistance, implementation of these programmes must be carried out by vectors of civil society, persons and institutions, and not by international institutions or governments, whether governments in Arab States or foreign to the region.

We propose that each problem area gets carried out by a structured, international programme, with clear and realistic benchmarks, and the identification of individuals and groups to carry them out. The benchmarks must enclose further support in case of success, and penalties, starting with civil society partners who do not rise to the task, but including also in terms of penalties those individuals that stand against the accomplishment of the programmes. We need success stories to be known, and impediments to success to be denounced. Transparency and media coverage will be key. It may be helpful to envisage one or more Arab/Middle East Observatories to help measure benchmarks, objectives and achievements.

Regional peace and the justice imperative: This could be an appropriate place to stop. We can go home with this dual commitment: Two immediate imperatives, seven medium- to long-term programmes, and a structure to follow them up. This, in itself, is an achievement worthy of everyone's time.

But we do not feel this would be sufficient. For, if Arab societies confront problems that are universal, we are also plagued by a unique intensity of regional violence in which the first victims are our relatives and friends. In recent years, Middle Eastern violence has spilled over to the planet, which explains the present, unusual meeting. Middle Eastern violence carries complications of its own, mostly the one occasioned by the emergence of Israel on the ruins of Palestine. From Iraq to Darfur to Palestine, huge loss of human life is the defining concern of the unaccountable, unpunished exercise of power that creates massive and continued refugee crises. A priority is for the return of refugees to their homes – Palestinians, Sudanese, Afghanis, Iraqis and others, and for those leaders who are guilty of crimes against humanity to be brought to justice, as is the case of the former ruler of Iraq; Ariel Sharon, Moammar al-Gadhafi and possibly now the ruler of Sudan belong to this unique category. This we call the 'justice imperative'.

If this meeting is to be successful, accountability is, therefore, central.

We do not simply demand democracy within a self-governing Iraq, Western Sahara and Lebanon free of foreign troops, and a Palestine governed by its two constituent peoples. We need you to help us bring together human rights and political accountability, including at the top of decision-making in each State. All prisoners of conscience must be released, former presidents turned into retired citizens in a respectful neighbourhood, and leaders responsible for crimes against humanity put behind bars.

XI. 3 novembre – Beyrouth – A response from the field: Arab civil society after the G8 New York meeting

Note: En novembre 2004, la fondation Heinrich Boell inaugure son bureau régional à Beyrouth avec un séminaire sur «Europe and the Middle East – Old structures, new challenges». Interpellés par l'énergie de la directrice du bureau, Kirsten Maas, nous choisissons de répondre par une intervention musclée à la présentation de la ministre d'État allemande aux affaires étrangères.

Having spent some time on HE Ms Kerstin Mueller's welcoming site, I tried to anticipate some of the elements she might share with us this morning.

I had an occasion to take a jibe against Foreign Minister Fischer last year, at a conference in which I introduced myself as lawyer for the Sabra and Shatila victims in the case against Sharon in Belgium, so let me continue in this contentious mood. I call it the Francis Brooke approach to diplomacy, and will explain what it means another time. While Ms Mueller's mere presence in Beirut is a meaningful testimony of the interests of the German Foreign Ministry for the region, she will remember little of this encounter if sheer diplomatic soft-spokenness rules our day.

But let me start on a soft, analytical approach.

1. Analytical approach: three dilemmas

The analytical/academic approach, as opposed to an advocacy side which we follow next, offers three dilemmas which we call respectively the Pervez Musharraf, DDS, and Syad Barre syndromes.

The first, the Pervez Musharraf syndrome, may be the most difficult dilemma in the years to come: you, the West, need your local strong man to reign in his society, and punish his enemies whom he portrays also as yours. He will do the job gladly, as long as you do not put into question his rule. A subset is 'the women's bone-throwing game'; it is becoming increasingly popular, witness the Lebanese cabinet and now the Emirates! It was devised by Tunisian strong man Zein al-Abidin – and before him in the 1980s a mediocre Lebanese president-turned small dictator, cultivating Westernised looks – donning a nice tie with a wife who does not wear a headscarf. Our Western friends feel immediately at ease: how often have we heard about Saddam Hussein's 'women's but': you know, Saddam Hussein is awful, but aren't Iraqi women so much better off under his rule?

Here is a second dilemma, the DDS, the dictator's deterrent strategy, which is the nuclear/WMD proliferation dilemma, or the Saddam- and now Qaddafi-syndrome. Rightly or wrongly, probably rightly, the West is concerned about WMD in the hands of inimical leaders. So if you are a dictator, like Saddam or Qaddafi, you build up, or look like you are building up your WMD arsenal. At one point, the West will have to make the following choice: If you blink and disarm, they embrace you. If you do not blink and refuse to disarm, they go to war against you. The problem is that if they go to war against you, then you risk them using WMDs against you – or against their own antagonistic population, which is the same in terms of horror. This we call the dictatorship deterrence strategy (DDS): the game then becomes subtle, and reaches the following solution from the dictator's perspective: I will play along and get rid of my WMD arsenal, but you leave me in power whatever my domestic record.

It works; see the crowds of visitors at Mr Qaddafi's steps. Such a syndrome is a subset of the Soviet-era policy of deterrence, which continues for China and its North Korean satellite. The

difference with the Soviet era is twofold in the Middle Eastern arc of crisis: many of the satrapies are West-friendly, strategically as in the case of Israel, tactically as when Saddam used his gas in Halabja and against the Iranians. Mostly, however, there has been an increase in all those unfriendly little satrapies, like Libya's governors, who build up their WMD arsenal as a bargaining chip for DDS and are ready to turn friendly, so long as their power and that of their progeny stops being called into question.

A third dilemma is the Syad Barre syndrome. The Somali situation today is the result of a cruel ruler called Syad Barre hanging on to power in Somalia as society unravelled into civil war over a period of two decades prior to his collapse, the civil war being almost inevitable when the ruler remains so long in power. When he finally goes, Armageddon follows in the shape of chaos, so disjointed and weak has society become: this is a common phenomenon in Africa and the Middle East.

I have called these 'dilemmas', because there is no evident recipe to address them, except for careful watchfulness, first within these societies, and then beyond. When domestic rule turns so brutal as to allow for these syndromes to take root, it is usually too late. They become 'conundrums'.

2. Advocacy: testing the three imperatives

One is on more solid ground as an advocate of human rights. Three points, which all emerge from readings in and around German diplomacy in recent months, are made here against the three imperatives advocated by civil society at the G8 meeting last September: the democratic, justice and freedom imperatives.

The democratic imperative: one can only be impressed by the great strides of international law in the shape of UNSC Resolution 1559, in its paragraph requiring that the democratic process ensuring the change in a country's presidency must not get tempered with. The reality is that 1559 has, for the moment, joined many other resolutions in and around the Middle East, which remain without application in the foreseeable future. Should one need a refresher on how Europe stands on alternation in power, here is a telling quote: 'The European Union... congratulates Mr Ben Ali on his new term as President', the EU Council statement said on 26 October. While it mentions in passing some flaws – does no one blush in Europe's chanceries before 94 % in a presidential contest? – it reaffirms that 'The European Union looks forward to deepening its partnership with Tunisia under the leadership of President Ben Ali'. So long as our European and Western colleagues do not recognise that the lack of democratic change at the top is the central Middle Eastern problem, we are not out of the woods. This is particularly painful in the case of Germany, which has little to fear in terms of colonial past in the region, and where Chancellor Schröder turned his back on the one powerful message he had offered as a way out of the war in Iraq: that Saddam Hussein should go.

The justice imperative: I will not mention Ariel Sharon, especially to a German State minister, may I leave it to Usama bin Laden to remind the Western leaders that the architect of Beirut 1982 remains unpunished; indeed that he is feted across Western capitals? Nor shall I mention Darfur, the Minister in is on record for talking courageous. May I just invite her, however, to read the statement of a group of Arab democrats last July in Cairo (*Daily Star* and *Nahar*, 24 July 2004). There, we tried to insist that there is no solution if those in power, who are largely responsible for perpetuating a civil war going on for a quarter of a century, and now Darfur, remain beyond the pale of political accountability; and since the international community has failed their people politically, there is no solution that does not incorporate judicial accountability.

Not that one expects much on that judicial score from European diplomacy, except for nameless Janjawids. To wit, here is Libya's Mu'ammar al-Qaddafi: You are all familiar with his trail record, recently UTA, Lockerbie, before that the terrible intervention in Chad, then the horrors of West Africa. Not to mention his Arab or Libyan victims. Now here is a photo, taken from the visit of Chancellor Schroeder two weeks ago to Libya:

Trekking to Tripoli in October 2004, oil flowing, the Chancellor beaming, better than 1 000 words...

One can carry on, on both the democracy and justice imperative, but let me just mention that our societies are far ahead of the West – just in case one listens to that shallow argument about change from within: as if those people who languish in jail, or are the target of assassination, like Minister Marwan Hamadeh, or spend their lives in exile like our late Raymond Eddé or Munsef Marzuki, are people from without. This remarkable, consistent show of courage leads me to the third imperative.

The freedom imperative: 'As a handful of us request your attention and action, many more free men and women suffer for their courage by being silenced, more often than not by violent means. We request their immediate release and their right to rehabilitation and integration in a non-violent, meaningful political process. Releasing prisoners of conscience, supporting their families and rehabilitating them once freed is the first declared commitment we need from [any international] partnership, which must be supported by a multilateral organisation or a special G8 agency and an emergency fund.' (NY statement, *Daily Star*, 25 September 2004.) Lists of prisoners of opinion are available, let us put their fate, the fate of their families as they languish in jail and their future as successful leaders of freedom, on the international agenda. They aren't.

3. Querschnittspolitik

So I am leaving you with three imperatives and three dilemmas. Some combinatory should be possible, based on a projection of human rights which Ms Mueller calls *Querschnittspolitik* as well as *Leitlinie* (*Querschnittspolitik*, cross-section, transversal, *Leitlinie*, guiding course, Mueller, speech Bundestag, 13 March 2003). As *Leitlinie*, let me try to make things easier by offering the 'freedom imperative' as absolute priority. Prisoners of conscience are a special category of agents of political change without violence, whom we need to be out on the street, advocating non-violent, democratic alternation at the top, against callous regimes and extremists of all religious persuasions. These people are the civilised future of the region. The freedom imperative is not difficult to act upon, as joint policy with Arab/Middle East democrats; it can and should start immediately, with the release of these people at the top of our common agenda.

XII. 15 novembre 2004 – Rome – Responsabilités

Note: Dans le cadre de l'action Jean Monnet, le professeur Maria Grazia Melchionni, collègue Jean Monnet à La Sapienza de Rome, organise une conférence sur «Le relazioni trans-mediterranee nel tempo presente: dialogo interculturale, integrazione, modernizzazione, conflitti». Le texte qui suit présente des extraits de notre intervention.

[...] Responsabilité/accountability

La responsabilité a pour le politique des résonances diverses. Pour le juriste, ses acceptions sont plus précises. Au cœur du droit – que d'ouvrages sur la responsabilité civile... –, la responsabilité publique est d'abord responsabilité politique, qui s'exerce dans les fonctions

constitutionnelles et historiques d'un pays donné. Mais il est aussi des gradations de la responsabilité, que nous retrouverons d'abord en amont dans la responsabilité des criminels contre l'humanité, puis en aval dans la tâche qui incombe aux gouvernements de veiller à ce qu'un crime ne reste impuni dans sa sphère interne de responsabilité.

En amont de la responsabilité: les grands crimes

En amont de cette responsabilité politique se profile déjà une responsabilité à l'allure exceptionnelle, qui fait partie d'un corps hésitant mais expansif. Dans l'ordre international des choses, elle revêt de plus en plus des formes innovantes, celles qu'un Milošević, qu'un Saddam Hussein ont rencontrées à leur corps défendant, celles qu'un Ariel Sharon, qu'un Pinochet ont confrontées en n'y laissant, hélas!, que des plumes, celles promises à Omar Bashir, Kadhafi et autres suspects avérés, coupables de «crimes contre l'humanité». La responsabilité est l'envers de l'impunité, expression juridique de l'ensemble encore flou de ce domaine nouveau et puissant qu'est le droit pénal international. Je noterai au passage qu'il n'est pas un hasard que l'ensemble de la région, à l'exception étonnante de la Jordanie, sans doute liée à la qualité exceptionnelle de certains de ses juristes, ait refusé de se joindre au Tribunal pénal international établi à Rome en 1998. La responsabilité au sens fort des grands tribunaux issus de Nuremberg, celle des grands crimes que le monde ne parvient plus à ignorer, il est normal que les gouvernements arabes, qui s'évertuent depuis des décennies maintenant à empêcher toute responsabilité politique au sens classique du terme, se refusent à la reconnaître. La responsabilité criminelle internationale se trouve donc, sans doute pour la première fois dans l'histoire, sur l'agenda de l'humanité. Elle est récente, mais elle est en amont parce qu'alternative, complémentaire disent les juristes. C'est seulement lorsque la responsabilité politique ne fonctionne pas que la responsabilité criminelle du droit international peut jouer. Ce potentiel est réel, mais il est fragile, incomplet et balbutiant. Il faut y prêter attention, sans perdre de vue sa complémentarité à la responsabilité centrale de notre vie, et de notre propos, la responsabilité politique.

Au cœur de la responsabilité: l'alternance politique dans la Constitution

Cette responsabilité politique, nous avons pour mieux la comprendre deux détours linguistiques. Dans sa forme anglo-saxonne, elle est *accountability*. Les dirigeants politiques sont avant tout *accountable*: ils rendent des comptes. Dans sa forme arabe, elle est manifeste dans un principe du Coran, *inna al-'ahda kana mas'ulan* (Coran, *isra'*, 34:17). Dans ces deux acceptions, la responsabilité politique est particulièrement déficiente dans la région. Les dirigeants ne rendent pas de comptes: prenons le cas le plus flagrant, celui de l'Iraq. Après trois décennies de misères, de violations sans précédent dans le domaine international – deux guerres meurtrières totalement infondées, contre l'Iran, puis contre le Koweït – et surtout dans le domaine interne, il a fallu l'invasion de 200 000 soldats étrangers pour que Saddam Hussein commence à rendre des comptes... Et si les autres dirigeants de la région n'ont pas un passé aussi lourd, aucun ne rend de comptes, car il – le dirigeant est toujours mâle – ne considère qu'il n'a de comptes à rendre à personne, et surtout pas à ses citoyens. À défaut de cette responsabilité politique, qui ne peut s'exercer que dans le vote, seule la violence la plus tragique ou la maladie permettent qu'un chef d'État rende parfois des comptes...

D'aucuns s'insurgeront contre cette condamnation sans équivoque: nous avons, après tout, des élections et des référendums, et le «peuple» est vocable omniprésent dans la bouche des dirigeants.

Or personne n'est devenu plus apte à vider les mots de leur sens que nos dirigeants; ils se sont même érigés en maîtres absolus du langage. La délicieuse anecdote d'*Alice au pays des merveilles* est bien connue.

Humpty Dumpty, to Alice:

'And only one for birthday presents, you know. There's glory for you!'

'I don't know what you mean by "glory";' Alice said.

Humpty Dumpty smiled contemptuously. 'Of course you don't — till I tell you. I meant "there's a nice knock-down argument for you!"'

'But "glory" doesn't mean "a nice knock-down argument";' Alice objected.

'When I use a word', Humpty Dumpty said, in rather a scornful tone, 'it means just what I choose it to mean — neither more nor less.'

'The question is,' said Alice, 'whether you can make words mean so many different things.'

'The question is,' said Humpty Dumpty, 'which is to be master, that's all.'

(Lewis Carroll, *Through the Looking Glass*, in Martin Gardner, ed., *The Annotated Alice*, Penguin ed. 1970, pp. 268–269).

Il faut, hommage au grand philosophe français disparu le mois passé, *déconstruire* ce langage du maître. En un sens, la déconstruction a déjà été faite, par les gens du pouvoir eux-mêmes, dans le sens négatif promu par Humpty Dumpty: je déconstruis pour rester maître, et l'obstacle principal à cette déconstruction est en général la Constitution. En Tunisie donc, parce que la Constitution avait établi que le président ne pouvait briguer plus de deux mandats successifs, on a amendé la Constitution pour que l'on ne s'en préoccupe plus, tout en jetant de la poudre aux yeux sur des scénarios de compétition, alors que toute organisation en dehors de l'État de police juridifié est traquée, malmenée, ses dirigeants jetés en prison ou forcés à l'exil (article 39, amendé en 2002). «On» n'est pas une abstraction: quand ce n'est pas un parti unique, c'est un homme. En Syrie, les dispositions constitutionnelles demandaient que, lors du décès du président, son vice-président prît le pouvoir jusqu'à l'organisation des élections de son successeur par le pouvoir législatif. Du vice-président en titre, on n'a plus osé dire le nom et, comme la Constitution requérait que le candidat ait au moins 40 ans, «on» l'a amendée pour la ramener à 34 ans (article 83, amendé en 2000). Au Liban, la loi exceptionnelle, votée pour une fois, pour forcer un candidat particulier au poste, et lui seul, a trouvé son chemin comme amendement constitutionnel trois fois en moins de dix ans (article 49, amendé en 1995, 1998 et 2004). En Iran, on a trouvé le moyen d'investir la responsabilité suprême dans le guide de la révolution, forcément un homme de religion, qui est élu par une assemblée spéciale de ses pairs (article 108). Quant au président, le système a réussi à créer un filtre puissant qui a fonctionné sans faillir depuis 1979: à chaque élection présidentielle, un groupe de dix personnes, non élues, décide si le candidat est «adéquat» pour le poste. Des centaines de candidats sont ainsi filtrés: et lorsqu'un candidat réformiste a réussi à passer à travers le filet constitutionnel, toute la structure des ulémas, dont il fait partie, est là pour garantir que le système survive à toute velléité ou tentative de démocratie.

Tout cela dans des régimes qui s'autoproclament républicains. Dans les Constitutions monarchiques, lorsqu'elles existent, le problème de la responsabilité politique ne se pose pas. Comme au Moyen Âge, le roi ou l'émir n'est jamais responsable devant quiconque; il choisit des ministres parfois sujets, dans le texte, à quelque responsabilité parlementaire. Pas une instance de mise en péril du ministère n'a été enregistrée de mémoire d'indépendance dans les pays arabes, dans les systèmes républicains ou monarchiques.

La déformation de la responsabilité dans les systèmes qui se considèrent républicains, son absence dans les systèmes monarchiques forcent l'irresponsabilité sur l'ensemble de la société: être responsable, en société, est la condition du citoyen. L'ensemble des lois civiles, pénales, fiscales... sont là pour établir cette responsabilité. C'est pour cela que la réforme engagée aux échelons moindres de la société ne peut aboutir. La pyramide constitutionnelle de Kelsen, de l'État de droit de Kelsen, n'est pas seulement opérationnelle au niveau où il l'a décrite, au sommet. Quand elle manque au sommet, il est difficile qu'elle ne s'effondre dans l'ensemble de

la société. Bien sûr, il faut tenter de lutter contre la corruption à tous les niveaux, mais comment responsabiliser le préposé aux documents officiels qui arrondit son maigre mois par une surcharge aux photocopies? Cette surcharge est illégale, elle est corrompue, mais nul ne nous convaincra que c'est là où la réforme doit commencer. Et ainsi de suite, de la base au sommet: tant que le chef, théoriquement garant du système politique et constitutionnel, échappe à la responsabilité politique, à celle du vote populaire libre, compétitif, il sera difficile de s'attacher aux peccadilles de la corruption en deçà.

C'est là aussi que l'utilisation de plus en plus déformée de la justice est gravement limitée dans l'image hiérarchique de Kelsen. Souvent, comme on le voit dans nos gouvernements, la responsabilité pénale resurgit par revanche, lorsqu'on bascule un rival politique dans telle ou telle accusation criminelle. Or toute «réforme» basée sur la responsabilité ne peut ignorer cette hiérarchie des mœurs sous peine de vider la responsabilité de son sens. Encore une fois, le langage de la responsabilité devient un contresens, qui en vide la notion même. Et le prix est d'autant plus cher en société que les honnêtes gens ne se lassent que difficilement des promesses de responsabilité, d'État de droit ou de lutte contre la corruption.

Il faut aller à contre-courant, déconstruire en étant honnête, en donnant aux mots leur sens vrai. Non, on ne fera pas de lutte contre la corruption en arrêtant le petit fonctionnaire ou en jetant un ancien ministre aux mains de la justice pénale. On n'engagera cette bataille qu'avec des mains propres, et les responsables au sommet ne l'assument jamais, parce que le critère essentiel de leur responsabilité, qui est un critère politique, n'est pas respecté. Or c'est un truisme que la responsabilité politique est conditionnée par l'alternance au pouvoir, c'est-à-dire la possibilité réelle, non touchée par des lois électorales consacrées à l'empêchement de l'alternance, et encore moins lorsque la responsabilité au sommet manipule la Constitution en la vidant de tout sens démocratique.

Reste que, dans cette gradation de la responsabilité, on ne peut passer outre, en aval de la responsabilité politique, comme en son amont, par la responsabilité internationale grandissante pour crimes contre l'humanité, le phénomène de l'impunité dans le champ interne du politique. Car si le champ international de la responsabilité est encore chancelant pour empêcher l'impunité par-delà les frontières et si les formes politiques de la responsabilité — celles que le peuple est censé exercer par un vote régulier et libre — sont systématiquement vidées de sens, on assiste, en aval de cette responsabilité politique, à des formes d'impunité dans le champ interne. Là, il ne s'agit plus de responsabiliser les gouvernants pour crimes contre l'humanité ou de les responsabiliser politiquement en exigeant l'alternance. Il s'agit de comprendre l'importance du phénomène d'impunité dans ce que l'on ne peut qu'appeler, pour sa gravité à l'échelle tant interne qu'internationale, l'«affaire Marwan Hamadeh».

Conclusion

Pour s'être opposé, ainsi qu'une large frange de la population libanaise, au diktat syrien pour reconduire la présidence libanaise avec la personne dont le mandat venait à échéance selon les termes de la Constitution, l'ancien ministre et député fortément populaire Marwan Hamadeh a été, le 1^{er} octobre 2004, l'objet d'une voiture piégée à Beyrouth.

Nous concluons avec cette affaire qui fait se rejoindre, comme seule la réalité sait le faire contre les rêves d'Hamlet, les trois impératifs. Voici un homme qui prend position pour l'impératif démocratique et demande que les termes de la Constitution sur la fin du mandat présidentiel soient respectés. Une voiture piégée le blesse grièvement ainsi que son compagnon et tue son chauffeur. Les tueurs disparaissent, et nul effort ne semble émaner des autorités pour les retrouver, au moment même où ces autorités sont suspectes d'avoir commandité l'attentat.

Voici encore l'impératif de justice, avec la mise en danger de l'impératif de liberté en conséquence. Ici, il ne s'agit plus de voix dissidentes menacées ou risquant la prison, il s'agit simplement de les faire taire par un assassinat.

La situation est grave de notre côté de la Méditerranée, et nous sommes tous embarqués sur la même galère.

XIII. 9 décembre – Rabat – Première rencontre société civile-G8 – Rappel: Three proposals for the Rabat meeting ⁽¹⁷⁹⁾

Note: Rebelote à Rabat pour le G8. On ne voit pas très bien ce qui différencie la rencontre de New York de celle de Rabat, mais pour tenter de forcer une réponse tangible du G8, plusieurs membres du Forum démocratique arabe publient le texte qui suit. Les signataires sont ainsi présentés dans le *Daily Star*: «Isam Khafaji is an Amsterdam- and Baghdad-based defender of democracy and human rights, and longtime opposition leader of the former Iraqi regime. Abdelaziz Khamis is a leading Saudi liberal dissident, who lives in exile in London. Chibli Mallat is a human rights lawyer and law professor in Beirut. Nehad Nahhas spent several years in a Syrian jail, and is a leading human rights defender in Damascus. Muhammad Rumaihi is editor of *Al-Hiwar al-Arabi* in Kuwait.» Le texte arabe est publié également deux jours plus tard dans le *Nahar* avec la signature additionnelle de Kamel Labidi, Tunisien, militant de longue date pour les droits de l'homme.

In the original paper presented by Arab civil society groups to the G8 meeting in New York earlier this year, three imperatives were identified which required some response from G8 ministers and any Arab or Middle Eastern government that was ready for meaningful reform. Neither acknowledgment of these imperatives by the concerned governments, let alone support, was forthcoming.

As officials gather in Rabat, Morocco, for a meeting of the Forum of the Future, the framework established at the G8 summit at Sea Island, Georgia, for an ongoing dialogue between G8 members and regional governments on such issues as reform, one should, again, expect much resistance. However, the imperatives defined by the civil society groups will persist as priority demands in the Middle East, which is why they are worth repeating.

What are these three imperatives?

First, the freedom imperative. This focuses on the release of prisoners of opinion or conscience (PoC), the support for their families during their incarceration, and their rehabilitation and support as leaders of opinion if they so wish after they are released. The efforts of some civil society groups have led to the establishment of an initial list of such prisoners of opinion, as well as a principled manifesto for their release, together with calls for the protection of freedom of expression, especially freedom of the press and freedom of association, especially of political parties.

Since the New York meeting, few prisoners have been released and more have been put in jail or physically threatened (in Bahrain, Lebanon, Israel and Saudi Arabia). News reports from Syria this week suggested there had been a release of PoC, even though the full impact of this has yet to be gauged, while pressure continues to build up from former PoC, and from relatives of PoC who remain in prison.

⁽¹⁷⁹⁾ *Daily Star*, 9 décembre 2004, *Nahar*, 11 décembre 2004.

As a result of this, we propose that the participants in the Rabat meeting adopt the freedom imperative and establish a G8 agency and fund dedicated to PoC.

Second, the democratic imperative. Unless there is a peaceful, non-violent change in Middle East governments, a decisive element of reform will be missing. Instead, since the New York paper, both in Lebanon and Tunisia presidents have seen their terms extended through clearly undemocratic, unconstitutional means. At the same time, both in United Nations Security Council Resolution 1559, which among other things demands a Syrian pullout from Lebanon, and in the subsequent report of the UN Secretary-General, the need for presidential change was consecrated, for the first time, as an international request couched in Security Council language.

The G8 and willing governments in the Middle East should adopt this symbolic change as a precedent, and work with civil society to make it a rule rather than an exception in the region.

As action, we propose that the creation of an observatory on presidential alternation (it could be called an elections observatory) be announced in Rabat, as well as a concomitant Arab-international task force for free and fair elections. Middle East civil society members can provide much of the manpower for this task force, and deploy it in Iraq and Palestine as early as January 2005.

Third, the justice imperative. This requires the establishment of mechanisms that bring to justice those Arab or Middle Eastern leaders who are responsible for egregious violations of human rights, notably crimes against humanity – namely Saddam Hussein, Moammar al-Gadhafi, Ariel Sharon and the rulers of Sudan. Each case has its own specificities, but in all four cases, the G8 is lagging far behind the demands of Arab and Middle Eastern civil society.

In this context, we should consider the following. The trial of Saddam Hussein is afoot, and we should envisage together how more serious regional and international input can lessen the imprimatur of victor's justice in that historic trial.

In the case of Moammar al-Gadhafi (who was indicted in August 2004 by the Lebanese prosecutor-general for his involvement in the disappearance of the Lebanese Shiite leader Imam Musa Sadr), the normalisation under way with Western leaders openly contradicts the justice imperative by endorsing a return to the medieval practice in the West of accepting blood money, which the Libyan regime paid out to compensate the victims of airliners that it was responsible for downing.

In the case of Ariel Sharon, the American government openly undermined his indictment and trial in Belgium last year, a tragic development for the justice imperative. Putting Sharon's established crimes against humanity on the international agenda remains central for peace in the Middle East.

In Sudan, Arab democratic civil society leaders demanded in July 2004 judicial accountability for those responsible for the flight of over one million people from the Darfur region, and the consequent death of what is estimated to be nearly 100 000 innocent Sudanese. Both Amnesty International and Human Rights Watch support this demand.

In terms of action, the civil society groups propose that participants in the Rabat gathering acknowledge the need for the justice imperative, even as more practical measures should accompany all four prima facie cases.

