

THE ARAB REGION, AN UNCERTAIN FUTURE

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Foreword

In response to the motion by MPs Wassila Hachchi and Frans Timmermans on the current situation in North Africa and the Middle East,¹ the government asked the Advisory Council on International Affairs (AIV) to issue an update of its advisory report no. 75, 'Reforms in the Arab Region: Prospects for Democracy and the Rule of Law?' of 27 May 2011. The Minister of Foreign Affairs put the following question to the AIV:

The government requests from the AIV an update of the report mentioned above, in the broad context of human rights, the rule of law, stability, and peace and security.

One of the considerations underlying the motion was that in its advisory report no. 75, the AIV had observed that developments in North Africa and the Middle East were unfolding so quickly that some information in this report might already be out of date by the time it reached its readers. In the present report, the AIV decided to focus primarily on a number of long-term trends in order to avoid this risk, as far as is possible.

The report was prepared by a joint committee chaired by Professor J.J.C. Voorhoeve (AIV, Peace and Security Committee). The other members were Dr B.S.M. Berendsen (Development Cooperation Committee), Professor M.S. Berger (Human Rights Committee), Dr N. van Dam (Peace and Security Committee) and Professor J.W. de Zwaan (European Integration Committee). E.H. Braam was the civil service liaison officer. The joint committee was assisted by J. Smallenbroek (executive secretary) and V.A.M. Klösters (trainee).

The AIV adopted this advisory report at its meeting on 11 May 2012.

1 House of Representatives of the States General, 32 623 no. 29.

Introduction

This advisory report focuses mainly on two trends in the Arab region: the desire for democratisation among large sections of the population and a growing emphasis on Islamic identity. 'Democratisation' refers here to the strong, long-standing desire of many people in the Arab region to acquire more influence on their government and society. Recent developments in the region represent a key phase in the fulfilment of this desire for democratisation. The growing emphasis on Islamic identity is reflected in an increasing demand (and pressure from within society) for social and personal development to be addressed in a public debate in an Islamic framework. The trend towards a stronger Islamic identity has been gathering pace for some time, and has accelerated since the late 1970s; the trend towards democratisation is more recent.

The two trends, democratisation and a growing emphasis on Islamic identity, are both bound up with internal developments in the Arab world since the mid-20th century, the period in which most Arab countries gained their independence. First, high population growth combined with improved health care has resulted in an extremely young population. Second, this young generation, unlike those before them, is relatively well educated. This has helped to foster a more critical attitude to both governmental and religious authorities. Gone are the days of meek obedience; people want to determine themselves how to lead their lives and how their country should be governed. For many people, Islam plays an important role here. The recent events are remarkable in that the two fervent desires, for democracy and an emphasis on Islamic identity, are now interacting with each other, although the Islamic dimension has been present for much longer. Only the future will show how these two desires will be pursued, and how they will combine and interact.

The two trends manifest themselves, both separately and in conjunction with one another, in a number of reform movements that are found in most of the countries in the Arab region. However, the degree to which these phenomena influence the national political dynamics differs greatly from one country to the next. The differentiation in the Arab region will be outlined in brief below.

The advisory report will discuss the characteristics of these two trends and their consequences for the prospects for democracy and human rights, before concluding with a few general recommendations and conclusions.

I Two trends in the Arab region

I.1 First trend: democratisation

Several studies conducted in the past decade have revealed a strong desire among the Arab populations for democratic government. In fact, these regions actually scored higher than in other parts of the world.² For instance, a 2006 study carried out in Jordan, the Palestinian Territories, Algeria, Morocco and Kuwait found that over 80% of those questioned in each of these countries agreed with the statement that democracy is the best political system, regardless of whatever flaws this system may have. Likewise, over 80% of respondents felt that political reforms should take place gradually. When asked to name the most important features of democracy, a substantial percentage cited reducing income inequality and providing for people's basic needs.³

Even so, this desire has not led – or not yet – to the formation of democratic states based on the rule of law in the Arab world. This is attributable to a variety of factors. Some blame this lack of democracy on what they claim is the inherently authoritarian nature of Arab political culture, or on the nature of Islam.⁴ Both these views are contested:⁵ others point to the existence of Muslim countries which *are* reasonably democratic, such as Turkey and Indonesia. This suggested that the absence of democracy was a specific characteristic of the Arab world.

Another reason that has been advanced for the lack of democracy in the Arab countries is the role of the Western world: the West's interests were better served by stable dictatorships than by democratisation, which could well bring to power forces that might have a destabilising impact.⁶ That might lead in turn to an upsurge of anti-Western

2 UNDP *Arab Human Development Report 2003* (p. 19, referring to the World Values Survey, the findings of which are incorporated into Ronald Inglehart, ed., *Human Values and Social Change: Findings from the Values Surveys* (Leiden: 2003)); Gallup World Poll, 'Special Report: Islam and Democracy', 2006; John L. Esposito and Dalia Mogahed, *Who Speaks for Islam? What a Billion Muslims Really Think* (New York: Gallup Press, 2007), pp. 47-48.

3 Amaney A. Jamal and Mark A. Tessler, 'Attitudes in the Arab World', in *Journal of Democracy*, vol. 19, no. 1 (January 2008), pp. 97-110.

4 Bernard Lewis, *What Went Wrong? Western Impact and Middle Eastern Response* (Oxford: Oxford University Press, 2001).

5 Larry Diamond, 'Why are There no Arab Democracies?', *Journal of Democracy*, vol. 21, no. 1 (January 2010), pp. 93-104.

6 Sheila Carapico, 'Foreign Aid for Promoting Democracy in the Arab World' in *Middle East Journal*, vol. 56, no. 3 (Summer 2002); Maurits Berger, 'Kunnen Arabieren, democratie en islam door een deur?' in *Internationale Spectator* (January 2004).

sentiment,⁷ besides which it could lead to internal conflicts, giving rise to flows of refugees.⁸

It is partly because of the lack of democracy in the region that the opposition, in some cases, has taken on a radical Islamist form, which not only opposed the dictatorial Arab regimes, but also rejected the support from the West that helped to prop them up. After all, Western countries tolerated the undemocratic nature of many Arab regimes, in spite of the high priority they accorded to democratisation in formulating their foreign policy.⁹ President George W. Bush said in a speech in 2003: 'Sixty years of Western nations excusing and accommodating the lack of freedom in the Middle East did not make us safe, because in the long run, stability cannot be purchased at the expense of liberty. As long as the Middle East remains a place where freedom does not flourish, it will remain a place of stagnation, resentment, and violence ready for export.'¹⁰

Although there is no guarantee that these countries have now taken the road towards democratisation, there is no reason to describe the situation as a choice between, on the one hand, stable but authoritarian regimes, and on the other hand, democratic but unstable and Islamist regimes. The AIV believes that the choice is rather between the hopeful unrest of reforms and the hopeless fear of repression.¹¹ Putting reforms in place will require an enormous effort, and Arab countries need support in doing so.

1.2 Second trend: emphasis on Islamic identity

The growing emphasis on Islamic identity can be observed in all parts of the Muslim world, including the Arab region. This upsurge is not being imposed by clerics. On the contrary, it is led by those who have no theological training, but who place Islam at the centre of their lives and communities. Islamic welfare organisations, which have been active for decades, have been important in boosting the popularity of Islam. They have provided for specific, basic needs where the state could not.

The greater emphasis that people place on their Islamic identity is reflected on several levels. First, at individual level, there has been an increase in personal devoutness. Today's younger generation takes a combination of devoutness and modernity for granted. This is expressed in a variety of ways, ranging from clothing and the use of

7 Amy Hawthorne, 'The Democracy Dilemma in the Arab World: How Do You Promote Reform without Undermining Key United States Interests?' in *Foreign Service Journal* (February 2001).

8 Dimitris K. Xenakis, 'Order and Change in the Euro-Mediterranean System' in *Mediterranean Quarterly*, vol. 11, no. 1 (Winter 2000).

9 See e.g. Gary C. Gambill: 'Explaining the Arab Democracy Deficit. Part I', in *Middle East Intelligence Bulletin*, vol. 5, no. 2 (February-March 2003), and 'Explaining the Arab Democracy Deficit. Part II: American Policy' in *Middle East Intelligence Bulletin*, vol. 5, nos. 8-9 (August-September 2003).

10 Speech made on 6 November 2003 to mark the 20th anniversary of the National Endowment for Democracy.

11 For similar views, see the speech made by US Secretary of State Hillary Clinton on 7 November 2011 to the National Democratic Institute, in which she discusses the driving forces and interests of American politics in the Arab world.

language to the separation of the sexes and public expressions of devout behaviour. Emphasising Islamic identity also means invoking the holy scriptures and applying them as much as possible in everyday life. People attune their personal views and behaviour to Islam, or their own interpretation of it.

The greater emphasis on Islamic identity is also discernible in the public domain. Thus, public discourse is now dominated by Islam. Whether the issue is democracy or human rights, clothing or social behaviour, it is increasingly common to derive standards from Islam. In such contexts it is irrelevant whether or not the issue at hand is typically Islamic, and whether Islam leads to fundamentally different conclusions than secular views: nowadays it is useful to back up one's arguments with references to Islam.

This emphasis on Islamic conventions in the public domain has both negative and positive consequences. An example of the positive consequences is that even champions of women's rights have been able to achieve more with arguments based on Islam, in certain respects, than by invoking the secular arguments advanced in previous decades.¹² These are exceptions, however: in many respects, the current Islamic discourse adversely affects the position of women; women's rights remain an area of concern.

On the negative side, one sees a growing emphasis on Islam as dictating public morality: clothes in particular, but also behaviour and views expressed in public, are increasingly judged publicly – in the street, at work and in the media – by Islamic standards. An important area of concern here is the fact that intellectuals, writers, politicians, film directors and academics have faced criminal charges for un-Islamic speech. Even where the cases have not led to convictions, the trials and the publicity surrounding them have been a sufficient deterrent, since those accused have acquired a reputation for apostasy.

Islamic identity also has political and legal consequences, in addition to its personal and social forms. Since the 1970s, more and more countries in the Arab region have incorporated into their constitutions – or further accentuated – provisions stating that legislation must be related in some way to Islamic law. This already applied in most of the Gulf States, but a new development in these countries has been the introduction of new legislation and constitutions, while they did not have a constitution in the past. The fact that Islam is the established religion was constitutionally laid down in most Arab countries, but that did not impede the secular and largely socialist policies that many Arab regimes pursued.

These legal changes were intended primarily to take the wind out of the sails of the Islamist opposition. The regimes were acutely aware that Islamic organisations were gaining strength and winning grassroots support, but they maintained their secular policies and denied the Islamist organisations access to the political domain as far as possible. Islamic parties were only grudgingly permitted to participate in the political process in countries such as Morocco, Jordan and Yemen. In Egypt the Muslim Brotherhood was always barred from taking part, since the law prohibited parties based on religious foundations. When the Islamic Salvation Front party (FIS) won the elections in Algeria in December 1991, the regime reacted by annulling the election results, precipitating the country into a bloody civil war.

¹² Diane Singerman, 'Rewriting Divorce in Egypt: Reclaiming Islam, Legal Activism and Coalition Politics' in Robert W. Hefner, ed., *Remaking Muslim Politics* (Princeton, Princeton University Press, 2005), pp. 165 ff.

Because of these political conditions, it has never been possible to gain a clear picture of the amount of support Islamic parties would have if they were allowed to take part in free and open elections. This changed with the elections that took place in 2011 and 2012 in Egypt, Morocco and Tunisia, in which Islamic parties gained resounding victories. In Egypt, the Freedom and Justice Party gained 47% of the seats in parliament and 58% of the seats in the Upper House, while the Salafist Al-Nour Party gained 25% of seats in both houses of parliament. In Tunisia, the moderate Ennahda Party gained 41% of votes cast, and in Morocco the Justice and Development Party gained 27% of seats.

Although it has been claimed that 'political Islam' has failed, since the imposition of an Islamic theocratic regime (along Iranian lines) has not been emulated,¹³ it has become clear that 'political Islam' has acquired a different significance than that of establishing a theocratic state like Iran's: it involves achieving Islamic objectives by democratic means. Whether, and to what extent, this may lead to the erosion of the democratic system, or whether on the contrary it may end up acquiring a form comparable to that of European Christian Democratic parties, is not yet clear. Nonetheless, it is striking that the issue of Islamic identity did not feature prominently in the political revolutions of 2011. The object of those revolutions was to get rid of dictatorial regimes, but few Islamic slogans were heard, and there were no calls for the introduction of Sharia law. However, Islamic identity is growing increasingly important in the shaping of the democratic process. This is not hard to explain: after all, Islamic identity has long played an important role in the everyday and public lives of many people in the Arab world, and this will be reflected in democratic processes.

None of this should be taken to imply that there is a single, monolithic form and interpretation of Islam. On the contrary, Islam accommodates a wealth of views, ranging from the ultra-conservative to the highly liberal. One of these views is 'post-Islamism', which is characterised by a comprehensive, liberal view of society, in which tolerance and pluralism are central.¹⁴ The conservative, intolerant variants also enjoy considerable grassroots support, however, as the election results in Tunisia and Egypt have made clear. While the main winners, the conservative Muslim Brotherhood (Egypt) and the Ennahda Party (Tunisia), have emphasised that they favour a pluralist, democratic state, intolerant Muslims feel encouraged by their victories. More and more often, one hears reports of highly conservative, intolerant Muslims – Salafists – who frequently harass people who behave in ways they find distasteful, for instance by wearing short skirts or failing to wear a headscarf. Such harassment appears to enjoy impunity, whereas actions and demonstrations by secular groups are frequently banned or restricted by the government.

As early as 2006, the Advisory Council on Government Policy (WRR) published a report on *Dynamism in Islamic Activism*, in which it pointed out the multifaceted nature of Islamic identity in the Muslim world and advised against any wholesale rejection of it. The WRR recommended engaging in dialogue with forms of Islamic activism, in particular, that offer openings for the promotion of human rights and democratisation. The report asserts emphatically that all the various currents are part of the new political landscape and cannot, therefore, be excluded. In its response to the WRR's report,

13 Olivier Roy, *The Failure of Political Islam* (London: I.B. Taurus & Co. Ltd, 1998).

14 Asef Bayat, *Making Islam Democratic: Social Movements and the Post-Islamist Turn* (Stanford: Stanford University Press, 2007).

the government stated that it must be led in practice by the consideration of 'whether cooperation with / support for this specific organisation is conducive to, or in any case not inconsistent with, the goal pursued. Naturally, this does not automatically rule out Islamic organisations. Not merely because of the point of principle that the Dutch government does not distinguish between religions, but also because "Islam" is not, in a general sense, at odds with the acceptance of democracy and human rights'.¹⁵

¹⁵ House of Representatives of the States General, 2006-2007 session, 30800 VI, no. 115.

II Societal backgrounds and differences

II.1 Youth in the Arab region

The above account suggested that the two trends are bound up with a number of domestic developments. This is particularly clear in the attitudes held by young people. They are a new generation of relatively well-educated but frequently unemployed young people who want more say in the government of their country and more self-determination in their own lives, but who lack the political and economic means of achieving these aims. This generation is the product of a concurrence of three trends over the past few decades: demographic change, better education, and stagnant employment.

Child mortality in the Arab region has fallen sharply since the mid-20th century, partly as a result of better health care. Fertility has gradually declined too, as a result of which the percentage of young people has peaked; it is not expected to increase any further over the next few decades. At present, over 40% of the populations of Algeria, Lebanon, Libya, Morocco and Tunisia are under 25 years of age, while in Egypt, Jordan and Syria this proportion is over 50%. In Yemen and the Palestinian Territories, well over 60% of the population is under 25.

This demographic change led to a large influx into the job market in the 1970s. The rise in the number of new employees was reinforced by an increase in the participation of women, although women still account for a far smaller percentage of the labour market in the Arab region than in other parts of the world. The number of jobs lagged behind the large influx of young people into the labour market, leading to a rise in unemployment, especially among new entrants. In Egypt, Jordan, Lebanon, Morocco and Syria, youth unemployment (among those aged 15 to 24) ranged from 19 to 27% in the period 2007–2009. In most of the countries in the Arab region, unemployment is much higher among young people than among older members of workforce. Young people under 25 account for over half of the unemployed. In the Palestinian Territories, unemployment among people under 30 is 43%. Moreover, various forms of concealed unemployment abound in the Arab region, which means that the figures quoted here greatly underestimate the overall unemployment problem.¹⁶

Over the past few decades, the countries in the Arab region have invested heavily in education. Thus, from 1980 to 2009 participation in higher education increased in Jordan from 15 to 42%, in Lebanon from 30 to 53%, in Morocco from 5 to 13%, and in Tunisia from 5 to 34%. As a result, those who are well educated are primarily the younger generation, and the illiterate are primarily older people. In most of the countries in this region, youth literacy levels stand at over 90%. Indeed, in Jordan, Lebanon, Libya, Tunisia and most of the Gulf States, youth illiteracy is almost unknown.

The demographic situation in the Gulf States differs from the picture outlined above in several respects. The proportion of young people (under 25) is on average lower there, ranging from 25% in Bahrain to 49% in Oman. In addition, some Gulf States have more foreign than local employees. For instance, in 2007 Qatar actually had 12.5 times as

¹⁶ UNDP, *Arab Human Development Report 2009*, p. 111.

many foreign employees as employees with Qatari nationality. In Kuwait, in 1999 and 2000, there were approximately five times as many foreign as local employees. Since foreign employees generally leave the country if they become unemployed, or indeed are obliged to, this strongly depresses the average unemployment figures.

The demographic changes, improvements in education, and stagnant employment have helped to produce a large group of articulate young people, who are dissatisfied with the economic and political situation in their country. While the previous generation adopted a fairly compliant attitude to the regime, young people today are far more rebellious. Partly thanks to the internet and satellite broadcasting channels, they also know far more than their parents' generation about both the domestic situation and international developments, and they therefore also have strong views about the changes they feel need to be made.

II.2 The position of women in the Arab region

The Arab world has a long tradition of debate about the emancipation of women. This tradition has been subsumed into (or taken over by) the greater emphasis on Islamic identity: women's rights are discussed more and more frequently from the vantage point of Islam. In this respect, Muslim women have proved very assertive and effective in some areas, especially in education, but also in the realm of political participation and other human rights. Women – whatever their religious views – also played a major role in the uprisings, as leaders and as demonstrators.

Women often suffered disproportionately from the suppression of the demonstrations: in Egypt, women who were arrested were subjected to 'virginity tests' (the implication being that a woman who is still a virgin is unmarried and should therefore be sitting at home rather than moving around in crowds) and there are unconfirmed reports from Syria of the large-scale rape of female demonstrators in detention. Some of the more radically oriented Islamists are known to deplore the presence of women in the public and political domain: in Tunisia, in particular, which – unlike most Arab countries – was markedly secular, there have been incidents of Salafists denouncing 'un-Islamic' clothing and calling for the segregation of the sexes in public places.¹⁷

In his address to a High-Level Meeting on Reform and Transitions to Democracy in Beirut on 15 January 2012, the UN Secretary-General emphasised the part women had played in the uprisings, and the position they had won for themselves by these actions in the new democratic processes:

'[W]omen must be at the centre of the region's future. Women stood in the streets and squares demanding changes. They now have a right to sit at the table, [to exert] real influence in decision-making and governance. Protection from violence, intimidation and abuse is a fundamental matter of human dignity and equality. Sexual violence, discrimination, violence against women are not acceptable. More, they are universal rights [sic]. They are not, as some may claim, values that are 'imposed' from outside. The deficit in women's empowerment has held back the Arab region for

¹⁷ In November 2011, for instance, hundreds of Salafist students occupied the humanities faculty of Manouba University (near Tunis) and held the dean hostage for a short time, to press home their demands for women students to wear the niqab (full-face veil) and for men and women students to be taught separately.

too long. Change is not merely necessary, it is essential, and there must be changes. There can be no democracy worthy of the name without women.'

The role of women in social and political processes in the Arab world was discussed as early as 2005 in the Arab Human Development Report, *Towards the Rise of Women in the Arab World*. Women have certainly found ways of pursuing these aims within the parameters of Islamic identity. The AIV is concerned that only women who emphasise their Islamic identity have the opportunity to play such a role. We are also concerned about the phenomenon that Arab women – regardless of religious affiliation – who took part actively and enthusiastically in these revolutions and who appeared to have forged new paths for participation in the future society in doing so, are being prevented from playing a part in social and political processes by religiously motivated groups. It is true that these groups are in a minority, but they are nonetheless exploiting the new situation to ventilate their opinions and feel vindicated by the electoral victories of Islamic parties. On the other hand, some Arab countries have large numbers of well-educated and economically independent women. They are unlikely to give up their position in society lightly.

III Democracy and human rights

III.1 Islam and democracy

The 1990s saw a spate of articles being published about the relationship between Islam and democracy. Prominent authors maintained that Islam was hard to reconcile with the concept of democracy. The emphasis on Islamic identity in the Muslim world was therefore seen as posing an obstacle to democratisation.¹⁸ Since then, however, several studies have shown that the syllogism 'Arab countries are undemocratic; Arab countries are Islamic; therefore Islam is undemocratic' is fallacious. One now finds growing support for the view that Islam and democracy are perfectly compatible. This position is argued by numerous Muslim intellectuals, and the above-mentioned surveys among Arab populations reveal that this opinion is widely held. Some Western academics – especially those adopting a political/sociological approach – assert that the desire for democracy is in fact a key characteristic of Islamic political movements.¹⁹ The call for freedom and participation in government, as well as demands for governments to practise accountability and transparency, are typical of many Islamic movements.

Muslim academics have written about 'Islamic democracy',²⁰ and the subject has been – and still is – discussed at length in the media. Talk shows on Arab satellite broadcasting channels, in particular, have played a pioneering role here. It should be noted that no model of 'Islamic democracy' exists; the concept is still being developed. In countries such as Indonesia, Malaysia and Turkey, with predominantly Muslim populations, democratisation processes, in which Islam plays an important role, have been going on for some time. But these countries are not necessarily seen as examples to be followed in the Arab region. Furthermore, the human rights situation, which is inextricably bound up with democracy, has shortcomings in countries such as Indonesia, Malaysia and Turkey, in spite of democratisation.

In the light of the current developments, we can now distinguish several views of the relationship between Islam and democracy. First, there are Muslims who maintain on theological grounds that Islam does not permit democracy. Then there are those who

18 See e.g. 'Islam offers . . . worst prospects from political perspective' (Bernard Lewis, 'Islam and Liberal Democracy' in *The Atlantic Monthly* (February 1993)); 'Islam prevents the emergence of a civil society' (Ernest Gellner: *Conditions of Liberty: Civil Society and its Rivals* (London: Hamish Hamilton, 1994)); 'Islam fosters an essentially illiberal political culture' (Samuel P. Huntington, *The Clash of Civilizations and the Remaking of the World Order* (New York: Simon and Schuster, 1996)).

19 John L. Esposito and John O. Voll, *Islam and Democracy* (New York: Oxford University Press, 1996); Rex Brynen, Bahyat Korany and Paul Noble eds. *Political Liberalization and Democratization in the Arab World* (Boulder: Lynne Rienner, 1995); Larry Diamond, Marc F. Plattner and Daniel Brumberg, *Islam and Democracy in the Middle East* (Baltimore: John Hopkins University Press, 2003).

20 Ibid. But see also e.g. Ali R. Abootalebi, 'Islam, Islamists, and Democracy', in *Middle East Review of International Affairs*, vol. 3, no. 1 (March 1999); Khaled Abou El-Fadl, 'Islam and the Challenge of Democracy' in *Boston Review* (April-May 2003); Radwan Masmoudi, 'The Silenced Majority' in *Journal of Democracy*, vol. 14, no. 2 (April 2003); Mumtaz Ahmad, 'Islam and Democracy: The Emerging Consensus,' IslamOnline (2002). See: <<http://islamonline.net/english/Contemporary/2002/article15.shtml>>.

believe that Islam and democracy are compatible, but only in the form of a theocracy in which Islamic principles are paramount. Finally, there are those who believe that Islam and democracy are two fundamental conditions for human existence as a Muslim. Which of these positions will prevail over the years to come, and what forms it will take, remains to be seen. Moreover, the outcome may differ from one country to the next.

It should be added that the Arab-Islamic call for democracy need not necessarily be translated into democratic models such as those known in the West. The concept of democracy goes beyond the Dutch model or other Western systems. Democracy is not merely a question of regular elections. A democracy should also guarantee the civil and political liberties of its citizens. Electoral 'democracies' exist that have little freedom – so-called 'illiberal democracies'.²¹ Conversely, the possibility exists of an 'enlightened dictatorship' – that is, a government that has not been elected democratically, but that gradually allows for the expansion of liberties, whether or not in response to pressure. There are also democracies that place a one-sided emphasis on political freedoms, but where little real freedom exists in practice, because large socioeconomic inequalities virtually rule out democratic participation for a large proportion of the population.

Any democracy can – and must – therefore be expected to fulfil certain basic conditions. To qualify as a true democracy as reflected in the value attached to democratisation, a system of institutions must be developed that creates an open society in which citizens can participate fully, and that limits various kinds of abuses of power through a system of checks and balances. In other words, democracy does not mean the dictatorship of the majority. The well-known political scientist Robert Dahl has spoken of 'polyarchal' democracy, which consists of numerous elements: not just the right to vote and to stand for election, but the holding of free and fair elections; peaceful transfers of power; freedom of association; freedom of expression; and a multiplicity of independent information sources, which are accessible to all. Government policy depends on the outcome of elections, and the government must enjoy the confidence of the people's elected representatives. The protection of minorities and non-discrimination are also essential.²² It is a major cause of concern for the AIV that in the new enthusiasm of Arab countries for democracy, the concept of democracy may be interpreted as majority power, without building in guarantees for the rights of minorities and opposition groups.

Western democracies evolved from absolute monarchies and theocratic ideologies along a variety of routes. In many countries this development took over a hundred years, and in some Western countries it is still incomplete. It is useful to bear this development in mind when evaluating the prospects for democratisation in countries that are predominantly Muslim. Democratisation is taking place in Indonesia, Malaysia and Turkey, with each country following a different path. Commendable though these developments undoubtedly are, the AIV views these too with a degree of concern. The role of minorities, in particular, is under frequent strain in these countries, and arguments deriving from Islam are often treated as decisive. The Arab countries too will now need to find their own paths to democracy and respect for human rights norms, but they could benefit from learning from the experience of others. Since any suggestion of Western interference or intervention is a hugely sensitive issue in the Arab world,

21 Fareed Zakaria, 'The Rise of Illiberal Democracy', in *Foreign Affairs*, vol. 76, no. 6 (November-December 1997), pp. 22-43.

22 Robert Dahl, *Democracy and its Critics* (New Haven: Yale University Press, 1989).

these countries might be more readily inclined to learn from democratisation processes elsewhere, in the Muslim world and in the former dictatorships in South America and Eastern Europe. The Netherlands might be able to promote exchanges of experience between countries that embarked on democratisation processes in the recent past.

III.2 Human rights

The political changes in Egypt and Tunisia, in particular, have given the population more say in their government. Political rights have increased. Freedom of expression and freedom of the press are also greater than before the uprisings, although shortcomings still persist. Nonetheless, the rights of specific groups may still be curtailed. Parliamentary elections have since been held in several Arab countries, leading to substantial representations of Islamic parties in their parliaments. Too little is known as yet about their views on the relative weight to be accorded to human rights and Sharia law. It should be noted that conservative and moralistic views are not the exclusive province of Islamic parties; they are shared by broad swathes of Arab societies. The extent to which concepts such as pluralism, democracy, equality before the law and tolerance will be put into practice is therefore not dependent solely on the Islamic parties, but on the societies as a whole. It is therefore too soon to draw any conclusions regarding the significance of developments in the Arab region for the human rights situation.

However, the human rights conventions by which Arab-Islamic states have agreed to be bound do provide grounds for drawing certain conclusions. Annexe II lists the Arab countries that have ratified the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child, and the Convention on the Elimination of All Forms of Discrimination against Women. Countries that are party to an international convention can be called to account by other parties for failing to fulfil their treaty obligations. It should be noted, however, that several Arab countries have entered reservations to certain provisions, in some cases subordinating them to the precepts of Sharia, Islam or Islamic law, though without defining these terms, either in the reservations or in national statutory or constitutional provisions. Many of these reservations relate to family law, in particular to the position of women. This means that certain concepts remain open to a variety of interpretations, leaving a regime or legislative body free to interpret the precepts of Sharia law.

Besides the fact that many Arab countries are party to international human rights conventions, a number of attempts have been made in the Muslim world to formulate so-called 'Islamic' human rights. The best known of these is the Cairo Declaration of 1990, drawn up by the Organisation of the Islamic Conference, now the Organisation of Islamic Cooperation (OIC), an association of 56 countries with Muslim populations. The Cairo Declaration does not have binding force, but deserves to be looked at more closely because it helps to clarify possible ways of thinking about 'Islamic human rights'. The Cairo Declaration differs from international human rights conventions in three important respects. First, it views equality primarily in terms of 'human dignity' rather than rights.²³ Second, it cites Sharia law – again without defining it – as a basis for restricting liberties

23 E.g. article 1: '. . . All men are equal in terms of basic human dignity and basic obligations and responsibilities, without any discrimination on the grounds of race, colour, language, sex, religious belief, political affiliation, social status or other considerations', and article 6: 'Woman is equal to man in human dignity, and has rights to enjoy as well as duties to perform'.

such as freedom of expression and freedom of movement.²⁴ Third, it omits from certain provisions specific grounds for non-discrimination that are included in international human rights conventions.

One example is the article about the freedom of marriage.²⁵ No restrictions may be imposed on marriage on the grounds of 'race, colour or nationality', but the relevant article expressly omits 'religion' from this list. Islamic law prohibits a Muslim woman from marrying a non-Muslim man. Similar omissions occur in the OIC Covenant on the Rights of the Child (2004), which omits to define the age of minority (a point that is certainly relevant in cases of criminal and matrimonial law). This declaration therefore fails to address the principles governing the equality of men and women, the equality of citizens, freedom of expression and the freedom to practise religion according to one's own convictions or to change religion. Although these declarations are not legally binding, the AIV considers them to be problematic in the context of the current developments, since they might be emulated by new governments with an Islamic complexion.

If Arab governments were to shift markedly to a conservative interpretation of the political and legal principles of Islam, the AIV envisages possible problems in relation to the following four human rights: the ban on discrimination on the basis of gender, the ban on discrimination on the basis of religion, freedom of expression, and certain provisions of the criminal law. These four areas are potentially problematic because they are among the few rules that are clearly mentioned in the Koran. According to Islam, the rules in the Koran are unchangeable – in contrast to the other rules of Islamic law, which clearly may be modified – and some of these specific rules conflict with international human rights standards. This risk is present only where an Arab government elects to be guided by such interpretations of Islam.

The AIV would add that implementing human rights conventions is primarily a responsibility of national governments, although the international community plays an important role in monitoring the observance of the standards enshrined in them. Human rights are universal, but that does not mean that they must be applied uniformly everywhere. International law leaves countries a certain latitude regarding policies on upholding human rights standards. This latitude depends on the scope for interpretation built into these international conventions and the associated monitoring mechanisms. States therefore have room to uphold human rights norms in a manner that is inspired by Islam. There are differences in the way these norms are implemented even between countries of the European Union. In this connection, the AIV endorses the government's response to the AIV's advisory report 'Universality of Human Rights: Principles, Practices and Prospects', published in November 2008: 'International law rightly allows scope for culturally determined interpretations of more peripheral parts of the human rights acquis. At the same time, it must be ensured that local traditions and customs are not used as an excuse for not applying fundamental rights and for casting aside key elements of the human rights acquis, whether temporarily or permanently'.

24 E.g. article 12: 'Every man shall have the right, within the framework of Shari'ah, to free movement . . .' and article 22: 'Everyone shall have the right to express his opinion freely in such manner as would not be contrary to the principles of the Shari'ah'.

25 Article 5: '. . . Men and women have the right to marriage, and no restrictions stemming from race, colour or nationality shall prevent them from enjoying this right.'

In view of the growing influence of Islam as a result of the current processes of democratisation, the AIV takes the view that the human rights situation in the Arab world should be followed more closely still, and that countries should be made aware of their duty to respect universal human rights, and also of the treaty obligations they have undertaken. It is also important to have a keen eye for the tensions that may arise between these obligations, given that many Arab countries have entered reservations subordinating provisions of international conventions to Sharia law. Some of these reservations are in conflict with universal human rights and in some cases with the spirit of the convention concerned. Vigilance is therefore needed to guard against the predominance of interpretations of Islam that are in conflict with universal human rights and treaty obligations. At the same time, it would be premature to reject Islamic influences on human rights out of hand. Numerous debates are going on within Islamic circles, some of which lead – on the basis of Islamic principles – to views on human rights that accord with international opinion.

III.3 Rule of law

A pivotal condition for the success of democracy and respect for human rights is the proper functioning of the rule of law. This means, in particular, equality before the law, an independent judiciary, free access to the courts, and fair trials. Egypt, Morocco and Tunisia have a tradition of a judiciary that functions reasonably well and is fairly independent. No such independent judiciary exists in Libya or Syria; this will need to be built up in these countries. The same applies to the Gulf States, where, it may be added, the business community tends to have recourse to forms of international arbitration, which are seen as more reliable than the local courts.

The support of third countries can do much to strengthen the rule of law. In another largely Muslim country, Indonesia, Dutch legal assistance has been very influential. Pompe states: 'The judiciary, the cornerstone of [Indonesia as] a democracy governed by the rule of law since 1998, was influenced decisively by the Netherlands. Scarcely anything is known about this in the Netherlands. The most important legislation on the independence of the judiciary and on anti-corruption measures adopted since 1998 was developed with Dutch funding. At least four key statutes enacted since 1998 were directly facilitated by Dutch development cooperation: laws on the Eradication of Corruption, the Corruption Eradication Commission, the Council for the Judiciary and the Chamber of Commerce.'²⁶

The West has helped to train judges, and to a lesser extent lawyers, in the Arab world in a number of extensive programmes over the past two decades. The AIV strongly recommends that these programmes be continued or even expanded in order to preserve and preferably increase local knowledge of the rule of law and human rights. Knowledge about the way human rights conventions function is particularly important here: countries often appear to be motivated by political considerations when they ratify these conventions, without always being fully aware of the legal consequences of ratification.

A problem that exists in almost all Arab countries is the considerable power wielded by the secret services. They became strong particularly in the 1970s, and partly in the

²⁶ Sebastiaan Pompe, 'Goed bestuur en juridische ontwikkelingssamenwerking in Indonesië', in *Liberaal Reveil*, vol. 51, no. 1 (2010), pp. 11-21.

wake of the attacks carried out by militant Islamist organisations in the 1990s, these services underwent large-scale development and expansion. In general they operate without any scrutiny by the civilian courts. Although Western countries have repeatedly drawn attention to this in their annual human rights reports, Western agencies have frequently collaborated with their Arab counterparts in the fight against terrorism. Many of the Islamists with ties to the parties that triumphed in the recent elections have had personal experience with these services, and many have spent time in prison – in some cases following a conviction, but frequently without any form of trial. These services are unlikely to be dismantled. The AIV is therefore greatly concerned that their continued existence in their current form will help to cripple the functioning of the rule of law from the outset. They need to be brought under civilian scrutiny and made subject to adequate statutory regulations, partly to promote respect for human rights. The same applies to the armed forces, although they played a wide variety of roles in the uprisings in different countries.

IV Regional context

IV.1 Diversity

The Arab countries differ greatly in the extent of their political reforms. To illustrate this enormous diversity, several situations will be sketched below, without any claim to exhaustiveness either in covering the various countries involved or in providing an overview of the existing diversity.

Some countries, such as Egypt and Tunisia, are states in transition, which are taking steps towards democratic reforms and the rule of law following an uprising against an autocratic regime, although this process is far from complete and the outcome is uncertain. Differences between different groups were disregarded in the concerted struggle against the regime. The trends described here are most marked in these two countries.

In Libya, tribal disputes were temporarily set aside in the struggle to overthrow Gaddafi, but now they seem to be flaring up again. In Yemen too, tribal conflicts appear to be blocking the formation of a stable democracy governed by the rule of law. The presence of al Qa'ida in the south of the country undoubtedly has a destabilising influence. It remains to be seen whether a unique form of democracy can be established while maintaining a strong tribal structure.

Jordan, Kuwait, Morocco and Oman are 'enlightened' authoritarian monarchies, which seek to impose social reforms through a top-down approach, with little debate on the monarch's political power. The government is engaging the opposition in dialogue in these countries, as a result of which the political tensions have not, at this time, degenerated into violence. The governments are inclined to make certain concessions to the reform movements while maintaining tight control of the system. It remains to be seen whether the concessions, which do not in general go very far, will satisfy the reformers. Something similar is happening in Algeria, where the issue is the power of the president.

Bahrain and Saudi Arabia are repressive, autocratic states, which harshly suppress calls for more civil liberties and socioeconomic justice. As far as these governments permit any such liberties at all, they adamantly retain the prerogative to confer them; they will not allow liberties to be demanded. These countries too are witnessing a growing desire for democratisation and an emphasis on Islamic identity, and are also affected by the demographic trends outlined above.

Iraq and Lebanon can be described as unstable electoral democracies, with parties formed along sectarian or tribal lines. Lebanon tries to adhere to a more or less proportional distribution of power in forming a government. Both these governments suffer from internal divisions and are unstable as a result.

The above summary indicates the great diversity of the developments taking place in these countries. It is therefore essential to continue monitoring the situation in all these countries closely. Policy on the Arab region calls for tailor-made approaches.

IV.2 Regional balance of power

For a long time the Arab League²⁷ did not play a prominent role in the Arab region, partly because Arab countries rarely criticised one another. This first changed at the beginning of 2011, when it joined with the UN Security Council in condemning the violations of human rights and of international humanitarian law in Libya. In the week before the Security Council adopted Resolution 1973, the Council of the Arab League called on the Security Council to establish a no-fly zone for Libyan military planes and to create safe areas for the civilian population, and decided to cooperate with Libya's transitional government.²⁸ It was in part because the Arab League gave its support to Security Council Resolution 1973 that China and the Russian Federation did not veto this resolution, which mandated the international community to take all necessary measures to protect Libya's civilian population from attack. The Arab League has also adopted a leading role in relation to the situation in Syria, partly by sending an observer mission to this country. It tried initially to mediate between the government and the opposition in Syria, subsequently called for President Assad to step down, and is now lending its support to the mediation efforts by former UN Secretary-General Kofi Annan.

The Gulf Cooperation Council (GCC, the Gulf States) is an association of most of the countries of the Arabian Peninsula,²⁹ but it is divided, and has seldom taken a definite stand as an organisation. An exception here is Kuwait, already referred to above as one of the monarchies that take a top-down approach to reforms, in which, it should be added, there is little debate on the political power of the monarch. This country contributed to the NATO operation Unified Protector, which was aimed at protecting the civilian population in Libya and enforcing the no-fly zone and the arms embargo. Kuwait is critical of the Syrian government. While countries such as Qatar and Saudi Arabia are highly critical of Syria, they maintained a conspicuous silence regarding the protests in Bahrain in 2011. Saudi Arabia went so far as to send troops and military materiel to suppress the demonstrations. This is related to the fact that the uprisings were largely instigated by the Shiite majority, in protest against its subordinate status: Saudi Arabia has long harshly suppressed its own Shiite population, most of whom live in the oil-rich northeast part of the kingdom.

Most of the people of North Africa, especially those of the Maghreb countries, share a common language, history and culture, although there are some large minority groups, such as the Berbers. Yet in spite of their shared characteristics, the countries of North Africa maintain far closer bilateral ties with individual EU member states (especially Spain, Italy, France, Portugal and Greece, but to some extent Germany and the Netherlands as well) than with each other. While it is true that Algeria, Libya, Morocco, Mauritania and Tunisia set up the Union of the Arab Maghreb in 1989, one of whose aims was to establish a free trade zone, political divisions have condemned the Union

27 The website of the Arab League lists the following members: Algeria, Bahrain, the Comoros, Djibouti, Egypt, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, Mauritania, Oman, Palestine, Qatar, Saudi Arabia, Somalia, Sudan, Syria (suspended since 16 November 2011), Tunisia, the United Arab Emirates and Yemen.

28 Decision of the Council of the Arab League, 12 March 2011.

29 The following countries are members of the GCC: Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates. These countries also belong to the Arab League.

to a dormant existence. The Union might be revived in conjunction with the political developments in its member states. Periodic calls for regional integration are expressed in the region itself, for instance by the business community. Tunisian President Moncef Marzouki spoke out in favour of reviving the Union of the Arab Maghreb during his visit to Algeria in February 2012. There are also a number of other regional partnerships in the Arab region. In conclusion, there is scope for more regional cooperation. The EU could possibly share its expertise and experience in this area with the countries of the region.

The worldwide shifts in power are also making themselves felt in the Arab region. There are new actors such as China, which is steadily growing in importance as a trade partner. India and other emerging markets are also acquiring a more prominent role. These actors may obstruct Dutch and European policy objectives. However, a discussion of the role of China and other emerging markets in the Arab region would go beyond the scope of this advisory report.

Turkey has shifted the focus of its foreign policy towards the Middle East over the past ten years, although accession to the EU remains a priority. In consequence, Turkey adopted an active role in relation to the uprisings in the Arab countries. It opposed military intervention in Libya. It recently hosted a meeting of the Friends of Syria. The conflict in Syria has led to a flow of refugees at Turkey's southeast border. Turkey provides humanitarian assistance to the refugees, but it has thus far refrained from intervention in Syria, in view of the complexities of the situation.

Although Iran is increasingly seeking to present itself as a regional superpower, it has only limited influence and role model status in Arab countries.³⁰ Still, the growing emphasis on Islamic identity has led to geopolitical relations too being formulated in these terms. In the Gulf States, there is growing concern about the growth of Shiite power. In the Islamic divide between Sunni and Shiite, the latter are a minority, but they are concentrated in Iran and the surrounding countries (Iraq, Bahrain and the northeast of Saudi Arabia), where they constitute the majority. Sunni regimes see this as a threat, and such feelings are sometimes inflamed by Sunni theologians, who have been fulminating against Shiites in the media in the past several years (whereas the differences between Sunni and Shiite Muslims had never been greatly controversial before then, certainly not in the political arena). In the highly unstable situation that exists in Syria, which traditionally maintains close ties with Iran, it is therefore possible that countries such as Saudi Arabia and Iran may play out their own power game in Syria by supplying arms to groups in sympathy with them.

IV.3 Syria

Syria is currently an urgent special case. The Assad regime's bloody suppression of the extremely heterogeneous political opposition has aroused revulsion all around the world. However, the reform movements in this country are sharply divided. The UN Security Council has covered up these deep divisions with the peace plan being promoted by Kofi Annan. In Syria, the dilemmas involved in the 'responsibility to protect' are highly topical.

In June 2010 the AIV issued an advisory report on this subject, entitled 'The Netherlands and the Responsibility to Protect: The Responsibility to Protect People

³⁰ AIV, advisory letter no. 20, 'Iran's Nuclear Programme: Towards De-escalation of a Nuclear Crisis', The Hague, April 2012.

from Mass Atrocities'. The report emphasises that this concept is still in the process of development. The basic principle is that states have an obligation to protect their own population from genocide, war crimes, ethnic cleansing and crimes against humanity. Other states may support a state if it is not capable of guaranteeing the protection of its civilian population without assistance. Only if a state is unable or unwilling to protect its own population can the international community take action. This action must consist in the first place of peaceful measures, with the emphasis being on prevention. It is too late for that in Syria, however. The AIV believes that dialogue with the government is a necessary first step. Seeking to resolve the situation by military intervention would not be approved by the Security Council, nor does this hold out any prospect of helping to produce an effective, democratically oriented government. Military intervention under the heading of 'responsibility to protect' is a last resort, which can be deployed only after careful consideration and with a UN Security Council mandate. The International Commission on Intervention and State Sovereignty has formulated a list of criteria,³¹ which is included in Annexe IV to the AIV's advisory report on this subject. The 'responsibility to protect' concept does not embrace regime change.

Leaving aside the question of how the international community should respond to events in Syria in the short term, and the geostrategic consequences of a possible civil war, what matters most within the remit of this advisory report is the long-term view: are the trends of democratisation and emphasis on Islamic identity likely to extend to Syria, once the conflict has finally (whether in the near future or in many years' time) been resolved? The emphasis on Islamic identity has indeed made itself felt in Syrian society, although a great deal more slowly and to a lesser extent than in many other Arab countries. This society is distinguished from many other Arab societies by the presence of numerous minorities, both Christian and Muslim. Sunni Muslims are in the majority in Syria, but under the regime of Assad senior, and to a lesser extent under that of his son, they have had to accept a subordinate position. At present they exert little political influence. Were the Sunni Muslims to acquire a dominant role, this, combined with a stronger emphasis on Islamic identity, could lead to new conflicts with Muslim or Christian minorities. Syria has scarcely any political or institutional infrastructure on which to build a democratic process; such an infrastructure would have to be built from scratch, along with the associated democratic culture.

IV.4 The Middle East Peace Process

The events in the Arab region, especially those in Syria and Egypt, have given Hamas good cause to reflect on its course. A rapprochement is now taking place between Hamas and Fatah. These same events have induced a mood of restraint in Israel, which is not yet sure how it should respond to developments in the Arab region.

At this stage, the Arab countries in the region are so preoccupied by their own internal political problems that they appear, for now, to be according lower priority to the Arab-Israeli conflict. But if these countries subsequently acquire greater freedom of expression, they too can be expected to again take a critical approach to the Palestinian situation. This includes Egypt, which now has an Islamist majority in parliament. Here it is not so much Islam in itself that plays a role, but rather a sense of justice.

31 *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (Ottawa: International Development Research Centre, December 2001).

Under President Mubarak's regime a pragmatic desire for peace and stability in the region prevailed. New democracies can be expected to place a renewed emphasis on the principle of justice. The Arab-Israeli peace treaties do not currently appear to be in any immediate danger, but a renewed upsurge of tension in Arab-Israeli relations is on the cards. Further democratisation in the Arab region will not necessarily have a positive impact on Arab-Israeli relations and the 'peace process'; initially, one may rather expect the reverse.

The prospects for a peace agreement between Israel and the Palestinians have not improved in recent years. This also applies to peace settlements with the Arab countries with which Israel has not made peace, which includes most of the Gulf States. The repeated proposals (most recently by President Obama in 2009) for Israel to freeze all settlement activity in the Occupied Territories and to conclude a peace agreement based on Israel's pre-1967 frontiers, with the possibility of land swaps, have been either ignored or rejected by Israel. Israel's settlement activity in the Occupied Territories is continuing (it formally recognised three more settlements in April 2012) and Prime Minister Netanyahu stated in 2011 that Israel would never withdraw to the 1967 borders. The settlement activity poses a major obstacle to achieving peace.

Since the beginning of the political reforms in Tunisia and Egypt, Western countries have focused a relatively large amount of attention on the human rights situation in the Arab states. The situation in the territories that Israel has occupied since 1967 is frequently left out of consideration here, even though the Arab population of these territories too suffer from human rights violations and oppression. The occupation has lasted for 45 years, making it one of the longest occupations in modern history. There has been little or no scope for democracy and the rule of law under this occupation.

While it is true that various democratic elections have been held in the Palestinian Territories, Israel and a number of Western countries have refused to recognise their results where they were won by a party they considered undesirable: the Islamic Resistance Movement (Hamas).

In certain Western political discourses, Israel is described as 'the only democracy in the Middle East', but even within Israel itself one cannot say that Jewish and non-Jewish nationals, such as Palestinian Muslims and Christians, truly enjoy equality before the law, either in practice or in terms of legislation. The situation of Israeli nationals of Palestinian descent is linked in Israel to the country's permanent state of tension.

With their intifadas against the Israeli occupation the Palestinians have already experienced several 'Arab springs', but these have tended to worsen rather than improve their position. In so far as foreign pressure has been exerted with a view to ending the Israeli occupation, this pressure has been ineffective, judging by the results.

The AIV takes the view that the developments described above call for a new approach to the Middle East Peace Process, and that new initiatives are needed in the light of the changing regional context. The EU and its allies should reflect on ways of crafting such a new approach. The AIV is willing to issue an advisory report on this question if asked to do so.

V Aims of the Netherlands and the EU

V.1 The Netherlands' aims

Many urge that the Netherlands place its own interests at the heart of its policy in the Arab region. How this would work out depends on the way these Dutch interests are defined. First, stability serves the interests of the Dutch economy, since instability in the Arab region is rapidly reflected in oil prices, with negative consequences for the Dutch economy. Instability also adversely impacts Dutch trade with the region, though this is of only limited significance for the Netherlands. In the first half of 2011, trade between the Netherlands and the Arab League states accounted for 3.6% of the total value of Dutch imports and 2.1% of the value of total exports.³² Finally, instability in the region also has negative repercussions on investments, including those in which Dutch companies are involved.

Stability is also important for the economic development of the Arab region itself. It helps to create a favourable climate for mutual investments and helps to boost prosperity and wellbeing. The young, in particular, are working to achieve dignity and liberty, to get jobs and an income. If they gradually succeed in these aims, far more opportunities will also be created for Dutch companies. For this reason too, the Netherlands has much to gain from a peaceful solution to the deep divisions that afflict the region. One must be realistic, however, when assessing the economic prospects of countries that are going through a period of political transition. Initially, democratisation often has a destabilising influence. It takes time for new institutions and a new balance of political power to crystallise, and economic development may suffer as a result. What is more, the recent turbulence in Tunisia, Egypt and Libya has harmed these countries' economies. The violence has resulted in buildings and capital goods being damaged or lost, not to mention the loss of income from tourism, foreign investments and oil exports. Economic prospects will only improve in the longer term, and there may well be a phase of public disenchantment with the failure of living standards to keep pace with democratisation.

Extrapolating from the importance of stability, strengthening the rule of law in the countries of the Arab region is also in the Netherlands' interests: not only for the legal certainty of Dutch companies, but also because the preservation of the Netherlands' own legal order depends in part on the growth of the legal order in the vicinity of Europe. Dutch companies will benefit if contracts with suppliers and contractors can be enforced. In addition, since crime is increasingly international in scale, a breakdown in the rule of law in one part of the world may have repercussions in terms of cross-border crime.

Economic growth in the region will increase pressure on scarce resources, such as water and fertile land. It may exacerbate water shortages, generating fresh domestic and international conflicts that might pose new threats to stability. Given the scarcity of water and the vulnerability of the environment in the Arab region, it is key that growth should be sustainable.

³² Statistics Netherlands (CBS), 'Dramatic downturn trade with Libya', web magazine, 8 November 2011.

Fostering prosperity and wellbeing is first and foremost a task for the governments of the countries of the Arab region, but foreign actors can make their own contribution. The EU can play a role in improving the economic prospects, in particular by opening up its market, as the AIV advocated in its advisory report on the Arab region in May 2011.

A second Dutch interest, much-repeated by the government, is the desire to reduce the flow of migrants to the Netherlands. The uprisings in Libya and Tunisia led to a rapid upsurge in the numbers of refugees and illegal migrants. A total of 5,248 Tunisians applied for asylum in EU countries in 2011, compared to 519 the year before. The comparable figures for Libyans were 2,710 and 690.³³ Besides this, some 25,000 Tunisians risked their lives in illegal crossings to Italy in the spring of 2011. While these migrant flows were relatively small, and the countries most affected were Italy and France, the figures nonetheless illustrate the potential impact of instability or conflict in this region. Improved stability, democratisation, respect for human rights and economic prospects in the countries of origin will reduce the incentive to migrate to Europe.³⁴ In addition, the European Commission has announced that it wants to conclude Mobility Partnerships with Morocco, Tunisia and Egypt, political declarations containing agreements on migration and mobility. These partnerships are aimed primarily at regulating migration, with a view to the specific needs of the labour markets in the EU member states. They will most probably include return and readmission agreements.

A third Dutch interest is in arranging exchanges in the fields of research and education. On the one hand, this relates to research conducted by Dutch nationals in and about the region: Dutch educational institutions and research institutes have much to offer in this area and it is to the Netherlands' advantage to maintain this patrimony. Conversely, Dutch higher education can reap financial and other rewards from enabling students from the Arab region to continue their studies in the Netherlands. As things stand, the rules on long-term residence in the Netherlands form an obstacle to the growing number of students from the Arab region who are eligible to study here and want to do so. Finally, Dutch universities have an enormous fund of knowledge and experience in the realm of academic research and education, which are badly needed by the many new Arab universities that are currently being set up.

Besides protecting its interests, the Netherlands also has national and international obligations to fulfil. Under article 90 of the Dutch Constitution, the government has an obligation to promote the development of the international legal order. The Netherlands accordingly actively supports international agencies and tries to ensure that they function smoothly, since such organisations help to stabilise the Netherlands' international environment and promote cooperation, matters that are crucial to a trading nation. International organisations often find it impossible to do their work properly if member states are chaotic or involved in armed conflict, including civil war. This applies even more strongly to the institutions of international law that have their headquarters in The Hague. The presence of foreign organisations and companies is a major source of employment and revenue in and around The Hague. Economic interests and ideals can reinforce each other here.

33 UNHCR, 'Asylum Levels and Trends in Industrialized Countries', 2011.

34 For a more detailed analysis of the relationship between these factors and migration, see AIV advisory report no. 43, 'Migration and Development Cooperation', The Hague, June 2005.

V.2 The European Union

It can be inferred from a speech that EU Commissioner Štefan Füle gave on the developments in North Africa on 28 February 2011 that recent events in the Arab region have compelled the EU to review the principles of its policy. He said: ‘. . . we must show humility about the past. Europe was not vocal enough in defending human rights and local democratic forces in the region. Too many of us fell prey to the assumption that authoritarian regimes were a guarantee of stability in the region. . . . I am not saying that everything we did was wrong, rather that Europe, at this particular moment more than ever before, must be faithful to its values and stand on the side of democracy and social justice. The crowds in the streets of Tunis, Cairo and elsewhere have been fighting in the name of our shared values. It is with them, and for them, that we must work today – not with dictators who are, as we speak, spilling the blood of their own people with utter disregard for human life’.

Earlier, in our advisory report ‘Reforms in the Arab Region: Prospects for Democracy and the Rule of Law?’, the AIV discussed the EU’s instruments, such as the European Neighbourhood Policy (ENP), the umbrella programme that it has developed since 2003 for its immediate neighbours to the East and around the Mediterranean.³⁵ A Joint Communication on 8 March 2011, by the Commission and the EU’s High Representative for Foreign Affairs and Security Policy, Catherine Ashton, proposes setting up a Partnership for Democracy and Shared Prosperity with the Southern Mediterranean.³⁶ This partnership too was discussed in the earlier AIV advisory report on the Arab region.

The Commission’s proposals of 25 May 2011, entitled ‘A New and Ambitious European Neighbourhood Policy’, envisage a new ENP underpinned by a number of important principles, as follows:

- to support progress towards ‘deep democracy’;
- to support sustainable economic and social development;
- to build effective regional partnerships within the ENP;
- a simplified and coherent policy and programming framework.

In May 2011 the European Union decided to earmark €1.2 billion for the Neighbourhood Policy for 2011–2013, over and above the €5.7 billion already budgeted for this period. The European Investment Bank and the European Bank for Reconstruction and Development are involved in implementing this decision.

Building on this partnership, the Commission announced a number of more specialised, supplementary programmes in September 2011, such as:

- Support for Partnership, Reform and Inclusive Growth (SPRING) (€350 million for the period 2011–2012): technical and financial support for democratic reforms, sustainable and inclusive growth and economic development on the basis of the ‘more for more’ principle;
- Neighbourhood Civil Society Facility (€22 million for the period 2011–2013): to strengthen civil society to boost reforms and carry out the ENP;

35 The countries involved are Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, the Palestinian Territories, Syria, Tunisia and Ukraine.

36 See: <http://eeas.europa.eu/euromed/docs/com2011_200_en.pdf>.

- in addition to the 1200 existing Erasmus Mundus scholarships for students and academics from the Arab region for purposes of study, education and research in the European Union, another 750 scholarships were made available (€30 million for the period 2011–2013).

Since the publication of the AIV's previous advisory report on the Arab region, the European Commission has given an overview of the measures taken by the EU in response to the events in the region, in a document of 16 December 2011 entitled 'The EU's Response to the "Arab Spring"'.³⁷ The document does not contain any new policy initiatives.

The EU's policy has not been developed consistently in consultation with the countries of the Arab region, and it has scarcely been demand-driven. This seems to be changing with the new approach to the Neighbourhood Policy. The principle of the ENP is that Action Plans are developed in cooperation with the country concerned – in other words, they are demand-driven. With the abundance and sophistication of the EU instruments that are now being deployed, it should be possible to make EU policy more effective. This strengthens the argument that any political action taken by the Netherlands in the countries of the Arab region would be more effective if channelled through the European Union than in the form of bilateral initiatives. Where bilateral financial instruments are concerned, Dutch policy should be aligned and harmonised with European policy, given the extent and impact of the EU's programmes and activities. The AIV would note that the principles of Dutch policy are indeed closely attuned to European policy. Both focus primarily on promoting inclusive economic growth, democratisation and the rule of law, as well as on conditionality ('more for more, less for less').

Here, the AIV repeats a recommendation from its May 2011 advisory report on the Arab region: namely, that wherever possible, conditionality should be framed in positive terms and tied to progress in developing democracy and the rule of law (including transparency, the open provision of information to parliament and free media) and in protecting human rights (including women's and religious rights). Democratisation rarely proceeds in a straight line; advances may be interrupted by retrograde steps. Nor does progress always move at the same pace or in the same direction in every area. In this connection, donors must be patient and refrain from imposing on governments or organisations conditions that are unrelated to the prudent management of the resources provided. Partly in view of the West's policy of tolerating dictatorships in the region in the 1990s, imposing political conditions may easily be interpreted as paternalistic. Furthermore, the over-strict application of conditionality could lead to the baby being thrown out with the bathwater; it is important not to lose sight of the policy objectives, namely democratisation and promoting the rule of law and human rights. These objectives call for processes over an extended period of time, and it is inevitable that the picture will be mixed for some considerable time.

37 See: <<http://europa.eu/rapid/pressReleasesAction.do?reference=MEMO/11/918>>.

VI Conclusions and recommendations

It has been argued above that two strong trends are discernible in the Arab region: the desire for democratisation and the growing emphasis on Islamic identity. It is uncertain how these two trends will develop and how they may influence each other. The AIV believes that the new situation in the Arab region holds out opportunities, but it also sees certain vulnerabilities. If the transfers of power only result in other – primarily Islamic – groups seeking to impose their views on minorities, there will be little effective change from the situation before the uprisings. It is therefore important for the new rulers to be fully convinced that democracy is not just about governing on the basis of electoral victory, but also means protecting the basic rights of women, political dissidents and religious and ethnic minorities.

Ousting a dictatorial regime does not automatically lead to democratic government based on the rule of law. In some cases it may result in a new dictatorship, or a democratic regime with numerous flaws. Holding elections is not the only criterion for assessing the democratic nature of a country. Adequate checks and balances also need to be in place, among other things to safeguard the rights of individual citizens and minorities. Experience in countries such as Afghanistan and Iraq makes it clear that changes of government may mark the beginning of a long process of change, which may possibly – but not necessarily – lead to democratisation, but which may also result in considerable instability. In a democratisation process, a regression (perhaps temporary) cannot be ruled out. The AIV therefore urges that Western countries remain closely involved in developments in society in the Arab region, encouraging them in the right direction wherever possible, partly because of the intrinsic value of democratic government based on the rule of law, and partly to serve their own enlightened self-interest, including their interests enumerated above in stability, controlling migration, the international legal order, research and education. In such efforts, it is important that Western countries not try to impose models inspired solely by their own forms of government. The efforts of Western countries should focus on promoting democracies in which the participation and rights of all sections of the population are safeguarded. The Netherlands should of course coordinate its efforts in this connection with the European Commission and other EU member states.

The AIV believes that the Netherlands can help to promote democratisation and the rule of law in the Arab region, for instance by contributing to exchanges of experience between countries that have gone through democratisation in the recent past. Programmes set up to strengthen the rule of law also deserve sustained support.

A sound understanding of the context is essential to any effort to promote democracy and the rule of law. This understanding can only be gained if the Ministry of Foreign Affairs is sufficiently well staffed with experts on the Arab region who are capable of communicating with all the relevant actors in the region. It is these members of staff, in particular, who can keep the two-way interaction between the Netherlands and the Arab actors alive, learn from it, and translate what they learn into effective policy. Obviously the Ministry of Foreign Affairs can only hire such staff if there are courses in the Netherlands that focus specifically on the language and culture of the Arab region.

Whether the population's increased influence on government policy in individual countries will lead to an overall improvement in the human rights situation remains to

be seen. The changes of government in Egypt and Tunisia have led to greater freedom, but the position of women and minorities may possibly end up being under even greater pressure than before. This is partly because some political parties subscribe to an interpretation of Islam that leads in this direction, and partly because culturally conservative forces have acquired more space and influence than before the transfer of power. Women have created new opportunities for themselves for participation in public life and politics, but the AIV is concerned that culturally conservative groups may try to restrict this participation again.

One thing is clear: it is important to communicate with Islamic groups; otherwise, there will be little scope for exerting any influence to promote democracy. This was already pointed out in the WRR's 2006 report *Dynamism in Islamic Activism*. Now that free and fair elections have been held in a number of Arab countries, it has become clear which parties and views enjoy widespread support among the population. By maintaining contact with these (and other) parties, the Netherlands can learn more about the aspirations they represent. The AIV therefore believes that the Netherlands should a) enter into dialogue with all the relevant political parties and currents in society, and b) keep the dialogue between these parties and organisations active and open. Opening up the political domain, and keeping it open, is key to a viable democracy. The aim should be two-way communication between the Netherlands and those concerned; that makes it possible to define shared principles. Two-way traffic will expand the Netherlands' insight into ways of promoting its own interests and can help to limit the risks that put democratisation and human rights in jeopardy elsewhere.

Communication between states is essential in maintaining international relations that promote peace, human rights and public wellbeing. Regardless of governments' democratic credentials, maintaining diplomatic ties with them is essential, however much this may create the impression that one is tolerating the regime. Without such contacts, the international system cannot function, and the Netherlands and the EU would be unable to stand up for their own interests and values. A government that decides against communicating with a particular regime or with certain political currents is depriving itself of the opportunity to exert a positive influence on the ideas and actions of those concerned.

The AIV favours introducing different levels of communication into Dutch foreign policy. The lowest level involves the passive activity of merely listening. This would also apply to groups that do not rule out violence: by listening to their views, the Netherlands would be able to form a picture of what can be expected from them, and how they might be influenced to embrace nonviolence. The level above this would involve the more active engagement of discussion: the Netherlands would articulate the Dutch position on certain issues, more especially about the views and actions of the organisation concerned. The position of women and minorities deserves to receive special attention here. One consequence of such discussion might be that Dutch institutions 'recognise' their interlocutors, although here too different modalities are possible: for instance, recognising a private, official or semi-official organisation as a partner in talks would have less far-reaching consequences than recognising it as the legitimate representative of a certain group or territory, and so forth. The Netherlands could seek support for this nuanced approach within the EU.

Precisely when an international or domestic conflict is under way, diplomatic contacts with all major players and parties are crucial to helping to resolve it. As time goes on, parties tend to dig themselves in deeper in all respects, and events take place that

make compromise increasingly difficult to achieve. So one retains the widest possible scope for exerting influence by communicating with all parties from an early stage of the conflict – in other words, when tensions are rising but before violence has been used. It cannot be ruled out, for instance, that dialogue might have been effective at an early stage of the conflict in Syria. Now that Kofi Annan has managed to secure a precarious truce – a truce that the AIV believes is essential, since the only alternative is more violence – many countries will have to reverse their policies of non-communication and engage in talks with both the Syrian regime and the opposition. At the same time, Kofi Annan's mission shows that mediators face questions such as how to select the right partners to engage with and how to proceed next.

Communication is not just a matter of imposing sanctions; it calls for a careful analysis of the other party's objectives in a comprehensive dialogue. In later phases of a conflict, too, it is important to sustain dialogue with all parties as long as possible, even in a phase in which the Netherlands, together with other countries, has imposed sanctions. Setting preconditions for conducting a dialogue may ruin chances for communication and influence.

The various countries in the Arab region are going through a wide range of developments and face a variety of challenges. Policy towards both the Arab states and Israel will be most effective if both the Netherlands and the EU place a consistent and impartial emphasis on the necessity of fulfilling their obligations under international law. Continuing democratisation in the Arab region will not immediately have a positive impact on Arab-Israeli relations and the peace process; initially, rather the opposite is to be expected. It is therefore vitally important that the Netherlands should press in the EU and the UN for new initiatives to breathe new life into the Middle East Peace Process. The AIV takes the view that the developments described above call for a new approach to the Middle East Peace Process and that fresh initiatives are needed in the light of the changing regional context. The EU and its allies should reflect on such initiatives. The AIV is willing to issue an advisory report on this matter if it is asked to do so.

Annexes

Request for advice

Mr F. Korthals Altes
Chairman of the Advisory Council
on International Affairs
P.O. Box 20061
2500 EB The Hague

Date: 24 January 2012

Re: Request for advice on developments in the Arab region

Dear Mr Korthals Altes,

With regard to the current situation in North Africa and the Middle East, the House of Representatives of the States General passed a motion, submitted on 30 June 2011 by MPs Wassila Hachchi and Frans Timmermans, asking the government to formally request the Advisory Council on International Affairs to update its advisory report no 75 'Reforms in the Arab Region: Prospects for Democracy and the Rule of Law' of May 2011.

This letter is the government's response to this motion.

Question

The government requests from the AIV an update of the report mentioned above, in the broad context of human rights, the rule of law, stability, and peace and security.

The update has been included in the AIV's work programme for 2012, which I discussed with you on 19 December 2011.

I look forward to receiving your recommendations, which I would be much obliged to receive within three months.

Yours sincerely,

[signed]

Uri Rosenthal

Minister of Foreign Affairs of the Kingdom of the Netherlands

Encl.: Motion by MPs Hachchi and Timmermans of 30 June 2011

House of Representatives of the States General

2010-2011 session

32 623 **Current situation in North Africa and the Middle East**

No. 29 Motion proposed by MPs Wassila Hachchi and Frans Timmermans
on 30 June 2011

The House,

having heard its deliberations,

noting that the Advisory Council on International Affairs (AIV) has issued an advisory report on the adequacy of the current instruments of the European Union in support of the transition in the Arab region to democracy and the rule of law, and on more effective and efficient ways of deploying the current bilateral instruments available to the Netherlands;

noting the AIV's observation that developments in the Arab region are unfolding so quickly that some information in the report may already be out of date;

requests the government to formally ask the AIV to update its report,

and proceeds to the order of the day.

Hachchi
Timmermans

Human rights conventions ratified by Arab countries

State	ICESCR	ICCPR	CEDAW	ICRC
Algeria	X	X	X	Xx
Bahrain	X	Xx	Xx	X
Comoros	X		X	X
Djibouti	X	X	X	X
Egypt	Xx	Xx	Xx	X
Iraq	X	X	Xx	Xx
Jordan	X	X	X	Xx
Kuwait	X	Xx	Xx	Xx
Lebanon	X	X	X	X
Libya	X	X	Xx	X
Mauritania	X	Xx	Xx	Xx
Morocco	X	X	Xx	X
Oman			Xx	Xx
Palest. Terr.				
Qatar			Xx	Xx
Saudi Arabia			Xx	Xx
Somalia		X		
Sudan	X	X		X
Syria	X	X	Xx	X
Tunisia	X	X	X	X
UAE			Xx	X
Yemen	X	X		X

X ratified

x reservations entered to one or more provisions on the grounds of 'Islam', 'Islamic Sharia' or 'Islamic law'

ICESCR International Covenant on Economic, Social and Cultural Rights

ICCPR International Covenant on Civil and Political Rights

CEDAW Convention on the Elimination of All Forms of Discrimination against Women.

ICRC International Convention on the Rights of the Child

List of Abbreviations

AIV	Advisory Council on International Affairs
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
EU	European Union
ENP	European Neighbourhood Policy
GCC	Gulf Cooperation Council
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICRC	International Convention on the Rights of the Child
NATO	North Atlantic Treaty Organization
OIC	Organisation of Islamic Cooperation (formerly Organisation of the Islamic Conference)
UNDP	United Nations Development Programme
WRR	Advisory Council on Government Policy

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*** Joint report by the Advisory Council on International Affairs (AIV) and the Advisory Committee on Aliens Affairs (ACVZ).