



## Cairo Conference

### The Institute of Federalism participates in a Roundtable Discussion on the Establishment of a Constitutional Court in Palestine

The Institute of Federalism (Prof. Peter Hänni and Prof. Eva Maria Belser) have been invited to take part in a roundtable discussion held at the Law Faculty of Cairo University, Egypt, from 11-12 May 2009.

The roundtable on “The Viability of a Constitutional Court” was organised by Musawa and supported by the European Union and the International Bar Association.

The aim of the roundtable was to discuss the establishment of an independent and legitimate judicial body able to review constitutional issues in Palestine and to critically analyse the existing (but not yet implemented) Palestinian Law on a High Constitutional Court.

The joint opinion written by Profs. Hänni and Belser underlines the dominant importance of the rule of law and of a legal system based on the respect of the Basic law by all Palestinian Authorities, including the executive branch. It therefore concludes that the establishment of a Constitutional Court is of crucial importance for overcoming the current internal crisis in the Palestinian territories and for the future of the Palestinian state. As the Swiss experience in this field shows, the coherence of a multi-cultural, multi-lingual und multi-religious society can only be secured and developed, if there exists a strong and independent institution that decides on conflicts that might arise in such societies. The safeguard and the protection of commonly shared values, particularly human rights, is the first and most important task of any Constitutional Court. In the present judicial system of Palestine, it is up to the High Court to function as a Constitutional Court. Given the fact that the court has two sites (one in the West Bank, the other in the Gaza Strip), there is a high risk that it will not be able to develop a coherent jurisprudence on constitutional matters, particularly with respect to human rights.

[The joint opinion summarizing the Swiss constitutional review system and analyzing some flaws in the Palestinian Law on a High Constitutional Court can be downloaded here.](#)