

**DEMOCRATISATION
IN THE
EUROPEAN NEIGHBOURHOOD**

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PREFACE

The chapters of this book were in most cases initially presented as working papers to a conference on “American and European Approaches to Democratisation in the European Neighbourhood”, held in Brussels at CEPS on 20-21 June 2005. This was the second in a series of two conferences, the first having been held in October 2004 at Stanford University in California, where it was organised by the Center for Democracy, Development and the Rule of Law (CDDRL). A companion volume consisting of other papers submitted to these two conferences is being published by Stanford University. Whereas the present book is mainly concerned with current developments along the two major front-lines of democratisation in the European neighbourhood – states of the former Soviet Union to the east and Arab Mediterranean states to the south, and EU policies in this wide region – the companion volume addresses a more global perspective and provides more detailed accounts of both EU and US policies.

We warmly acknowledge support for the June conference from Compagnia di San Paolo, the Open Society Institute, the Heinrich Böll Foundation and the US Mission to the EU in Brussels. The conference and this volume form part of the work of the *Stratagen* programme (Strategic Agenda for the Greater European Neighbourhood), a five-year project initiated by CEPS in 2004.

Michael Emerson
Brussels, October 2005

INTRODUCTION¹

MICHAEL EMERSON

In the space of one year, the outlook for democracy in the wider European neighbourhood has been transformed. Until recently there was a pervasive pessimism over whether either the states of the former Soviet Union in Eastern Europe or the Arab/Muslim states in the Mediterranean and Middle East might in the foreseeable future engage in genuine democratic reform. The East European states of the former Soviet Union seemed completely stuck in conditions of phoney democracy, i.e. regimes that had the shape and form of democracy, but where corrupted parties of power made a mockery of democratic norms and values. As for the Arab/Muslim neighbourhood, many states were hardly pretending to be democracies, lacking basic electoral processes, constitutional provisions and institutional structures – arguing often that Islam and democracy were incompatible.

The Rose, Orange and Cedar Revolutions have changed that. These revolutions have surely not yet translated into smooth new democratic systems, yet still these dramatic developments seem to have witnessed breakthroughs, with newly empowered street democracy throwing out rotten regimes, with a will to do better.

This book has two parts, the first of which analyses the current experiences of the democracy front-line states of the European neighbourhood, both to the east in the states of the former Soviet Union and to the south with the Arab Mediterranean states. The second part analyses what the European Union itself has been doing, and not doing, to

¹ This chapter summarises the essence of the papers that follow. The language of the authors is liberally adopted, but quotation marks are used only sparingly, to avoid unduly cluttering the present text.

promote democratic reform in this wide region. This ordering underlines from the start that democratisation has to be seen first and foremost as a home-grown process. The gravitational forces of influence and incentives emanating from the European Union, pulling these states into democracy, are themselves important themes of this book, but still ones that have to take second place behind the domestic driving forces for political reform.

A chronicle of current democratisation processes in the European neighbourhood can nonetheless begin with the experience of countries approaching membership of the European Union. **Alina Mungui-Pippidi** engages in a critical analysis of the common assumption that the process of negotiating accession to the European Union virtually guarantees successful transformation of political and judicial systems, to the point of meeting high European standards of democracy. The Copenhagen political criteria are themselves quite explicit:

Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.

The author considers that the power of the enlargement process as an incentive is overwhelmingly proven. Yet the qualifications are considerable too. The main critique is that the process may lead only to a superficial Europeanisation, with actions taken by candidate states sufficient for the Commission to make ticks on its checklist of formal requirements. Evidence is also given to support the view that the incentive effect only really works while the issue of accession is still open for negotiation, and that after accession there is a tendency to relax reform efforts.

Mungui-Pippidi takes apart the main components of the democracy basket, and examines in each case how far the negotiation process really bites down on the substantive problems. The EU's influence has been powerful in terms of legislative action, but much less so in securing institutional performance. As regards electoral processes, the Commission has neglected to criticise widespread tendencies of so-called 'parties of power' to exploit their positions and media capture. The 'Regular Reports' of the Commission on candidate states have been tremendously important in determining the course of judicial reform, but many states are operating without a coherent theory of judicial independence. Corruption is the most difficult nut to crack, but it is not impossible, as the Bulgarian case shows. According to the author, none of these criticisms should be taken as

denying the positive effects of the enlargement process, yet the process has shown its limits.

Georgia has the honour of having led the current episodes of democratic revolutions with the Rose Revolution of early 2004. It created a fresh brand of revolution, which others quickly sought to emulate. Scholars must look at these developments objectively, not the least because public relations agencies have at times been heavily involved in mediatic aspects.² **Ghia Nodia** therefore confronts the question whether we have really been observing democratic revolutions, and how these are to be defined. Nodia speaks of 'revolution' in opposition to something else, notably 'reform', 'coup' or 'transition'. In a post-communist context, as in Georgia, revolution now implies mental emancipation from the communist past. It was the communists who glorified revolution, so anti-communists have been extremely cautious in using the term, and so in this context the concept of transition was invented. However, in transition the stress is on bargaining among the political elites, with results seen in pacts that define agreed procedures and steps. Revolutions are resolved through a victory of one party and definitive defeat of the other, in which the masses of the population are involved. For Nodia, the 'colour revolutions' are about calling the bluff of the managed or phoney democracies that succeeded to the collapsed communist regimes.

The Georgian Rose Revolution has passed the first test of revolution, in that people power was decisive in overthrowing Eduard Shevardnadze's regime of managed democracy, which had relied on manipulating and cheating the people. But has the Rose Revolution created real democracy? For the author, no conclusive answer can yet be given. The new government is not a dictatorship, but nor is it a triumph of democracy. Georgia may become a kind of banana republic, where every ruler is accused of authoritarianism, to be removed through a 'revolution' by another ruler who then recreates the system in a somewhat different style. But this does not mean that nothing has changed. For a start the previous revolution was a bloody enterprise that led to dismemberment of the

² For example, a Lebanese friend has suggested that their Cedar Revolution of early 2005 should have been called the Saatchi Revolution, given the many cedar flags suddenly appearing in the streets of Beirut. These had been produced beforehand under contract from the late Rafik Hariri to prepare for the elections, which he became tragically unable to contest.

country, whereas the Rose Revolution was entirely peaceful. A new elite has taken over, who 'speak English and computers', and who are modernisers belonging to the paradigm of the Young Turks. The main result of the Rose Revolution may be that Georgia has a new confidence and holds itself to higher standards. By erecting the flag of the EU on his inauguration day and proclaiming membership of Europe (including NATO) to be the utmost strategic goal, Mikheil Saakashvili has handed to the Europeans a very strong constraining power against his own authoritarian instincts. For Nodia, it is now up to the Europeans to use this constraining power skilfully.

And so on into the Orange Revolution of Ukraine in the months of October to December 2004, analysed by **Hryhorii Nemyria**. Like Nodia's Georgia, Nemyria's Ukraine is a story of overthrow of the first post-communist political regime, and the differentiation of the post-Soviet space. Under Leonid Kuchma, the leadership of Ukraine had become a strange mix of the old *nomenklatura* and red directors with a twist of national democrats and oligarchs. This marriage of *apparachiks* and dissidents gave birth to the independent Ukrainian state. Yet the old system was destroyed from above before civil society was strong enough to challenge it from below. It took time to grow up and develop a taste for democracy. Meanwhile the European political mainstream had succumbed to 'Ukraine fatigue'. While disdainful towards Kuchma's foreign policy strategy of 'milking two cows' (the West and Russia), the EU had also become comfortably reconciled to the increasing institutionalisation of Ukraine's peripheral status as a country muddling through on the margins of Europe.

For Nemyria the Orange Revolution has overthrown this pattern of thinking. Ukraine is not Soviet anymore. Among the developments within Ukraine that may have the largest impact regionally are the dynamics of the judiciary and legal reform, and constitutional reform (decentralisation, election of governors, rebalancing of the powers of the presidency in favour of parliament and political parties). He sees the Orange Revolution as generating healthy political dynamism, able to reinvigorate not only Ukraine itself, and neighbouring Belarus and Russia, but also a broader Black Sea region and former Soviet space in general. For this author, this is the real strategic meaning of the Orange Revolution. The transformative power of the Orange Revolution should be fully utilised in this sense, as there are evident links between the new quality of democracy in Ukraine

and the necessary quality of bilateral and regional cooperation, which in turn could have a decisive impact on the quality of regional security.

Ukraine is at the intersection of overlapping, at times complementary yet often conflicting interests of the EU, US and Russia. This is why the major challenge for the West and for Russia is to successfully manage these overlapping integration spaces. Paradoxically it is a new post-revolutionary Ukraine that is better positioned than any other country to contribute to a much-needed rethinking of the EU's approach to Putin's Russia – a country that increasingly speaks and behaves with a neo-authoritarian accent. Ukraine can regain recognition as a constructive factor in fine-tuning the pan-European vision and strategy towards Russia. Yet the coming two years will still be critical for the long-term positioning of Ukraine strategically and for the sustainability of its democratic breakthrough.

Given these two spectacular developments in former Soviet states, the inevitable next question in everyone's mind is whether something similar can be foreseen in mother Russia, or at least whether there are prospects of reversing the de-democratising trend under the leadership of President Vladimir Putin. **Nikolay Petrov** has become more optimistic for Russian democracy since Ukraine's Orange Revolution and considers that the idea of extreme passivism of Russians is over. His reasons are threefold. Some of the regions are far more democratic than the centre. The younger generation is becoming more actively interested in democracy. Finally, Putin's system of 'managed democracy' will have to become more flexible if it is not to collapse completely.

Putin's regime relies on a control system over political actors, institutions and the rules of the game. Its basic elements are, first, a strengthened presidency alongside the weakening of all other institutions, including both houses of parliament, the judiciary and regional bodies; second, state control over the media; and third, control over elections, turning them from the means of empowerment of the people into the means of legitimisation of decisions made by the elite. Petrov comments that this would all be rather amusing if it were not so terribly dangerous. The president's approval ratings continue to fall, yet he is the only basis for political stability. The author considers it a matter of life and death that the authorities increase the flexible stability of the political system by decentralising and re-federalising it. It has to break the giant monolith of the 'vertical power' into three sets of flexible, connected 'horizontal power' at the federal, regional and local levels. The Kremlin also needs to open

Russia's legislature to the political opposition at all levels in order to direct the energy of social protest into parliamentary channels, but the Kremlin continues mindlessly in precisely the opposite direction. It may be noted that Petrov's comparative optimism is based on his extremely negative assessment of Putin's regime, which must somehow give way in due course to something more democratic, if it is not to collapse. Other participants at our conference did not disagree with Petrov's diagnosis, yet found it difficult to qualify this as relative optimism.

While Russia has perhaps become a vulnerable 'managed democracy', the case of Belarus is Europe's only remaining five-star dictatorship. Will this small state's direct proximity to new member states of the European Union translate into increasing pressures for regime overthrow or collapse? For **Uvladzimir Rouda**, the chances of democratic revolution are rather high. Belarus possesses all the necessary structural conditions for democratic transition. By the late 1980s, it had the highest rate of GDP per capita in the USSR, and the highest educational levels. In spite of his barbarian administrative methods, President Alexander Lukashenko has managed to preserve the industrial potential of the country. Industrial and urbanised society creates conditions that are incompatible with authoritarianism. In addition Belarus is a largely mono-cultural society, which also favours the formation of a democratic political culture, compared to societies burdened with inter-ethnic tensions.

The *homo sovieticus* mentality of the president is in glaring contradiction with the current values of a large part of the Belarus population. Opinion polls show a substantially higher percentage of the Belarus population preferring accession to the EU, compared to Russians and even Ukrainians. Rouda compares Ukraine's Orange Revolution to the fall of the Berlin Wall, symbolising now that Russian domination is no longer inevitable, just as the GDR managed to escape from control by the USSR in 1989. The main impediment to democracy, beyond the oppressive Lukashenko regime, is the weak development and organisation of civil society. Compared to Ukraine's civil society, which triggered the Orange Revolution, Belarusian democratic NGOs and parties look colourless and unconvincing, with weak leadership. The solution has to lie in a radical institutional reform of the whole Belarus civil society, with a single decentralised democratic movement and a joint leader. The leader's policy should be openly pro-European but at the same time not anti-Russian. In Rouda's view, most of the problems of weakness of Belarus' civil society

are nonetheless subjective ones that could be solved by leaders of political parties, NGOs, free trade unions and independent media. Their solution depends on the knowledge, desires and will of the people. Any replacement of Lukashenko arranged by Russia will only see a new dictatorial regime more deeply integrated into Russia. Thus any democratic revolution has to be the task of the Belarus people themselves.

Notwithstanding their differences, these four analyses of the prospects for democracy in post-Soviet European states are all conducted in terms of the same references or paradigms – those of Western liberal democracy, or of the European social-democratic tradition. All discuss the prospects for convergence – be they distant still or already happening – on more or less understood models.

It is here that the primary distinction arises with the politics of the Arab and Muslim states of the European neighbourhood – the politics of Islam. **Bassam Tibi** confronts this issue, citing Saad Eddin Ibrahim's phrase for the predicament of Arab societies being squeezed between autocrats and theocrats. The universality of democracy is questioned. Yet could rising political Islam close the gap between the autocrats and theocrats? Tibi takes as his prime reference for political Islam the writings of Yusuf Qaradawi, who contrasts imported solutions with authentic Islamic solutions. For Tibi the honouring of cultural peculiarities must have its limits. Islam needs to be restricted to the ethics of democracy, but never elevated to a *Shari'a*-based rule. Islam can be viewed as a distinctive system of democracy only if reconciled with modernity. For a scholar of Islamic law, it is a matter of textual interpretation how to see Islam. But for a social scientist there are social facts in the Durkheimian sense rather than divine texts, which have to be the point of departure.

The core question for Tibi is: Is Islam to be democratised, or is democracy to be Islamised? His answer is that the de-politicisation of Islam is an essential part of the needed democratisation of the Islamic world. The first issues to be addressed are the human rights to freedom of expression and assembly, and the required safeguards to ensure these freedoms. On the other hand, there can be no democratisation and no democracy without engaging an Islamic discourse on these issues. How to proceed practically? Islamism has two directions: institutionalist and *jihadist*. Institutional Islamists are prepared to work in democratic institutions at least for tactical reasons, and to dispense with *jihadist* violent actions. By contrast Islamist

ihadists believe in global *ihad*/Islamic world revolutions as the only means to restore Islamic global supremacy.

What is needed is a double strategy. It is democratic to include institutional Islamists in the processes of democracy, while watching out to ensure that democratisation is not undermined in the name of democracy. As regards the *ihadists*, the only approach, for Tibi, is security, because for the *ihadists* the 'action directe' of violence is the method. The Islamisation of politics in the Arab world is not the right avenue for introducing a civil Islam that is consonant with democracy. In a discussion at the conference, a nuanced view of Turkey's experience with Islamic parties was alluded to, noting the democratic normalisation of such parties that can occur through their inclusion in the responsibilities of government.

The most important front-line case in the Arab world for possible democratic reform is now Egypt. The fast-moving political landscape there is reviewed by **Emad El-Din Shahin**. Some of the factors that would make a good case for democratic transformation are rapidly converging: the formation of a wide spectrum of discontented segments of society; the mushrooming of pro-reform grass-roots movements that agree on a clear list of short-term demands; and a sympathetic international context. With presidential and parliamentary elections due respectively in September and November 2005, Shahin asks whether Egypt will finally experience its democratic spring. The answer seems still uncertain.

The reform movement faces numerous challenges. It risks being sidelined by an agreement between the regime and external actors for the sake of ensuring stability and containing change. Repression of the reform movements is conceivable. But so also is the possible radicalisation of the movement itself, leading to the eruption of violence or chaos. Striking developments in the last year have included the strong stands taken by judges over the need to regularise and reform the electoral process in the context of the forthcoming elections. Their stands have been supported by the Egyptian Movement for Change, known as '*Kifaya*' ['Enough'], which was born in August 2004, and has seen rapid growth and proliferation with allied movements for change by intellectuals, writers, journalists, doctors, engineers, lawyers, youth, mothers, etc. These movements are accompanied by a consolidated National Rally for Democratic Transition, which has given itself the task of drafting a new constitution.

The Muslim Brotherhood, the main and oldest Islamist opposition movement, is also observed to have made a change of strategy in early

2005. The Brotherhood defied the government's ban of their pro-reform rallies, and despite the arrest of hundreds of their followers, they refused to relent, and followed up with the organisation of numerous 'surprise' rallies outwitting the security services. Shahin comments that the ability of the Brotherhood to organise these demonstrations despite government harassment attests to its organisational skills and popular influence. Most likely, according to Shahin, the Mubarak regime will continue for a term or less. The pro-reform movement should continue to push for dismantling the structures of authoritarianism. The existing constitution, state structures and political culture in Egypt "would turn the most idealist of democrats into a repressive dictator". A successful transition requires an agreement on basic political practices and processes, which could be enshrined in a national charter for political action or a new constitution.

The case of Palestine is analysed by **Nathalie Tocci** both for the democratic developments in the post-Arafat era and for the role of the EU in seeking to influence the governance of the Palestinian Authority (PA) over a considerably longer period. Under Chairman Arafat, the PA was a bizarre polity: not legally a state in international law and lacking a proper constitution, subject to authoritarian and clan leadership, with an absence of meaningful parliamentary and judicial control, and a chaotic organisation of multiple security services. Yet the international community has made high demands for a reformed governance structure as a prerequisite for negotiating a peace settlement with Israel, and for obtaining final recognition of statehood. During this period the EU exercised a role that sought to influence internal political developments more substantially than in any other its partners. Indeed the EU's Neighbourhood Action Plan for the Palestinian Authority is more precisely demanding, and grants more financial assistance per capita than for any of the regular neighbourhood states. In this and other respects, notably its conflict resolution and reconstruction aspects, the PA case bears some comparison with the post-conflict Balkan protectorates of Bosnia and Kosovo, albeit here with a conflict that is not yet resolved.

Given the EU's pivotal role in Palestine, Tocci seeks to clarify what the EU should be trying to do there, pleading for a focus on three factors: domestic actors, incentives and conditionality. On the first point Tocci argues for a more nuanced understanding of the intricacies within the Islamic bloc, i.e. between armed groups, political parties and civil society actors, and draws attention to the merits and drawbacks of involvement in

intra-factional dialogue. On incentives she calls upon the EU to aid the PA achieve full fiscal autonomy and WTO membership. On conditionality she calls for a finer categorisation to be made between those conditions for which the PA can be reasonably held accountable for itself, compared to those conditions, which, while also desirable, are more dependent on actions by Israel or the international community.

In the post-Arafat period the PA achieved a first remarkable success in electing 'freely and fairly' Mahmood Abbas as its new president. Yet in the subsequent period Palestine has become one of the most delicate testing grounds for the struggle for power between the secular and democratic parties on the one hand and radical Islam on the other. With the growing chances of electoral success of the radical Islamist Hamas, internationally branded as a terrorist organisation, the external powers appeared to have encouraged the postponement of the parliamentary election due to have been held in July 2005. The ambiguities of democracy-promotion diplomacy surface yet again.

While the former Soviet Union and Arab worlds may be thought of as worlds apart, **Madalena Resende** and **Hendrik Kraetzschmar** bring them together through the prism of political party structures, and through the 'party of power' phenomenon in particular. Their argument is that with political parties as the backbone of any functioning democracy, the ideological weakness of parties of power and their dependence on the state is both a symptom and cause of the failure of democratic consolidation. Both Egypt and Ukraine have been examples. In Ukraine the Orange Revolution was indeed a revolt against a highly corrupt party of power, yet the consolidation of democracy under Viktor Yushchenko is far from assured, and could yet come to be remembered as an unfulfilled promise. In Egypt the pressures for change are certainly building up, yet the ruling elite has not so far yielded to allow a real political pluralism. For democracy to take hold in either eastern or southern neighbourhoods of the EU, it is crucial that the logic of parties of power be replaced by one structured around autonomous and ideologically cohesive parties. The authors draw conclusions for Western policy-makers in the sense that they should support the formations of such parties. Equally parties should be encouraged to translate ideological precepts into coherent policy positions, so as to achieve in the long run the shift in loyalties from clientelistic practices to programmatic principles.

Finally, the European Union's performance as promoter of democracy in its European and Mediterranean neighbourhood is analysed by **Michael Emerson, Senem Aydın, Gergana Noutcheva, Nathalie Tocci, Marius Vahl** and **Richard Youngs**. In its discourse the EU places democracy and the rule of law as number one. The authors examine how far the EU is a coherent actor in pursuing this goal in practice, notably in its wider neighbourhood, with case studies covering the Balkans, Turkey, Russia, Ukraine, Maghreb and Israel-Palestine. This paper was stimulated by a previous study about US democracy promotion policy, which dissected the sharp inter-agency differences and contradictions in Washington, notably between hard-power security realists versus soft-power diplomats. The EU also reveals fairly profound divergences and ambiguity of priorities in relation to democracy promotion. These divergences are different, however, from those found in the US. The individual member states of the EU are naturally inclined to give priority to neighbours that they are closest to geographically. This dictum also often relates to historical experiences that resonate in the foreign policy reflexes of national capitals. Thus France, Spain and Italy always put the Mediterranean high on the agenda; Germany, the Baltic and Central European states are most interested in their northern neighbours, while the UK still looks across the Atlantic.

Nevertheless, these obvious interests flowing from geographical, historical and cultural proximities provide no simple indicator of whether the member states in question will be harder or softer, or more or less vigorous in democracy promotion in various areas of the neighbourhood. The historical colour of these close relationships has to be brought into play. Former colonial powers tend to be hesitant to intervene politically in their former colonies, as in the case of France and Spain in the Maghreb. The legacy of World War II makes Germany very reluctant to see the EU take a strong position towards Israel over issues of international law, and this may also partly explain a rather soft line towards Putin's de-democratising Russia. On the other hand, the Baltic and Central European states, having been occupied by the Soviet Union, reveal the opposite logic, with a much greater inclination to make points of political principle towards Russia. Different world views of the EU's two permanent UN Security Council members may also come into play at times. Certainly it was in evidence over Iraq, with some collateral impact on relations with

Russia, when France and Germany made common cause with Russia against the US and the UK.

A primary distinction is made in EU policies between the enlargement-related sphere, which is an extension of EU internal policies, and the foreign policy sphere beyond. In the enlargement process the EU has worked powerfully as promoter of democracy both through its gravitational attraction and explicit political conditionality. It is above all in the foreign policy sphere that a complex set of institutional and historical inhibitions and partly conflicting priorities muffle the outcome for democracy promotion. However these two spheres, the internal and the external, are in practice overlapping. The EU's official neighbourhood policy is subject to ambiguous interpretations, between the EU that claims it is a foreign policy, and various partner states that view it as a pre-accession strategy. Recent developments see new dynamics. On the one hand, the EU's internal crisis brought about by the failures to ratify the Constitution will shatter some pre-accession illusions. On the other hand, this may drive the EU to give greater substance to its neighbourhood policy, in order to mitigate discouragement. Moreover in the neighbouring regions from the former Soviet Union states to the north and the Arab world to the south there develops a fresh momentum to the democratic transition, with apparent contagion of ideas and revolutionary behaviour, in which 2004-05 may mark the beginning of something reminiscent even of major historical episodes in the advance of political liberalism on the European continent such as 1789, 1948 and 1989. These developments may be signalling a need for various actors within the EU to make important changes in mental categories, in particular modifying the view that the EU's politico-normative influence should not be expected to extend beyond the outer frontiers of the enlargement process. This chapter, entitled "The Reluctant Debutante", is suggesting therefore that the EU may indeed now be moving into a new stage of its policy development, with more intense involvement in the affairs of non-candidate neighbouring states.

Part I

The Democratisation Front-Line in the European Neighbourhood

EU ENLARGEMENT AND DEMOCRACY PROGRESS

ALINA MUNGIU-PIPPIDI

The EU as a promoter of democracy

There is no doubt that EU enlargement has been a remarkable success. Even the disappointing French and Dutch referenda on the Constitution cannot blur the perception of the extraordinary performance of the EU as a democratising agent for the eastern part of the continent. First, the 'return to Europe' myth, as shaped by intellectuals such as Milan Kundera, turned into a powerful anti-communist device following the 1975 Conference on Security and Cooperation in Europe in Helsinki.¹ This device was all the more powerful as it seemed to be about identity and not a counter-ideology. Second, the attraction of the Common Market and the political union it generated has acted as a crucial incentive for Eastern European countries, prompting them to engage in what has since been called a 'regatta' – a race to be the first country to join the EU. In the early 1990s, not only did the race precipitate the reforms that were indispensable for the transformation of these countries, but since it enjoyed large popular support it also enticed post-communist parties (the strongest in the region) into becoming genuinely pro-EU parties. Overall, this experience justifies the EU being viewed as a "gravity model...according to which fast and deep democratisation is explained to a significant degree by the proximity and possibility of anchorage and integration with a major world centre of

¹ The Final Act of the Conference, known as the Helsinki Accords, sets forth a number of basic human rights.

democracy”.² Transitions with an EU prospect seem to be the best: they lead to democracy and prosperity earlier and with fewer uncertainties and risks than any others known so far.

Democratisation is a notion describing the political transformation process of the initiation and deepening of democracy in a polity that was previously authoritarian. Democratisation is a gradual process; countries achieving free elections are usually considered democratic, although becoming a fully fledged liberal democracy requires a considerably lengthier process. As some authors argue, however, far more than just free elections is needed for a democracy to also enjoy ‘quality’:³ civil liberties, the rule of law, independent judiciaries and effective, horizontally accountable institutions, an open and pluralistic civic society (including media) and civilian control over the military.⁴ Europeanisation is also used to describe a process of transformation, notably the emergence and development of policy networks at the EU level specialising in the creation of authoritative EU rules,⁵ “an incremental process re-orienting the direction and shape of politics to the degree that European Community political and economic dynamics become part of the organisational logic of national politics and policy-making”.⁶ Despite its many definitions, Europeanisation is universally perceived as related to the penetration of the EU dimension into national arenas of politics and policy-making and

² M. Emerson and G. Noutcheva, *Europeanisation as a Gravity Model of Democratisation*, CEPS Working Document No. 214, CEPS, Brussels, November 2004.

³ L. Diamond and L. Morlino, *The Quality of Democracy*, Working Paper, Center for Democracy and the Rule of Law and Stanford Institute of International Studies, September 2004 (retrieved from [http://iis-db.stanford.edu/pubs/20729/Diamond-Morlino.QoD.intro\(book\).drft1.pdf](http://iis-db.stanford.edu/pubs/20729/Diamond-Morlino.QoD.intro(book).drft1.pdf)).

⁴ L. Diamond and M.F. Plattner, “Introduction” in L. Diamond and M.F. Plattner (eds), *The Global Divergence of Democracies*, Baltimore, MD: The Johns Hopkins University Press, 2001, p. xi.

⁵ T. Risse, M. Green Cowles and J. Caporaso, “Europeanization and Domestic Change: Introduction” in T. Risse, M. Green Cowles and J. Caporaso (eds), *Transforming Europe: Europeanization and Domestic Change*, Ithaca, NY: Cornell University Press, 2001, pp. 1-20.

⁶ R. Ladrech, “Europeanization of domestic politics and institutions: The case of France”, *Journal of Common Market Studies*, Vol. 32, No. 1, 1994, pp. 69-88.

therefore some overlap between democratisation and Europeanisation is possible. It is even desirable – among the conditions in the Copenhagen criteria that the EU spells out for the new entrants is an official reference to democracy:

Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.⁷

Countries are invited to join once they fulfil the above-mentioned Copenhagen political criteria. The process of accession on their side and of EU enlargement on the other only starts after an assessment that certifies the fulfilment of political criteria. There is no instrument to diagnose or monitor the level of democratisation these countries have achieved, nor did one exist in previous EU enlargements that could provide a template for the more recent ones.

The relation between EU accession and democratisation is therefore not a simple one. It is generally considered that the influence of the EU over democratising the neighbouring countries can act through either conditionality or socialisation, or a mixture of the two. Conditionality implies that the EU is phasing assistance, ranging from economic, political and institutional incentives to full membership on the condition that political and economic objectives are met. Socialisation implies that the EU does not pursue a forceful policy, but engages its neighbours in multiple personal and institutional contacts and joint activities, offering a model for successful transformation.⁸ In practice, the two processes are closely intertwined,⁹ to the extent that in the western Balkans one cannot presently tell them apart.

As the last wave of enlargement was the first to require that applicants adopt the full previous legal *acquis*, ‘Europeanisation’ largely came to be seen as the acceptance and internalisation of the common EU legislation. The steps of the last waves of enlargement, as summarised by

⁷ European Council, Presidency Conclusions of the Copenhagen European Council, 21-22 June 1993, SN 180/1/93, REV1, 1993.

⁸ See the previous chapter by M. Emerson et al. in this book, “The Reluctant Debutante: European Union as Promoter of Democracy in its Neighbourhood”.

⁹ T. Boerzel and T. Risse, “When Europe Hits Home: Europeanization and Domestic Change”, *European Integration Online Papers*, Vol. 4, No. 15, 2000 (retrieved from <http://eiop.or.at/eiop/texte/2000/015.htm>).

Christopher Preston,¹⁰ are illustrative of the technical character of the whole process and the focus on convergence:

1. Applicants must accept the *acquis communautaire* in full. No permanent opt-outs are available.
2. Accession negotiations focus exclusively on the practicalities of the applicants taking on the *acquis*.
3. The problems arising from the increased diversity of an enlarged Community are addressed by creating new policy instruments to overlay existing ones, rather than by fundamental reform of the existing instruments' inadequacies.
4. New members are integrated into the EU's institutional structures on the basis of limited adaptation, facilitated by the promise of a more fundamental review after enlargement.
5. The Community prefers to negotiate with groups of states that have close relations with each other.
6. Existing member states use the enlargement process to pursue their own interests and collectively to externalise internal problems.

The negotiations of the last wave of enlargement have therefore been little more than a process of checking off a massive and essentially non-negotiable list of EU laws and regulations, chapter by chapter. During this process, some monitoring and coaching have been undertaken only in adjoined areas of democracy, such as civil service reform or reform of the judiciary, guided mostly by the goal of increasing performance. Individually, some country officers in the EU's Enlargement Directorate-General do strive to promote best democratic practices in the accession countries, but as this is not part of the mainstream process, their efforts remain minor in the business of enlargement. Previous and influential democracy promoters, such as the Council of Europe or NATO, are completely marginal by this time, first because it is assumed that their task has been reached once the respective country has engaged in negotiations and second because it is understood that the European Commission's Regular Report will take over further monitoring on democracy.

The power of the EU and EU enlargement as incentive-setters is overwhelmingly proven.¹¹ What does not seem to be so obvious is how

¹⁰ C. Preston, *Enlargement and Integration in the European Union*, London: Routledge, 1997.

much the *process* of enlargement itself influences *further* positive developments of democracy in the accession countries. Does this distinction matter? It should. If enlargement tools bring about a deepening of democracy, then these could be employed in countries that are not yet ready to become full members in order to accelerate their journeys. If, on the other hand, these instruments do not produce such outcomes, then other factors have to be relied upon to bring progress to those countries, and pushing enlargement as the only solution may be a diversion. Enlargement was invoked for the western Balkan countries as well as Ukraine and Moldova. Although everybody agrees these countries are far from ready, there has been some recent consideration of the idea to initiate some enlargement procedures. For instance, the EU's Wider Europe strategy paper invokes the possibility that countries with a distant EU prospect, such as Ukraine, might consider adopting parts of the *acquis* immediately.

A reality check

To solve this dilemma we suggest a very simple exercise. For the region we do have an instrument of measuring democracy, not just in basic procedural terms, but also in its substantive, qualitative aspects. This instrument is the Freedom House *Nations in Transit* (NIT) survey, which rates democracy across the post-communist world. Table 1 summarises the difference in scores between the year a country embarked on the accession process and the year it concluded negotiations and signed an accession treaty. The table covers accession countries, and for illustrative purposes, also Albania – a post-communist country that, having been spared by civil wars and secessions, can compare better than former Soviet or Yugoslav countries despite an initial start in transition far behind most of the others.

Scores represent the difference between the initially granted score at time zero (the start of the accession process) to the final moment (the conclusion of enlargement). Freedom House NIT scores range from 0 as the best performance to 7 as the worst, but to facilitate reading the signs are changed in this table and progress is marked with a plus sign and regression with a minus sign. Since we compare progress, we choose to ignore the starting points, which are very different in the cases of Albania

¹¹ See Emerson & Noutcheva, *op. cit.*

and say, Poland. The starting points are more telling for the specific *historical legacy* of each country, such as hardships of the communist regime, the transition mode and performance in the early transition, all prior to the start of negotiations, so they are unrelated to enlargement. The intervals measured differ, as Poland, the Czech Republic, Slovenia, Hungary and Estonia were first invited to start negotiations at the Luxembourg EU Council in 1997, which they began in 1998. The rest, including Romania and Bulgaria, being considerably less developed on all counts, received the invitation at the Helsinki summit in 1999.

Table 1. Progress on democracy during the EU negotiation process

Countries	Average change	Electoral process	Civil society	Independent media	Governance	Judiciary
<i>Albania (non-accession)</i>	0.85	0.75	0.75	1.00	0.75	1.00
Bulgaria	0.40	0.50	1.00	0	0.25	0.25
Czech Republic	-0.60	-0.75	0	-1.00	-0.25	-1.00
Estonia	0.25	0.25	0.25	0.25	0	0.50
Hungary	-0.30	0	0	-0.75	-0.75	0
Latvia	0.15	0	0.25	0.25	0.25	0
Lithuania	0.15	0	0.50	0	0	0.25
Poland	-0.15	-0.25	0	-0.25	-0.25	0
Romania	0.15	0	0.75	-0.5	0.25	0.25
Slovakia	0.65	1.00	1.00	0	0.75	0.50
Slovenia	0.25	0.50	0.50	0	0.50	-0.25
Average (accession countries only)	--	0.13	0.43	-0.20	-0.08	0.05

Source: Freedom House, *Nations in Transit*, Freedom House, Washington, D.C., 1998-2005 (retrieved from <http://www.freedomhouse.org/nit/>).

The first 10 groups of countries became EU members in 2004; Romania and Bulgaria signed their accession treaties in 2005. As for Albania, the comparison country in this panel, we have only recorded performance for the interval 1998-2004, as for the Central European countries, while for the rest the differences are shown for 1999 and 2004 or 2005. All the countries are considered free in the general Freedom House

ratings, except for Albania, which is viewed as partly free. In the NIT ratings, which are more demanding on the quality of democracy, Bulgaria and especially Romania are on the threshold between consolidated and incomplete democracy and Albania is of course lower down the scale.

The experiment offers some interesting results. The most significant progress has been recorded by Albania (which is of course not negotiating with the EU, being still in the partly free zone), followed by Slovakia (showing moderate improvement, having made huge gains immediately after the loss of power of Vladimir Mečiar and before the start of negotiations) and Bulgaria. Slovenia and Estonia make up the next group, but their progress has been modest at just 0.25 (Freedom House scores are evaluated by quarter points, so 0.25 is a minimal gain). Latvia, Lithuania and Romania follow with 0.15, half a unit of progress. Poland, Hungary and the Czech Republic, with scores of -0.15, -0.30 and -0.60 respectively, have actually regressed on democracy – not progressed – during enlargement negotiations. Although initial differences between the countries are strong, once again performances up to 1997 are not attributable to *enlargement*, but to other factors. The regression of Poland, Hungary and the Czech Republic may also mark the end of the positive bias analysts have towards these countries, as it has gradually become clear that they share more of the negative legacies of communism that are prevalent in the rest of the region than it originally seemed.

Now if we look at each category of ratings we discover that accession countries on average have recorded progress of 0.13 in the electoral process (Albania had 0.75), 0.43 on civil society (Albania jumped to 0.75), but they regressed on freedom of the media and governance while Albania moved ahead and they stagnated on the judiciary while Albania improved (0.05 to 1.00). Again, this does not mean that the Albanian judicial system is not inferior to that of Central and East European countries (CEECs), it just means that after the transition phase was finished and enlargement negotiations started, the accession countries stagnated, while non-accession candidate Albania strode past. The important positive achievements of the CEECs date from *before the start* of negotiations with the EU, which is generally not that surprising, given that so far the EU has not invited countries to join that were *not already* considered democratic. Romania and Bulgaria (and to some extent Slovakia) were the borderline cases.

This is, of course, only an illustrative exercise and one can criticise either the methodology or the scores themselves. But in every way we

assess progress – we could, for instance, compare progress until negotiations with advances afterwards for each accession country – the results are the same. Enlargement has little or no bearing on the quality of democracy. True, it is not supposed to deal with the media, civil society or elections at all. Paradoxically, civil society tends to progress the most (although it is unconcerned with enlargement), the media tends to regress the most and the electoral process stagnates. But the areas of governance and judicial reform do relate to enlargement, and here, despite impressive developments *on paper*, developments on the ground are *modest to nil*. Why is that?

The next section advances a few explanations and some examples. In areas such as governance, judicial reform and anti-corruption measures, we must first establish that lack of progress is not owing to targets being already attained. Regular European Commission reports do check on the main aspects of democracy year after year and strongly demand improvements in these areas, and the European Parliament also has its own reporting system, often producing more critical views on democratic progress than the Commission. Accession countries might be more advanced than Albania, but evidence that the pace slows down during negotiations should not be controversial. Certain stagnation in democratic reforms is a usual occurrence, which needs explaining.

Some tentative explanations

Prior to stagnation, regression should first be explained. Media is the area recording the worst performance during accession negotiations. Media freedom is taken for granted after the end of transition; once free, it is assumed it will just stay so. There is considerable talk about corruption and administrative capture and the Commission's Regular Reports do mention the media, but somehow the assumption is that the media, of all things, cannot be captured or become corrupted. Nor was it foreseen that, as happened in some of these countries, precisely because the media proved to be a remarkable force during the early transition years, various interest groups would start to acquire media outlets simply to use them as bargaining tools in their battle for political and economic influence, increasingly squeezing the genuine space for public expression. This media capture phenomenon has progressed quite dramatically in accession and non-accession countries alike, from near total capture in the former Soviet

Union to high capture in the Balkans and moderate capture in the CEECs. Nevertheless, since it is an insidious phenomenon, based on informal developments, it has completely escaped attention, so no counter-policy has been initiated to protect the media. No government has been asked by the Commission in its reports to take decisive steps to make media ownership transparent, for instance. In the case of Romania, it was the European Parliament that reacted more energetically than the Commission when it had become obvious that freedom of the media was under serious threat.

The electoral process is also a descriptive story. It is assumed that accession countries have at least achieved fair and free elections. Although it is true that countries in the region regularly organise elections that are clearly free, numerous procedures could still be improved and the fairness of campaigns remains doubtful. For one thing, use of administrative resources by parties in power (such as candidates campaigning with service cars and gasoline provided by the public office they currently hold) is widespread. Further, use of public broadcasting for support of the party in power is again common practice and explains why media scores for Hungary, the most advanced accession country, receded during negotiations. Some specific situations are particularly embarrassing, such as the total exclusion of members of the Russian minority from voting in Estonia and Latvia, even after democratic consolidation was achieved in these states – a fact not even alluded to in the treaties signed with these countries. In other words, not only did millions of persons not vote in the 2004 elections for the European Parliament (not being citizens because of their language), but they will also be excluded in the future.

The Commission tends to understate all election problems. For instance, in the 2004 Romanian elections, evidence surfaced of important irregularities, influencing between 1% and 2% of the total vote. While observers from the OSCE Office for Democratic Institutions and Human Rights (a miniscule mission that in fact had been intended only for ceremonial purposes) were becoming increasingly concerned, DG Enlargement replied to issues raised by Romanian NGOs that as long as

both political sides infringed regulations, as they had been informed had happened, there was no reason for concern.¹²

In fact, as negotiations carry tight deadlines and the country directors within DG Enlargement are evaluated according to the performance of their country, they become promoters of the countries automatically and progress over the course of the negotiations becomes the sole indicator of government performance. Where a government seriously lags behind, as Poland did prior to 2001, a change of government has been welcomed.¹³ For the rest of the countries, elections and changes of government were rather seen as necessary but embarrassing, as country teams had come to have a vested interest in the continuity of political and bureaucratic elites with whom they worked closely and to fear that elections might upset negotiations. Strangely enough, while the Commission increasingly sided more with governments in accession countries, their local counterparts perceived them as promoting a bottom-down and unilateral approach.¹⁴ The Commission was in fact eager to advance the negotiations as far as possible without changing the limited terms they had from the European Council, from fear that they might unsettle what they knew was a hard-fought and fragile consensus. So they were committed allies, but within a limited framework, which many in the accession countries failed to grasp. It is this special framework that led them to become less sensitive to democratic issues and completely engulfed in technical ones.

¹² Letter from Dirk Lange, country director for Romania, on behalf of DG Enlargement, to the author of this paper, as head of the coalition of NGOs entitled "Romanian Coalition for a Clean Parliament".

¹³ G. Avery, "The enlargement negotiations", in F. Cameron (ed.), *The Future of Europe: Integration and Enlargement*, London: Routledge, 2004, p. 52.

¹⁴ See, for instance the paper by M. Klaudijus, Deputy Chief Negotiator and Deputy Director-General of the European Committee, "Government of Lithuania Methodology of the EU Enlargement: A Critical Appraisal", European Institute of Public Administration (EIPA), Maastricht, 2001 (retrieved from http://www.eipa.nl/Topics/Enlargement/maniokas_paper.doc). See also A. Moravcsik and M.A. Vachudova, "Bargaining among Unequals: Enlargement and the Future of European Integration", *EUSA Review*, Vol. 15, No. 4, 2002 and J. Hughes, G. Sasse and C. Gordon, *EU Enlargement and Power Asymmetries: Conditionality and the Commission's Role in Regionalisation in Central and Eastern Europe*, Working Paper, London School of Economics and Political Science, London, 2003.

The next interesting case is governance. Here the European Commission is highly interested that accession country administrations become clean and effective, and thus able to absorb EU funds. Indeed, the absorption of EU funds is the number one performance indicator during the accession process. Corruption is the second important indicator, as the Commission fears for good reason that funds may be embezzled unless administrative procedures are fair and transparent. In all enlargement countries, the Commission has pushed for the adoption of anti-corruption legislation to regulate conflicts of interest, disclose the assets of public officials and so forth. Furthermore, it has fostered the creation of special anti-corruption agencies. As the speed and effectiveness of the judicial process in all these countries is less than acceptable, the Commission has also insisted on having special anti-corruption courts, which would judge cases in a more effectual and expeditious manner. All these measures seem very sensible. So why have they not worked, and why have corruption scores failed to improve while governance scores have remained remarkably stagnant?

The answer lies in the formality of the whole EU anti-corruption approach. Governments are asked to produce comprehensive strategies, which look like the old five-year plans, in the sense that nothing is prioritised and implementation becomes extremely cumbersome. Some institutional tools have been developed to fight corruption during EU accession as well as NATO accession, such as compulsory statements of assets for dignitaries, civil servants and magistrates. The problems arise when putting the formal strategies into practice, as this largely depends on understanding how corruption works, who profits from it and who loses from it.

It is known from the onset that we deal with defective judiciaries and law enforcement agencies; nevertheless, they are entrusted with the whole task of cleaning up the rest of their societies without any previous work on cleaning up themselves. As part of the implementing strategies, the European Commission (supported by the World Bank) has encouraged governments to raise awareness: so grand anti-corruption activities are reported on television, as prosecutors start making live arrests. Since these are the same incompetent prosecutors as before the measures were adopted, however, those arrested are confident to be released by the courts the next day. The public witnessing this comedy simply becomes cynical about the judicial system. Special anti-corruption courts set up on the EU's

request turn out to be as ineffective as normal courts, for the simple reason that what plagues the normal courts affects them as well: they cannot be insulated from the general problems of the judicial system. Similarly, professions where the traffic of influence is rife are encouraged by these strategies to adopt codes of conduct, without any attempt to *shake up the establishments* of these professions that preside over corrupt practices and pay lip service to reform. Unsurprisingly, it all leads to nothing but disappointment and considerable expense. In one of the worst experiments in the area, the Romanian National Anti-corruption Agency spent €13 million in 2004 alone to secure just a few minor convictions. The cost per conviction in total, if we add court expenses, rises to about \$150,000 per capita, something that a poor country with as many corrupt officials as Romania simply cannot afford. The agency was created at the insistence of the European Commission and some EU member states (despite Romania already having such a unit within the General Prosecutor's office), only to be declared unconstitutional by Romania's Constitutional Court when it tried at last to deal with some of the corrupt politicians at the top. Here the story ends, some millions of euros later.

It is probably unavoidable to some extent during the enlargement process for the EU to push societies suffering from informality and a deficit of implementation to adopt numerous laws and regulations. Nevertheless, the total disregard over who can or cannot be plausible actors for change and what can constitute the institutional incentives for real progress is not unavoidable. This attitude emerged from the lack of experience of those who designed these strategies, as well as their poor grasp of the situation on the ground. It is also based on the most common belief of flawed transitologists: just give time to *any* new institution and it will start working.

Corruption is the most difficult nut to crack in post-communist societies, as it manifests itself mostly as the widespread discriminate distribution of public goods by the state to the benefit of certain groups or individuals. These public goods include nearly everything at the beginning of transition, as nearly all property belongs to the state and tend diminish as privatisation progresses. Influence - and therefore power - is the main currency, not cash. Political elites are for most part tempted to see the state as the 'private' property of themselves and their clients, and elections often bring in other privileged groups (although not always) but fail to change the system. Some EU companies are attracted into the game: EU firms

engaged in building highways or securing borders in some accession countries have come to be investigated by the Commission, as costs seem well above those in EU-15 countries.¹⁵

Controlling this process is really difficult as long as things start from top of the government and are embedded in the way things work. But it is not impossible as the Bulgarian case shows. In the enveloping cynicism of the region, Bulgarians are exceptional in perceiving that corruption has been going on since the end of the transition. So what happened in Bulgaria that did not occur elsewhere? The answer is a massive grassroots anticorruption campaign led by civil society, including NGOs acting as ombudsmen for local governments, followed by the arrival of a new and considerably cleaner government.

Slovakia and more recently Romania have also seen such attempts by civil society. These efforts have not been coordinated by government anti-corruption strategies agreed with the Commission. They have received minor funding, if at all, from EU sources. They have used some of the tools provided by accession – such as asset declarations in Romania – but they have also created their own tools, promoted freedom of information acts and then monitored implementation (which is not part of any *acquis*).

This is how civil society scores have improved and governance scores have stayed the same. As governance reforms have been entirely oriented towards a top-down approach, and outcomes are limited to changes only in formal structures, the accession-related rules and procedures have resulted in low institutionalisation. This massive import of legislation has failed to affect the very substance of the governance process at the domestic level; nor has it induced substantial changes to existing patterns of behaviour there, being unsupported by respective bottom-up developments. The influence of the European Commission is powerful in terms of institutional choices, but it fails to determine institutional performance.¹⁶ A good illustration of this is to be found in civil service reform, largely formal and deprived of both incentives for change and the ability to differentiate between promoters and opponents of change. Quite the contrary, the civil service legislation pushed by the EU to curb politicisation – which is severe

¹⁵ See the French weekly *Le Point* for an investigation on EADS: “EADS-Airbus quand Forgeard met le feu”, *Le Point*, N°1705, 19 May 2005.

¹⁶ G. Atanasova, “Governance through conditionality”, Paper prepared for the 2004 Annual Meeting of the American Political Science Association, 2-5 September 2004.

indeed – is rapidly becoming an obstacle to encouraging effective civil servants and punishing defective ones.

Also relevant for governance is the state-building prompted by the *acquis*. An area with particularly strong conditionality and thin *acquis* is regional policy. Despite the premise of the accession negotiations of accepting ‘differentiation’, a trend for uniformity in EU policy was established early on.¹⁷ At the Madrid European Council in December 1995, EU member states instructed the Commission to draft opinions evaluating the future allocation of structural funds for each applicant country. The opinions of 1997, for the first time, identified weak ‘regional administrative capacity’ as a key problem for enlargement; thereafter in the Regular Reports, the Commission has often referred to the problems of weak or inadequate administrative capacity at the regional level.

It appears that from very early stages competing views developed within the Commission over whether chapter 21 of the *acquis* entailed a “model of regionalisation” and how it should be implemented by the Central and Eastern European countries.¹⁸ The issue was political as well as technical. All the countries involved were unitary states, many of them with historical ethnic minorities. Was regionalisation to be political or statistical? Hughes et al. quote a variety of interviews on this combination of strong EU conditionality and poorly defined objectives: “We came under amazing pressure from the EU because Hungary does not have regions. We think there was no real need to set up a regional structure. We have regions – the counties...We have been trying to organise at the NUTS 2 level [EU statistically defined regions].”¹⁹ A high-ranking official at the Estonian Mission to the EU explained to Hughes et al. that “they [the Commission] saw candidate countries as mice in laboratories...anything could be asked of them”. He observed that the pressure to regionalise was “only because of EU policy principles and in particular money channels”. He described how conditionality works in practice: “Approval of a particular [assistance] program is...their way of interference”. While one interviewee accepted that it was in Estonia’s national interest to rationalise the division of local

¹⁷ Based on Hughes, Sasse and Gordon, op. cit.

¹⁸ See Boerzel and Risse, op. cit.

¹⁹ See Hughes, Sasse and Gordon, op. cit.

authorities, he felt that the question of how many levels to create was not one that the Commission should determine.²⁰

Driven as a mechanical process, the regional adventure stumbled from the very beginning. While these countries have embarked on simple decentralisation – some quite bravely – devolution of power from the centre to newly invented meso-governments, with no tradition and no relation to existing territorial units, was bound to be complicated. It was also not popular. These unitary states already had unpopular central parliaments; adding other regional ones to them seemed to voters as just adding to the burden, not increasing democracy. In fact, several other options existed to reduce the deficit of accountability that the public perceived. But the goal of the EU-driven regions had nothing to do with increasing accountability or developing local participation. Romania's government party used infrastructural funds to lure over 50% of Romanian mayors to move over to their party between 2001 and 2004 (thus completely vitiating the results of local elections), and the European Commission barely made a mention of it in its Regular Report. What drove regionalisation was the need of the Commission to impose a model they thought would facilitate the effective absorption of regional funds, with no consideration given to how this will impact the national political systems. Indeed, when the Commission gave up it was not because of realising that this kind of state-building from the top down could not but fail, but because it became clear that these artificial creations could not be entrusted to meet the pressing deadlines on spending structural funds. So in early 2001, the Commission began to proactively stress a clear preference for the *centralised* management of structural funds in the candidate countries. By that time Poland had reorganised its whole territorial administration.

The next area of interest is reform of the judicial system. The Copenhagen criteria do not specifically refer to judicial independence; however the political criteria of ensuring “stability of institutions guaranteeing...the rule of law” would be inconceivable without an independent and impartial judiciary. As part of the EU accession process, the Commission has evaluated candidate countries in a wide range of areas in the framework of its Regular Reports on the progress of each country. The reports followed reform of the judiciary in great detail and although the *acquis* does not cover this field they provided a general roadmap for

²⁰ Ibid.

countries to follow. It is generally acknowledged that judicial reform is one of the most difficult areas. As Francis Fukuyama puts it:

[L]egal systems are low to medium specificity activities with high transaction volumes. Establishing a rule of law involves extensive construction not just of the legal system, but also of courts, judges, a bar and enforcement mechanisms across the entire territory of the country. Putting such a system into place is one of the most complex administrative tasks that state builders need to accomplish.²¹

The Regular Reports of the Commission have been tremendously important in determining the course of judicial reform in the accession states.²² In the period 2001-04, under pressure from the Commission constitutional amendments were passed concerning the status of the judicial system in Slovakia, Bulgaria and Romania and major legislation was adopted in Poland, Bulgaria, Slovakia, the Czech Republic, Estonia, and Slovenia. Many of these pieces of legislation have tried to change the institutional balance of power within the judiciary and among the major branches of power as well, with the goal of strengthening the performance of the judicial system. Generational issues were of no concern, although one 1997 IDEA report on democracy warned that one of the main problems of the judiciary was survival of the communist-era conservative establishment in the superior courts, taking advantage of seniority requirements for such positions.²³

The lack of a coherent theory of judicial independence, and its link to the performance of the judicial system as a whole, led the Commission to endorse some projects for reform and reject others without clear objective grounds for doing so. Thus, in Slovakia the Commission repeatedly advocated the abolition of the probationary period for judges (obviously with the view to strengthening judicial independence), while in Bulgaria it supported a constitutional amendment in 2003 that extended the probationary period from three to five years. Strangely enough, the government in Slovenia argued that a similar extension of the probationary

²¹ F. Fukuyama, "Why there is no science of public administration?", *Journal of International Affairs*, Vol. 58, No. 1, 2004, pp. 189-202.

²² Based on D. Smilov, "EU Enlargement and the Constitutional Principle of Judicial Independence" Center for Liberal Strategy, Sofia (forthcoming in 2005).

²³ H. Schwartz, "The Rule of Law and Governance in Romania" in *Democracy in Romania*, IDEA, Stockholm, 1997.

period for judges for up to five years was *necessary* for EU accession. In another example, one of the most critical 2002 reports of the Commission concerning Latvia complains about the influence of the ministry of justice over the career paths of judges, while a positive report – the one on the Czech Republic – contains almost identical language concerning the powers of its ministry of justice and yet no criticism or concern over judicial independence. It is not clear why something that works in the Czech Republic cannot do so in Latvia,²⁴ or more generally whether the authors of these reports have ‘graduated from the same school’. In fact, they seem to have started backwards – from the angle of poor performance – and tried clumsily to explain it by formal institutions rather than by power distribution or other informal arrangements, so they quickly arrived at the conclusion that the formal institutions are what should be changed. A simple comparative look across other countries would have shown the same institutions functioning elsewhere and would have suggested that they should look in other places for the keys to changing bad practice.

The Eastern European models of judicial organisation in fact vary greatly, but so do those in Western Europe. The issues are generally similar, such as the role of the minister of justice in the appointment and careers of the judiciary, and the existence and composition of supreme judicial councils. Some countries have followed the Latin European model of self-governing judiciaries, through the establishment of independent judicial councils; others, such as the Czech Republic, have opted for judicial administration through the ministry of justice. A similar system existed in Slovakia until 2001, when it was replaced (partly under pressure from the Commission) with a judicial council model.²⁵ In both Romania and Bulgaria the conservatives in the judiciary managed to make use of their administrative positions as heads of courts to be elected to the judicial council in order to use their office there to oppose substantial reforms to the way these judiciaries operate. They were greatly helped by the fact that the reform packages assumed that a simple transfer of power from the ministry to the council would ensure independence of the judiciary. Quite comically, in Romania the entire staff of the ministry of justice, from secretaries of state to controllers, deserted their old jobs and jumped to the boat of the

²⁴ See Avery, *op. cit.*

²⁵ *Ibid.*

council immediately, which continued to perpetuate bad practice under the new legislation.

The only comparative report to date of judiciary reform, arising from the EUMAP Project, concludes in its final chapter that the lack of a coherent theory of judicial independence, the absence of a uniform EU model and the corresponding lack of a consistent scheme of evaluation of the performance of different models has led to occasional problems:

There have been...instances where the Commission has sent mixed signals to the candidate states. On occasion, the direction of the judicial reforms in different countries has been dependent on expert advice from EU member states; in the absence of EU-wide standards, pre-accession advisors and representatives of twinning institutions have often simply encouraged the adoption of specific solutions imported from their own states...Candidate states cannot be reasonably expected to bring their judiciaries in line with standards that are themselves not defined.²⁶

Is this so dramatic? After all, it is rather obvious that enlargement relies more on art than science and some of the concepts it uses, such as the famous ‘functioning market economy’ are supremely ambiguous.²⁷ Nevertheless, in fields such as judicial reform and anticorruption, it mattered greatly, because conditionality here – especially for laggards such as Slovakia, Bulgaria and Romania – was really tough and threats were issued by the European Commission that the whole process could be endangered if the countries failed to comply. It also mattered because a silent battle for power between former communist establishments and challengers has been going on throughout the transition, and good reforms pushed through at that time should have been those empowering a new generation. In the end, if we accept the Freedom House scores, the results have been rather modest. The most positive achievements in the field of the judiciary were, again, achieved prior to accession, for instance when countries moved to tenure judges, securing them from political removal. It may be argued that these reforms have yet to produce outcomes and it is too early to tell, but so far it is rather clear that, as in the field of civil service reform and governance more generally, the approach of the European

²⁶ Open Society Institute, “Judicial Independence in the EU Accession Process” in *EUMAP, Judicial Independence*, Open Society Institute, Budapest, 2001, pp. 20-21.

²⁷ See Maniokas, op. cit.

Commission has failed to change the operating mode of the judiciary and allowed the conservatives to realign themselves. Substantial reform will now be far more difficult *after* accession, for the good reason that its opponents can argue that it has already been undertaken. New laws have been adopted, new institutions have been created and little has changed. The public perceives this and discontent with the judiciary continues to be high across the region.

Conclusions

None of these criticisms should be seen as denying the positive effects of EU enlargement in general, especially its power in providing scope and direction to countries. The problem arises in the details, when we go sector by sector, and the process itself is rather about details. Problems arise from the originally incorrect assumption that Eastern European countries are as equally developed and institutionalised as Austria, Sweden and other recently integrated countries. This is simply not the case, so instruments that worked very well in those countries show their limitations and push the state apparatus of post-communist countries to its limits. The risk is not failure – as both sides have an interest in calling it a success – but superficial Europeanisation, when deeper Europeanisation would have been more beneficial for both these countries and the EU as a whole. In the words of one Lithuanian negotiator, “this particular process of enlargement has become particularly rigid and asymmetrical. The risk is that this rigidity may endanger its final results”.²⁸

After the rocky start of the European Constitution, the EU will be in denial for a while and further accessions may be put on hold. But enlargement will eventually resume and lessons from the first post-communist enlargement are crucial for the next ones, simply because the countries next in line, except Croatia, have starting points at the level Romania and Bulgaria had – or worse. In other words, these countries have not yet achieved their transformations.

Advocates of enlargement for the Balkans argue that enlargement is the best transformation tool and that negotiations should start immediately with western Balkan countries. It has even been suggested by the

²⁸ See Fukuyama, *op. cit.*

International Commission for the Balkans²⁹ that Olli Rehn, the Commissioner for Enlargement, should take over from Paddy Ashdown as the Bosnian administrator. While on the one hand driven by the justified need to offer some certainty to these battered countries (and so increase the incentive power) and to facilitate access to more EU funds, on the other hand (as funds other than pre-accession ones seem out of the question somehow) this proposal overstates the role of enlargement as a development tool. Enlargement is no such tool, nor was it designed to be, as it was simply carried over with minimal adjustment from previous enlargements. DG Enlargement does not have the same mission and staff as the World Bank and the twinning advisors do not share one vision on transformation and certainly not one vision *together* with the European Commission, so they turn out to be rather dubious agents of change. Furthermore, pre-accession funds suppose tedious state-building, which is an unnecessary burden at this stage in some of these countries. What the western Balkans need is *flexible* aid, invested towards empowering pro-European groups and consolidating them in their societies, not the long-term creation of structures that might not be necessary by the time they accede owing to changes within the EU itself. The European Commission is right that they should belong to the EU sooner than later – but it might not yet have grasped the best way to achieve this goal.

One more important conclusion arises. Reform in Central Europe, and later in Romania and Bulgaria, as captured in the Freedom House scores, has been driven by the EU, but pushed by domestic elites. Its pace tends to slow down after negotiations start, partly because the elites already consider that they have won the prize from the viewpoint of previous achievements, and partly because all the energy goes into ‘Europeanisation’, which often does not imply deeper reform. Instead it creates numerous empty shapes, which will linger around for years waiting for the substance to catch up. Embarking on negotiations when local elites have not yet done their best could be risky. Of course, elections will be held and opportunities to bring in more committed reformers could occur after negotiations start. Nevertheless, negotiations cannot provide the best background for Orange Revolutions or for achieving transformations. This

²⁹ G. Amato (ed.), *The Balkans in Europe's Future, Report of the International Commission on the Balkans*, Sofia, 2005 (retrieved from <http://www.balkan-commission.org/>).

particular instrument, EU enlargement, has already been pushed to its limits. One has either to reform it profoundly in view of the lessons learned in order to use it further as a transformation device, or just use other transformation devices, equally based on conditionality and socialisation, and improve on those. In the particular case of the western Balkans, what could work is more development-oriented EU aid and lifting the requirements for Schengen visas at least for Macedonia, Serbia and Albania, which have the ability to screen people at their borders. Such a measure would bring more profit to these countries than the numerous and largely ineffectual free trade agreements that have been signed over the last few years.

Amalgamating the benefits of the enlargement *process* with the benefits of EU *accession* in general is confusing two different phases of development. Enlargement should definitely not stop with Romania and Bulgaria; clear roadmaps should point towards the future targets for accession. Further, the strategies to reach these targets should be guided by the logic of transformation, not integration. This approach means that some transitory strategies and even institutions might be needed to reach the point at which accession can start. Imagining that the process of enlargement can *solve* the unfinished transformations of Ukraine, Albania or Serbia runs the risk of discrediting enlargement – as it would not work and may also bring more damage than good to these countries. Domestic reformers and their foreign advisors should give up the dream of one-size-fits-all solutions and embark on the tedious work of accomplishing their transformations with strategies tailored by country and by sector. The EU should remain the arrival point of the regatta, exercising its powerful attraction and not become the regatta itself.

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THE DYNAMICS AND SUSTAINABILITY OF THE ROSE REVOLUTION

GHIA NODIA

This essay seeks to identify what the case of Georgia – more specifically, the Rose Revolution and its aftermath teaches us about the nature of revolutions and the prospects for democracy in countries that are, well, like Georgia. The phrase ‘countries like Georgia’ refers to countries and political regimes that are not democratic, but which cannot be considered classical dictatorships either. Such countries have both authoritarian and democratic elements in their political systems (and the democratic elements are not just a façade), so there are some internal political dynamics that make the prospects for the implementation of the democratic project not completely hopeless. This description relates to a very large part of the world that is often called the ‘grey zone’ – a reflection of mainstream political science’s inability to find some kind of acceptable term for it.

Therefore, this essay is structured according to the conceptual problems that exist around the democratisation project in our world – and about which the experience of the Rose Revolution in Georgia has something to say.

What ‘revolution’?

The most popular question about the Rose Revolution is whether it was a ‘real’ revolution or not. For instance, some people prefer to call this a regime change or even a change of leadership. This line of thinking obviously requires that we define what we mean by ‘revolution’ – and of course, definitions vary according to the intellectual tradition one

subscribes to, or more precisely, the context in which the word is used. We may speak of revolutions in contrast to something else: revolution rather than reform, revolution rather than coup or revolution rather than transition. The meaning of revolution often depends on what follows the 'rather than' part.

Taking the 'revolution rather than transition' aspect as a starting point, in his famous article, Thomas Carothers wrote about the "end of the transition paradigm".¹ There were those (including the author of this essay) who criticised his approach in the belief that he himself invented the very paradigm he criticised – or at least he could not quote any other well-known political scientist who had actually formulated that paradigm. But it can be argued that the string of 'revolutions' of which the Georgian revolution was one, has in some sense vindicated him – although not exactly in the sense about which he spoke.

Previously, there was a widely held belief that the change of a political regime from an authoritarian (totalitarian) to a democratic one was such a profound event that it could not occur without an open struggle between the forces for democracy and those of the *ancien regime*, and this struggle deserved the glorious name of 'revolution'. In the late 20th century, however, the concept of revolution went somewhat out of fashion. A number of people who considered themselves champions of democracy developed a distaste for revolutions, and it was in this context that the concept of transition was invented. The founding fathers of 'transitology' used the word 'transition' to replace the word 'revolution'.

The concept of democratic transition is similar to that of democratic revolution in that it denotes a profound change of a political regime from a non-democratic to a (more) democratic one. The difference is that in the concept of revolution, the stress is on the *fight*, in which the *masses* are involved; in the concept of transition, the stress is on *bargaining*, in which *elites* predominantly are involved. Revolutions are resolved through a victory of one party and the definitive defeat of the other (typically ending in the guillotine, imprisonment or exile for the losing parties). Transitions are resolved in *pacts*, which define the steps and procedures of transition from one (non-democratic) set of rules to another, and where the interests

¹ T. Carothers, "The end of the transition paradigm", *Journal of Democracy*, Vol. 13, No. 1, 2002.

of all parties involved – including representatives of the old power – are somehow taken into account.²

The literature on democratic transitions initially focused on events in Latin America and southern Europe in the 1970s and 1980s. Samuel Huntington defined this set of political transformations as “the third wave of democratization”.³ The break-up of communist rule in 1989-91 was also considered part of the third wave and the transition paradigm was extended to include it. Much discussion ensued about whether the theory of democratic transition as it was formulated for the cases of southern Europe and Latin American could be applied to the post-communist realm.⁴ Nevertheless, when political scientists discuss political transformations in the post-communist world, they still prefer to speak of transitions, rather than revolutions.⁵

What was the main reason behind this conceptual change? There are at least two factors at play here. One is linked to the traditional association of revolutions with violence. In the second half of the 20th century, modern man developed a strong aversion to violence. Possibly, it was the experience of communism and fascism that dealt a mortal blow to the

² A classical elaboration of the transition paradigm, which was later developed in numerous other studies, is given in G. O’Donnell and P. Schmitter, *Transitions from Authoritarian Rule: Tentative Conclusions about Uncertain Democracies*, Baltimore, MD: Johns Hopkins University Press, 1986.

³ S. Huntington, *The Third Wave: Democratization in the Late Twentieth Century*, Norman, OK: University of Oklahoma Press, 1991.

⁴ See for instance S.M. Terry, “Thinking about Post-Communist Transitions: How Different are They?”, *Slavic Review*, Vol. 52, No. 2, Summer, 1993, pp. 333-37; see also G. Nodia, “How Different are Post-Communist Transitions?”, *Journal of Democracy*, Vol. 7, No. 4, 1996, pp. 104-16.

⁵ There are some exceptions: Michael McFaul disagrees with a ‘transition’ label precisely because he believes that the events that have unfolded in the course of the break-up of communism were closer to the concept of ‘revolution’ than that of ‘transition’: there was no bargaining or pacts, in which moderate players marginalised more radical ones. Instead the incumbent rulers were swept out of their offices as a result of popular protests. See M. McFaul, “The Fourth Wave of Democracy and Dictatorship”, paper prepared for the Annual Meeting of the American Political Science Association, San Francisco, CA, 30 August-2 September 2001.

tradition of celebrating violence, which used to be at the heart of the classical revolutionary spirit.

The second factor was the immense increase in the normative power of democracy. After World War II, Western-style liberal democracy established itself as a political system that was associated not just with goodness – one can argue endlessly about whether democracy is inherently good – but also with success and power. That is, liberal democracy proved to be not only most suited to human nature as classical liberal philosophers thought, but also the most reliable mechanism for delivering security, stability and prosperity; thus the democratic world ultimately became more powerful in a traditional, military sense of the word. As a result, a strong consensus developed in favour of liberal democracy being the best political order – at least in that part of the world strongly influenced by Western political and intellectual traditions. This trend undermined the will for openly resisting democratic principles. What was such resistance to be based upon – the divine right of kings? ‘Non-democratic’ began to mean something like uncivilised, backward and weak.

Under these conditions, non-democratic rulers have found it increasingly difficult to maintain things as they are. Many of them have begun to believe that the tide of democracy is unstoppable or that they need to concede at least some space to democratic principles. Under these new circumstances, it has become easier to negotiate a way towards democratic order.

What, then, is meant by the return of the word ‘revolution’ to popular discourse? In a post-communist country like Georgia, it may imply a certain mental emancipation from its communist past. For the first post-communist generation, the term revolution was far too closely connected with the communist ideology: given that it was the communists who glorified revolution, anti-communists were extremely cautious about using the word. The new generation – having been socialised after communism – does not have any qualms about it.

This matter is one of social psychology and not just the choice of words. The more important thing is the political background against which the colour revolutions were sparked. If these events are described as revolutions, what was the context or *ancien regime* against which they occurred?

The *ancien regime* and the power of the people

The real nature of Georgia's *ancien regime* (or the Shevardnadze regime as Georgians usually see it) was its inherent ambiguity – the feature that some commentators viewed as its façade or Potemkin nature. On the one hand, there was official recognition that democracy was the only game in town. The general constitutional framework in Georgia was quite democratic and there was no ideological objection (coming from the government or the opposition) to the idea of democracy. This meant, in particular, that there was a parliament that could be rather independent from the executive (or at least the constitution allowed it) and that political parties could operate freely, the media could become increasingly independent and influential and that civil society organisations could be active and conspicuous. On the other hand, the leaders assumed that they would have enough levers to prevent the most basic process of democracy – a change of government through elections – from materialising.

As his interviews immediately after the revolution revealed, former President Eduard Shevardnadze's project was that of managed democracy, whereby the leaders tolerate pluralism, but within limits. This political project can also be called one of 'enlightened oligarchy' (the term 'oligarchy' here refers to its original meaning of the rule of the few, rather than the rule of the rich, which should be termed 'plutocracy'). This framework allows a plurality of interests, but the important issues are decided by a small directorate, and the leader – in this case Mr Shevardnadze – retains the function of the final arbiter. In other words, the ruling directorate led by Mr Shevardnadze had to control 51% of the stock in the political enterprise. Other actors were free to act as long as their power did not exceed the 49% threshold. Bargaining was possible, but if the claims of certain players went further than the threshold suggested, they were deemed to be a threat to the system.

The question for the leadership was how to sustain the system of pluralistic oligarchy at the same time as officially maintaining a generally democratic framework. The history of recent revolutions demonstrates that this is extremely difficult. On the conceptual side, the paradigm of "Potemkin democracy" – the metaphor Charles King used with regard to Georgia⁶ – proved to be vulnerable. He might have been right in implying

⁶ C. King, "Potemkin Democracy: Four Myths about Post-Soviet Georgia", *The National Interest*, No. 64, Summer, 2001, pp. 93-104.

that Mr Shevardnadze had intended the elements of pluralism he tolerated to be kept like Potemkin villages for deceiving Western visitors (or rather for helping those visitors to save face when they talked of the progress of democracy in Georgia). But that does not mean that the free media, the active NGOs and the network of political parties that were accustomed to acting freely were just Potemkin villages in practice. Rather, the metaphor of a genie that cannot be controlled once it is let out of the bottle is more appropriate here. When Mr Shevardnadze began to understand his miscalculation, it was too late. For example, in 2001, when he tried to cut the wings of the most popular independent television station, Rustavi-2 (by sending in security services to investigate alleged tax abuses), the popular backlash was too strong: protest actions linked to the raid against Rustavi-2 led to the resignation of the entire cabinet and proved to be nothing less than the grand rehearsal for the Rose Revolution.

Next we turn to the most important factor: that of power of the people. Success or failure of the managed democracy project depends on the government's ability to *manipulate* people. The official democratic ideology claims that people own 100% of the stock of the political enterprise, while in reality 'the people' (that is, everyone beyond the ruling oligarchy) have to content themselves with a maximum of 49%. This situation can only be achieved through cheating. Such cheating takes many forms but the opportunity to rig elections is the most important. Mr Shevardnadze was under the misapprehension that he could cheat and manipulate the people indefinitely. Yet even the measured democratic freedoms he tolerated also allowed alternative political players to mobilise public support against the political regime.

This is probably why the concept of revolution is so important. 'Revolution' here means the exercise of people power. The aim of the various colour revolutions is to call the bluff of managed democracies. People are pushing their leaders to the point where they either have to shed any democratic pretence and manage without democracy (that is, reveal themselves as bloody dictators) or they have to concede defeat and succumb to the people's will. This tactic is a gamble of course, but it has proved beneficial for Georgia and certain other countries.

Democracy and stateness

Whether a revolution is a 'real' one can be judged by both its process and its outcome. The Georgian revolution withstood the first test in as much as people power was the decisive element, but the outcome is less clear. Was it a change from managed democracy (that is, semi-democracy or quasi-democracy) to a real democracy? Did the nature of the political regime change as a result of the revolution? Presumably, this is what most people have in mind when they ask whether this was a genuine revolution.

It is argued here that as yet no conclusive answer can be given to this question. Of course, the fact that a government reacts to a democratic impulse is no guarantee that it will create a democratic system of governance. The Rose Revolution did express the strength of the normative idea of democracy in Georgia, along with the increased skills of societal players in defending it. Nevertheless, the outcome is still open: it may be a success or a failure.

There have been many criticisms of the government of President Mikheil Saakashvili, who came into power as a result of the Rose Revolution. The most important one relates to changing the constitution from an American-style separation of powers between parliament and the president, to a super-presidentialist system with a very weak parliament, which is quite typical of semi-authoritarian, post-Soviet countries. There are other reasons for concern: many actions of the new government – which it has justified on the grounds of fighting corruption – have been rather dubious from the position of the rule of law; judges have rarely dared to contradict prosecutors; the political opposition has become extremely weak; the media has become strangely tame on many subjects; and NGOs have become less assertive. The government may not be responsible for all these developments and the new government is certainly not a dictatorship – Georgia is still a pluralistic country. But the picture so far does not correspond to a triumph of democracy. Moreover, if we specifically measure civil freedoms and democratic balance, any progress as compared with Shevardnadze's regime is far from evident.

A cynical assessment is that the new government is made up of a bunch of clever demagogues who skilfully manipulated popular discontent with the old government and used it for capturing power. Further, this government will have learned lessons from the demise of former President Shevardnadze and will not tolerate the level of democratic freedoms that

even he accepted, because they appreciate how dangerous it is. They know which levers they used in order to bring him down and will not allow others to do the same.

Another pessimistic assessment is that the Rose Revolution demonstrated that Georgia is in a cycle of non-constitutional transfer of power: the previous President, Zviad Gamsakhurdia, was also forced out of office. So, it seems as though Georgia is becoming a kind of banana republic, in which every leader is accused of authoritarianism only to be removed through a 'revolution' and replaced with another leader who recreates the authoritarian system in a somewhat different style.

These concerns are legitimate and negative scenarios are worth considering. About a year and a half of experience with the new government allows us to observe that the new political regime is again a mixture of democratic and authoritarian elements. The same could be said of the two previous political regimes of Messrs Gamsakhurdia and Shevardnadze. Georgia has yet to develop stable and democratic political institutions. All of these leaders came to power as democratic representatives and were later accused of authoritarianism. This repetition begs the question of whether there is some structural problem at work.

But that is not to say that nothing has changed and the Rose Revolution is just another turn in a vicious circle of unstable Georgian institutions. Changes do occur. To state the most obvious, the previous revolution (which was also called a rebellion for democracy) was a bloody enterprise that led to a situation of anarchy and dismemberment of the country. The Rose Revolution was peaceful; the new order has quickly consolidated and led to a strengthened rather than weakened state.

The main issue here is that traditional approaches to democratisation take stateness and nationhood for granted, and focus on democratic institutions per se. Even if such an approach was justified in other cases (which can possibly be challenged), it is conspicuously inappropriate for a country like Georgia, where most basic tasks of state- and nation-building are incomplete. Therefore, democracy-building can only be sensibly discussed against the backdrop of, and in conjunction with, those of nation-building and state-building.

For the rest of the world, and the majority of the Georgian people, the main problem with Georgia has been that it has not been democratic enough: it has been a 'failing state' or – in a kinder formulation – a 'weak state'. The most obvious indicator of this has been the lack of consensus as

to who is part of the Georgian political nation – noting the separatist regions of Abkhazia and South Ossetia. There was also the bizarre semi-separatist case of Ajaria, and – as many have feared – potential separatist communities of Armenian and Azeri minorities, most of whom do not speak Georgian, the only official language of the country. Other indicators of state weakness have been the difficulties the state has had in controlling violence, the extremely high level of corruption and the prevalence of the shadow economy (both of which imply the utter disconnect between the citizen and the state), the very low level of public revenues, etc. Even within the post-Soviet space, in which the problem of state weakness is widespread, Georgia can be especially singled out (probably second only to Tajikistan in weakness indicators).

Mr Shevardnadze's government presided over a very weak state indeed. It is notable that in the early 1990s he made important progress in this area – he turned Georgia from a failed state into a weak one.⁷ In the last years of his presidency, however, it became clear that his capabilities were limited. He appeared able to maintain his political survival, but not to achieve anything. Arguably, this sense of political impotence led to his near-total loss of credibility among the people. Georgians wanted the new government to be functional and specifically to work for the public, and this is what the people expected.

Those of a democratic disposition do not like to speak of the strength of the state as a positive value, because they are afraid that a strong state may be repressive. They are also reluctant to play the game of autocrats, because autocrats use the idea of a strong state as an excuse for anti-democratic tactics. Whether we (democrats) like it or not, in a logical sequence of tasks, state- and nation-building precede the creation of democratic institutions. In other words, there can be no democratic institutions unless there is some sort of functional state and some basic consensus as to whose state it is (that is, who represents the nation or

⁷ A more elaborate discussion of this can be found in G. Nodia, "Putting the State Back Together in the Post-Soviet Georgia" in M.R. Beissinger and C. Young (eds), *Beyond State Crisis: Post-Colonial Africa and Post-Soviet Eurasia in Comparative Perspective*, Woodrow Wilson Center, Washington, D.C., 2002, pp. 413-43.

political community behind it). Yet there can also be an undemocratic state.⁸

When President Saakashvili's government speaks of its achievements – and it has genuine, important achievements – these are predominantly about nation- and state-building. The new government solved the problem of Ajarian semi-separatism, apparently for good. It has dramatically increased public revenues. For the first time in the history of independent Georgia, the government has started paying salaries to public servants (not all of them yet, but the first steps have been taken). Corruption is still rife, of course, but there has been success in fighting it in some key areas (such as the police force). The government has launched some ambitious projects to improve public infrastructure, for example building roads. It has started to formulate a more inclusive notion of what the Georgian nation is – which is important for a country with a diverse population. It has changed the symbols of state and made Georgia much more popular. When Mr Saakashvili lists his accomplishments (which he loves doing) he never forgets to add that the Georgian people have begun to love their national hymn and can actually sing it – and he is right to be proud of this. A cynical attitude towards the state (and the public sphere in general) has been part of Georgia's mentality, and shifting this attitude has to be the government's priority.

Whether the new government's efforts to build a stronger state are sustainable is up for discussion, but that is not the point here. The issue here is that it has clearly made state-building its priority. Is that right or wrong? It can be argued that it is right. Yet here is the paradox: if a notoriously weak state is the starting point, then developing the state is the necessary precondition for creating functional democratic institutions. On the other hand, can strengthening the state occur without a relative weakening of those institutions that create the necessary balance of power?

There is discussion that the media or civil society organisations have become weaker in Georgia. This trend can, however, be considered from another point of view: Georgian civil society has appeared strong in contrast with a very weak, ineffective state. Dealing with a strong state sets

⁸ Francis Fukuyama argues convincingly as to why state-building is important in *State-Building: Governance and World Order in the 21st Century*, Ithaca, NY: Cornell University Press, 2004.

higher standards. Perhaps strengthening the state did not weaken civil society – rather it exposed its pre-existing frailty.

The new elites and new confidence

Another criterion by which the Rose Revolution can be identified as an authentic one is that it brought a new elite to power. Let us call this the ‘Pareto criterion’. Some time around 2000, Shalva Ramishvili, owner of the television station (202) that created a series of satirical cartoons about former President Shevardnadze, said in one public gathering that he wanted the new president of Georgia to know English and computers. This qualification was often used in job advertisements and became a metaphor for the skills required for jobs in the organisations and businesses that were created after independence. The new elite that came to power can be metaphorically described as those who speak English and work with computers. These are individuals who were largely socialised after independence and do not have links to the Soviet past – when the communist system began to dismantle, they were university students at best. On the other hand, these are persons whose social advancement is in one way or another linked to the skills acquired for contacts with Western institutions: they have either been educated in the West or travelled there extensively, worked in international organisations or Western-funded NGOs, or run Western-style businesses. They represent a contrast to Mr Shevardnadze’s crowd, or at least those who stayed with him to the very end: many of the Shevardnadze regime might have also been young, but their social advancement was based on participation in local rather than international networks.

The view that the revolution brought new elites to power somewhat conceals the fact that the most prominent leaders of the revolution had started their political careers under former President Shevardnadze and were known as part of the ‘reformist wing’ within the government. So, it is sometimes argued that the revolution did *not* bring a change of the elite; on the contrary, some members of the new government simply came on board from the ranks of the opposition. This assertion is formally true, as Mr Shevardnadze had indeed promoted individuals who later deposed him. Nevertheless, he never allowed ‘the reformers’ to play a central role: he kept them as one element within his system of balance of power. The main

point, however, is not a political biography of the leaders, but the attitudes of different social networks.

Mr Shevardnadze's outlook – and that of many people around him – was partly defined by an extreme scepticism of Georgia's ability to be a real state, and especially of the capacity of the Georgian people to create such a state. They were used to the idea that Georgians are essentially parasitic creatures who can take advantage of some system of order and find their own niche within it, but some external actor is necessary to take care of the general framework. Georgia had to have a powerful patron. One could call this a 'post-colonial mentality'. While Mr Shevardnadze had lived most of his life in a Georgia that was part of the former Soviet Union, he might have lived comfortably under Russian patronage. But political circumstances pushed him towards patronage by the West and the US in particular. He understood his political role primarily as securing favours from this patron, and being ready to pay the patron with loyalty. The goal of this relationship was survival: survival of Georgia as a state and survival of the Shevardnadze regime. For instance, to the former president, building the Baku-Tbilisi-Ceyhan pipeline was the project of a lifetime, because the pipeline would link the interests of Georgia's patron (the US) to itself. But he did not appear to believe that Georgia could be transformed into a Western-style country. Rather his aim was related to being a good client to a patron, by providing territory for the transit of oil. He neither believed that Georgia could become like its patron nor relate to it as an equal.

The attitude to corruption – the defining slogans of the Rose Revolution ('Georgia without Shevardnadze' and 'Georgia without corruption' were used interchangeably) – followed from this. As a young man in early 1970s, he tried to fight corruption (which is how he started his career as a communist leader in Georgia). Perhaps he believed he could achieve something. He failed, however, and probably gave up on this objective. He was not a corrupt person, as even opponents such as President Saakashvili would say, but he thought corruption was endemic in Georgia and had to be manipulated to sustain power.

The new generation is more Westernised and more confident about Westernising Georgia in general. It is not enough for them to ensure the survival of the country, they want to change it – they are *modernisers*. They belong to the paradigm of the Young Turks. They sincerely believe that Georgia can become a Western country at least in the sense that post-communist countries of Central and Eastern Europe are Western, and that

can happen soon. They are *impatient*. Yet a vigorous effort is needed. They call it 'political will'. This distinction is the main one they ascribe to the new government as compared with the old one: Mr Shevardnadze's crowd did not have the political will to achieve anything, they simply wanted to retain power; the new government has political will and they want to achieve something. Where Mr Shevardnadze was process-oriented, the new government is results-oriented. For Mr Shevardnadze, the political process was about balancing different interests against each other and making sure he maintained the position of final arbiter. For the new crowd, the political process is about a continual fight for their own agenda and the mobilisation of resources for overcoming the resistance that their agenda generates.

Although they have general confidence in Georgia and the Georgian people, they also think that at present the Georgian people are ailing – because of the heritage of Soviet traditions and, prior to that, life in the Russian Empire. Prejudicial and corrupt practices rooted in that past are expressions of the ailment. Therefore, the young, motivated and progressive elite believe the ailment can be cured with harsh, unpleasant measures. Revolution did not end in toppling former President Shevardnadze – it continues as a more profound revolution about fighting those deeply entrenched social practices ('corruption' is just a code name for them) that Mr Shevardnadze personified. Nobody uses the term 'cultural revolution' for describing this agenda, but in the end, that's what it is.

The model for development is of course the West. Nevertheless, the new elites are less subservient towards the West. Because they consider themselves Western and Georgia as an essentially Western country, the new elites are also more confident about arguing with Westerners about what 'Western' entails. They are cheeky. President Shevardnadze felt comfortable about cheating the West – making promises and breaking them (every client cheats on a patron when the latter is looking the other way) or looking for excuses in his weakness, but he would not dare to argue with Westerners on essential issues. The new government may of course play the old tricks as well. Yet when Mr Saakashvili took issue with the statement made by Secretary-General of the Council of Europe Walter Schwimmer, the president did not say that Mr Schwimmer was uninformed or did not understand the specific conditions of Georgia –

something an old-style leader would have done. Instead he implied that Mr Schwimmer was not a good European.

At least two inferences follow from all this. The main result of the Rose Revolution may be that Georgia has new confidence and holds itself to a higher standard. The very fact that the revolution occurred, that the Georgian people could accomplish it in such good style, helped to overcome the loser syndrome that Georgians had had after the wars and turmoil of the early 1990s and the mess that followed. But it also means that Georgian citizens hold themselves and their government to higher standards. The young and activist government that is happy to continue to raise expectations (which are often unrealistic) even after coming into power also encourages people to demand more from their government. High expectations are of course dangerous and may prove destabilising in the long run. But they also create motivation for achievement.

Authoritarian modernisation and external European constraints

The agenda of fast modernisation with its built-in tasks of cultural revolution, in combination with a weak civil society (including the political opposition) and the absence of any social players who are strong enough to counterbalance the activist government, also look like a recipe for authoritarianism. There are many historical precedents of autocratic modernisers, particularly in Georgia's neighbourhood (both to the north and south), and some of these have been less successful than others. What elements or actors can serve as constraints?

A 'real' consolidated democracy involves a system of separations (not just in terms of the separation of power) and then a balancing among the separate branches and actors.⁹ Unless such a system exists – and its creation takes time – there can be no strong guarantees that a government will be restrained. Therefore, until such time as this is in place, there will always be a fertile ground for authoritarianism. As the aftermath of the Rose Revolution has shown, Georgia still lacks independent social actors who are strong enough to effectively stand up to an activist and motivated government. There is already a social experience of collective mobilisation against an autocratic government, if that government trespasses some line

⁹ P. Manent, "Modern Democracy as a System of Separations", *Journal of Democracy*, Vol. 14, No. 1, 2003, pp. 114-25.

that is hard to define but nevertheless exists. Georgian liberal elites, a.k.a. 'civil society', also gained some skills in defending their rights or privileges. Although this is much better than nothing, it may not be sufficient in itself.

Against this backdrop, the Georgian project of unilateral integration with the EU may be serving as the strongest constraint against an inherently authoritarian trend of accelerated modernisation. By erecting the flag of the EU on his inauguration day and proclaiming that joining the EU (and NATO, of course) is the government's most strategic goal, Mr Saakashvili offered the EU a very strong restraining power against his own authoritarian instincts. It is up to the EU to use this constraining power skilfully.

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THE ORANGE REVOLUTION: EXPLAINING THE UNEXPECTED

HRYHORIY NEMYRIA

Very few experts predicted Ukraine's Orange Revolution. Nonetheless the unexpected happened. Therefore the first question to ask is: What are the underlying sources and causes of Ukraine's breakthrough to democracy? The answer would bring us to a more vital question of how does one sustain healthy domestic political change. We then try to assess the potential of a wider impact of the Orange Revolution which has to do not just with Ukraine's immediate neighbours but also relates to the phenomena of overlapping integration spaces,¹ including partnership and cooperation with the European Union, the Euro-Atlantic agenda and developments within the Commonwealth of Independent States (CIS).

It is clear that there was no single cause that triggered the Orange Revolution. It came as a result of interaction between various factors, the most important being the role of civil society, national identity, the nature of political institutions and modes of external pressures.

Needless to say, it would be misleading to concentrate only on the political process before and during the presidential elections in 2004. There are different ways to explain the revolution depending on how deep one wants to dig. I would suggest that there were three distinctive periods in the genesis of the Orange Revolution: i) 1991-2001: maturation, ii) 2002-03: incubation, and iii) 2004: breakthrough. Basically these 14 years since the break-up of the Soviet Union and Ukraine's newly obtained independence [from above]

¹ None of Ukraine's western neighbours finds itself within the alternative *overlapping* integration spaces.

witnessed a very gradual and uneven process of growing differentiation in the initially rather homogeneous post-Soviet space which was best [described at the beginning as a 'legacy paradigm'.]

Let us not forget that most of the activists of the PORA civic campaign (the avant-garde of Ukraine's democratic revolution) and similar networks are only 18-20 years old. Born after 1985, all of them in fact are children of perestroika and independence.

As Linz and Stepan put it, "civil society by itself can destroy a non-democratic regime, but democratic consolidation must involve political society".² It is true. It seems to be equally important, however to constructively engage civil society after revolution to ensure the sustainability of democratic change. A slogan establishing an open and just society can acquire a normative power. The challenge of separating legitimate private and public interests is the other important task for the new government especially when it deals with the issue of property rights.

A defining element of the external framework throughout this period has been the absence of any strong economic, political or security anchor that would firmly connect Ukraine with the West. In other words, EU and NATO enlargements, which have proven to be immensely successful foreign policy and security instruments with democratic and all other kinds of conditionality attached, did not extend to Ukraine. OSCE and the Council of Europe (1995) memberships did play some role, but they were not sufficiently compelling to decisively influence the process. The bilateral framework was even less efficient, the notable exception being Ukraine's relations with the United States, which had relatively stronger leverage. Furthermore it is worth recalling that the dominant focus of the outside actors dealing with Ukraine in 1991-94 was not on democratisation but rather on de-nuclearisation (given that the country possesses the third largest nuclear arsenal in the world!).

Compensatory surrogates such as the Commonwealth of Independent States and its satellite structures, which were designed initially to ensure a civilised divorce of the former Soviet republics and eventually assigned by the Russian Federation – as an aspiring hegemonic power – increasingly (re-) integrative functions, were ill-born, overloaded with institutions and not

² See Juan J. Linz and Alfred Stepan, "Toward Consolidated Democracies", in Larry Diamond, Marc F. Plattner, Yun-han Chu and Hung-mao Tien (eds), *Consolidating the Third Wave Democracies: Themes and Perspectives*, Baltimore, MD: John Hopkins University Press, 1997, p. 17.

attractive for Ukraine. Of course, it was unthinkable to expect these institutions to become agents of promotion of human rights and democratic freedoms in the newly independent states. On a bilateral level Russia did play a stronger role due to, first of all, Ukraine's energy dependency. It was during this period of time that Russia developed the main elements of its policy towards Ukraine as a 'low-hanging fruit'. This policy finally collapsed in 2004, when the Kremlin even tried to shake the tree in a desperate effort to get (o) Orange.

Ukraine's unfinished departure from the USSR in the early 1990s produced an extremely unhealthy continuity of the elites. The Ukrainian leadership became a strange mixture of old *nomenklatura* and red directors with a twist of national democrats and oligarchs. This marriage of *apparatchiks* and dissidents gave birth to the Ukrainian independent state. The old system was destroyed from the top before the civil society became strong enough to challenge the system from below. It took some time for it to grow up and develop a taste for democracy.³

Legacies of the past – periphery of empires, 'junior brother' complex, Soviet political culture, Chernobyl trauma – battled with some very meaningful achievements of the present – avoided ethnic violence, peacefully solved Crimean problem, liberal language policy and a strengthened civic component of national identity. A civil society with a growing potential for effective organisation and solidarity has emerged, as well as a previously unknown phenomenon of the young middle class willing and able to defend its interests.

Outgoing President Kuchma's choice of Viktor Yanukovich, Ukraine's Prime Minister, as his successor was a move in support of the status-quo. The foreign policy expression of the status quo was the so-called 'multi-vector policy', which was effectively a product of Kuchma's successful 'milking two cows' – the West and Russia – strategy. In his turn, the presidential candidate – to ensure his electoral victory – invented what might be called the 'Yanukovich cocktail', which consisted of three major ingredients: one, administrative resources; two, the harassment of NGOs,

³ See Hryhoriy Nemyria, "Ukraine and the European Union: A Fresh Start?", in Joerg Forbrig and Robin Shepherd (eds), *Ukraine after the Orange Revolution: Strengthening European and Transatlantic Commitments*, German Marshall Fund of the United States and Heinrich Böll Foundation, and the HBS, 2005, pp. 33-48.

the media and the opposition; and three – and this is where Putin comes in – Russia's shoulder.

President Putin with his awkward gestures of premature recognition of Viktor Yanukovych overestimated the attractiveness of his own personality and the weight of the Russia's shoulder for Ukrainian voters. And, even more importantly, he heavily underestimated two other factors: the ability of the West – the EU and the United States – to respond with one voice, quickly and coherently and, last but not least, the maturity of Ukrainian civil society.⁴ Not incidentally, the Ukrainian Orange Revolution gave a new push for a civil society concept that was about to become unfashionable.

The deeper view could reveal further differences in the very fabric of the society. Firstly, neo-imperial feelings, fuelled by nostalgia, are absent in Ukraine, while in the Russian Federation those sentiments remain a crucial part of Putin's nation-building project, as well as the domination of Russia in its 'near abroad'. Secondly, Ukraine does not engage in the security versus democracy discourse, heated by the Chechnya syndrome. Democratic values have never been sacrificed in the minds of Ukrainians to the artificially securitised political agenda of the state. Thirdly, trust in political competition is much stronger in Ukraine. Unexpected results of the Parliamentary elections of 2002 were an early indicator of the existence of the *democratic* opposition able to exercise leadership. A united societal response to the 'Tuzla crisis', the passion and scope of the people's movement known as 'Ukraine without Kuchma' and the tragic 'Gongadze case' have all been signs of the healthy developments, strengthened national identity and growing solidarity within Ukraine's civil society.

Ukraine was the only post-Soviet country where the referendum initiated by the incumbent and designed to be used as a pseudo-democratic tool to strengthen the president's powers failed to be implemented. It indicates that a deeper change occurred in the nature of political institutions and new democratic practices which in the end contributed to a peaceful, non-violent character of the regime change in Ukraine. Real political competition with strong opposition and relevant maturity of – otherwise still fragile –

⁴ Civil society successfully passed in 1991-2000 the stage of imitation which is common in both colonial and transitional states. See Sudipta Kaviraj, "In Search of Civil Society", in Sudipta Kaviraj and Sunil Khilnani (eds), *Civil Society: History and Possibilities*, Cambridge, Cambridge University Press, 2001, pp. 307-318.

institutions, most notably the Parliament and, as it became evident in the crucial moment of political crisis, the Supreme Court, are all examples in sharp contrast to the managed democracy machinery and autocratic practices in Russia. One could also add to the list the different roles that *'siloviki'* – army, police and, especially, security forces – have chosen to play in Russia and Ukraine.

Thus, Huntington's famous thesis has been defeated once more: this time – in Ukraine. It is not the clash of civilisations that matters. It is rather the clash of misperceptions. While the European debate on Turkey was centred around the concern that it was "too big, too poor and too Muslim to integrate", Ukraine's problem was its image of a country that is *too big* in the sense that Ukraine is larger in geography than France, and is the fifth largest country in Europe by population; *too poor* in the sense that GDP per capita is just slightly more than a third of the average of the ten new EU members; and, of course, *too Soviet* to elicit serious consideration of its chances of becoming part of the European Union.

Not incidentally, therefore, until recently attitudes towards Ukraine's future ranged from those seeing in the country the potential for a 'strategic partnership', through those that thought about it in terms of a 'buffer zone', to outright indifference. Ukraine has occupied a firmly peripheral place in the mental map of the EU bureaucracy, which succumbed to 'Ukraine's fatigue'. The European political mainstream, in general, became comfortably reconciled to the increasing institutionalisation of Ukraine's peripheral status as a country 'muddling through' on the margin's of Europe.

The Orange Revolution undermined this pattern of thinking, which is now totally irrelevant. While still big and still relevantly poor, Ukraine is not Soviet anymore. Furthermore it generates healthy dynamism able to reinvigorate not just itself, and neighbouring Belarus and Russia, but also a broader Black Sea region and former Soviet space in general. This is the real strategic meaning of the Orange Revolution.⁵ One of the unintended consequences might be an eventual change in philosophy and modification of the instruments of the EU European Neighbourhood Policy. Old labels that resonate with old geography should not prevent us from doing innovative

⁵ See Ronald D. Asmus, "Redrawing (Again) the Map of Europe: A Strategy for Integrating Ukraine into the West", in Joerg Forbrig and Robin Shepherd (eds), op. cit, pp. 87-90.

work with new geographies taking into account the growing internal diversity of the region.

The transformative power of the Orange Revolution should be fully utilised as there are evident *links* between the new *quality of democracy* in Ukraine and the necessary *quality of the bilateral and regional cooperation* that could have a decisive impact on the *quality of regional security* at large. Progress in solving the Transdnistrian conflict with a new contribution from Ukraine is the first test down the road.

The new Ukrainian government will need to strengthen the social drive and momentum of healthy domestic political change. Towards those ends, it must undertake a sustained effort to further the rule of law, fight corruption and speed up the modernisation of the economy in parallel with the painful overhaul of the government and the uncertain pace of the Constitutional reform in the year of upcoming parliamentary elections.

The formula of integrating into the EU and NATO and forming a strategic partnership with Russia will be the centrepiece of Ukraine's foreign policy strategy. This long-awaited final abandoning of Ukraine's counterproductive 'multi-vector' foreign and security policy will require the elaboration of active and consistent policies, based on the fresh ideas, both towards the EU, the Euro-Atlantic community and the Russian Federation.

Ukraine lies at the intersection of overlapping, complementary and frequently conflicting interests of the EU (soft security/Russia, energy security, 'ring of friends' stable neighbourhood), the US (global interests, partnership in fight against terrorism, strategic corridor to the Greater Black Sea area and further to the Greater Middle East) and Russia (crucial part of its 'near abroad' domain and Putin's nation-building project and therefore his own legitimacy inside Russia, and last but not least a comfortable destination for the expansion of the Russian shadow capital). That is why, the major challenge for the West, Ukraine and Russia is to successfully manage the *overlapping integration spaces*, which involve 1) the EU and NATO, 2) Russia, the CIS and the Single Economic Space and 3) the re-defined Black Sea region. The coming two to three years will be critical for the long-term positioning of Ukraine and the sustainability of its democratic breakthrough.

One of the by-products of the Orange Revolution was an effectively seized opportunity by the 'core' EU countries, the United States and the new EU members to contribute to the joint efforts of the improvement of the transatlantic relations. In this way, it has already helped a little bit to reconnect Europe with the US. Also, it was the Ukrainian Revolution that

helped the EU to exercise its 'soft power' in a timely, inclusive and effective manner. It was the EU that finally played the leading role in the international mediation of Ukraine's political crisis in concert with other legitimate actors, including the OSCE, the United States, Poland, Lithuania and, reluctantly Russia. Actually, it was one of the very rare successes of the EU common foreign policy.

Paradoxically, it is a new post-revolutionary Ukraine that is better positioned than any other country in the region to contribute to a much-needed constructive rethinking of the EU's approach towards Putin's Russia as a country that increasingly speaks and behaves with a neo-authoritarian accent. For a long time, Ukraine has been perceived, especially by France and Germany, as a negative, rather than positive factor in the EU's vision of Russia and its place in Europe. The negativism is partially due to the rightfully failed haphazard efforts of the Ukrainian leadership in the early 1990s to position Ukraine as a bulwark of the West against Russia. Also this has to do with the predominant perception of Russia in the West as a country that is too close to neglect and too nuclear and too oil-and-gas-reached to irritate.

Therefore, in the new environment of the positive and peaceful domestic political change, Ukraine has every chance to re-gain a value-added recognition as a constructive, rather than destructive factor in fine-tuning the pan-European vision and strategy towards Russia. In this sense, the best formula for developing the bilateral Ukrainian-Russian relationship of strategic partnership could be 'democratic, prosperous Ukraine and great Russia', as long as the 'greatness' does not include a veto power on the foreign policy choice of the neighbours. Obviously, under such conditions, the Ukrainian-Russian relationship will become a natural complementary factor, if not an element, of the strategic partnership between the EU and Russia for the next decade. For the future progress of Europe, an indispensable condition will be the closest possible degree of cooperation between Ukraine and Russia. Successful renewal of the Ukrainian-Russian cooperation would be very much in the national interests of Ukraine, Russia, as well as France and Germany. Failure would be a disaster for Ukraine and the EU, and a catastrophe for Russia.

And of course, this new Ukraine-Russia relationship is a step towards a new start in the Ukrainian-EU relationship. When there is a lack of internal dynamics in bilateral relations, catalytic events such as the Orange Revolution and, sometimes, personalities may either reduce or increase the prospects of integration, and create a climate for success.

It was evident from the very beginning that the EU was reluctant to formulate a detailed position towards Ukraine, which would be either too promising or too rigid and restrict the room for manoeuvre in the future. On the other hand, paradoxically, it met the interests of Ukraine, which has repeatedly suffered from asking for far too much. It has been dangerous not only politically, but also psychologically. Normally, the possibility of any country outside the European Union to influence EU decisions and actions is very limited. If the problem cannot be solved now, the solution should be postponed. With additional efforts, conditions for its solution in the future should be created, and if possible, on better terms and at the right time. It seems that the Ukrainian Orange Revolution is creating such conditions for deepening relationships. It calls for a more pro-active EU role in the institutional consolidation of the democratic change in Ukraine.

In any event, one should not neglect the role of the emerging new regional environment. What could be the function and consequences of applying the instrument of reinforced regional cooperation within the European Neighbourhood?

Encouragement for reinforced regional cooperation is constantly and rightly emphasised by the EU within the Northern Dimension, the Euro-Mediterranean Partnership, and, especially, the Stabilisation and Association process for Balkan countries. Elements of such an approach exist in the European Neighbourhood Policy.

In general, while justified as an instrument for achieving stability, growth and security, this principle may have its unintended consequences if applied in practice in different regions. For example, for the Western Balkan countries, this instrument, *together* with the prospects of accession to the EU, has a critically important function in providing the only exit from the chaos of wars and conflicts of the end of the 20th century. However, if the field of its application in Eastern Europe were to be limited to three countries (Belarus, Ukraine and Moldova) or defined by the formula '3+1 (Russia)', then, given the current differences in geo-strategic orientations and foreign policy objectives of these countries and an absence of the prospect of accession to the EU for Ukraine and Moldova, it will contribute to the preservation of the status quo and the familiar set of problems arising from the lack of systemic political and economic reforms in the region and the lack of self-sustainable momentum for democratic change inside Russia.

How then will two dominating and overlapping dynamics - the European (EU+) and the Eurasian (Russia+) - co-exist? Joining the future

Common European Economic Space will not require full incorporation of the *acquis communautaire*. The Eurasian Economic Community, to which Ukraine has been intensively invited by Russia, already has its own *acquis*, which has not much in common with the *acquis communautaire*.

The Single Economic Space (SES), the same as the CIS, can hardly be considered an entity that will facilitate the europeanisation of Ukraine, Moldova, Georgia or Armenia in the same sense that the EU has facilitated modernisation of Spain, Portugal and Ireland and is facilitating modernisation of the countries from Central and Eastern Europe. It is worth recalling, that Spain and Portugal became really good neighbours only after they both joined the EU. Apparently, Eurasian integration, contrary to the European variant, does not require compliance with democratic values as a pre-condition for participation in the process. Not incidentally, there was not reference to democratic values in the Agreement on the Single Economic Space (Russia, Belarus, Kazakhstan and Ukraine) signed in Yalta in September 2003. Furthermore while in post-revolution Ukraine, 'europeanisation', 'modernisation' and 'European and Euro-Atlantic integration' are synonymous, it is not the case in Russia, which is keen to look for a 'special', 'unique' type of modernisation.

That is why a narrow approach should be avoided. All available formats of multilateral regional cooperation should be explored, including the '4+1' mechanism (Visegrad countries and Ukraine), reinvented GUAM (Georgia, Ukraine, Azerbaijan and Moldova), Black Sea Economic Cooperation and others, including trilateral arrangements (Ukraine-Moldova-Romania or Poland-Ukraine-Lithuania, etc.). It should be emphasised in each case that it is regional cooperation and transborder relations within European regions that are the instruments, complementing European integration but not acting as a substitute for it.

Among the developments inside Ukraine that may have the largest impact regionally are the dynamics of judicial and legal reform, and, certainly, Constitutional reform (decentralisation, the election of governors, rebalancing the powers with the weakening of the previously almighty presidency and strengthening the legislature and political parties). If successful, it will generate a new democratic pattern – as an important institutional antidote to the otherwise dominant pattern of strengthening the president's powers at the expense of the legislature and regional governments coupled with the crying lack of the independent court system.

Finally, revolution in the media – strengthening its independence and professionalism – is an equally important point of reference for the region, particularly for such a large population of a young people.

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QUID RUSSIAN DEMOCRACY?

NICOLAY PETROV

The year 2004 was marked by a whole set of failures by President Vladimir Putin's regime. Continuation of the anti-federal reform, electoral reform and intensified pressure on civil society should be mentioned in this respect. It was the first year of a purely Putin political regime and one that has proven it to be extremely ineffective.

Nevertheless, during the period from late 2004 to early 2005, the Orange Revolution in Ukraine and the mass protest movement caused by the monetary reform gave room for much more optimism with regard to the prospects of democracy in Russia. Although the glass is still "half full and leaking" to use Michael McFaul's image,¹ the end of the leaking is clearly in sight because the glass will either be repaired or replaced in a relatively short while.

Since last January, the idea of extreme passivism on the part of the Russian public as a whole and especially among the youth is over, as well as the notion of stagnation under Mr Putin with absolute certainty and predictability.

Russian democracy is in better shape than one could imagine if looking from the outside at what has been going on in the country over the last few years. Indeed, Mr Putin has weakened all the democratic institutions except for the presidency, and last year brought further changes in the direction of authoritarianism. Thus the evaluation by

¹ See the article by M. McFaul, "Russia's Glass is Half Full and Leaking", Radio Free Europe/Radio Liberty, 15 March, 2001 (retrieved from <http://www.rferl.org/specials/russianelection/article/2004/3/BB502CAD-7235-455C-99E3-F06F6C32460A.html>).

Freedom House reflects the grim state of democracy in Russia. There are, however, at least three reasons to be more optimistic with regard to the future of Russian democracy: 1) the regions, which in some cases are much more democratic than the centre; 2) Russia's youth, who are much more active and interested in keeping and promoting democracy than has until recently been recognised – indeed, experts are underestimating the impact of the whole shift of the voters' generation, which has been taking place since the late 1980s;² and finally, as explained below, 3) the machinery of managed-democracy (MD).

Managed democracy in contemporary Russia

The managed democracy developed in President Putin's Russia is a complex echeloned system, which makes it possible for the authorities to avoid the outright control of society while maintaining the vision of democratic procedures. In this context, it is possible to speak of a triple control system, consisting of control over actors, institutions and the rules of the game. The basic MD elements are:

- a strong presidential system of state management along with the weakening of all other institutions, including both houses of parliament, the judiciary, business and regional elites;
- state control over the media, which is used in order to mete out information in doses, and to shape and govern public opinion; and
- control over elections, which converts them from being a tool to express the will of the people into a means of legitimising the decisions made by the elites.

Weakened institutions can no longer fulfil their functions in the system and are being replaced by substitutes that are absolutely dependent on the president and do not have an independent foundation. The resulting reductionist system is lacking in flexibility with regard to a changing environment and the capability for self-development.

Managing democracy in elections is the most technically refined and considered ingredient of the MD model. It includes an electoral system strewn with mines,³ forbiddingly high thresholds for participation, the

² The first post-Soviet generation will be eligible to vote in the 2007-08 elections.

³ The mines buried in the system (which can be set off discriminately) are the gathering and checking of required signatures, the reporting of profits and

possibility to identify/select the candidates, mechanisms of control for sticking to the rules, along with the tracking of violations and operative reactions by election commissions that are controlled by the centre, by law enforcement agencies and by courts – all in one process.

As MD applied in elections is followed by MD afterwards, which is key to understanding the overall (in)effectiveness of electoral MD, its purpose is geared more towards preventing negative results than generating positive ones – if only to circumvent any unaffordable options. The recent gubernatorial elections are a case in point, where the victory for the Kremlin was not necessarily connected with any particular candidate that it backed. The Kremlin's strategy does not have to be linear and is thus more flexible, suppressing different options except perhaps one or two in particular. Thus, when experts draw conclusions based on pre-MD logics such as a 'win-lose' game, they can be mistaken.

Negative selection by President Putin is, generally speaking, cheaper than its positive counterpart (that is, cheaper for those who manage the situation – not for society), although more damaging because it eliminates competition as such, instead of providing even the artificial benefits of competition.

The technical/procedural side of elections and their meaning/role connected with the importance of elective offices and the influence of elections over the further development of a country work together. In Russia's case, the gap between the two is increasing, which makes elections far more vulnerable to general political development than the object of procedural improvements.

property holdings by candidates, the declaring of the volume and technicalities of campaign financing and the rules of agitation. By way of illustration, there is a sideshow at Petrodvorets in the outskirts of Saint Petersburg, where children run around a paved area. A jet of water can spurt up anytime under any of the bricks, yet nobody knows when or where. An old man sits aside unnoticed, knowingly switching on this or that fountain jet from time to time. Something similar is going on with the electoral mines mentioned above: the rules are established in such a way that each candidate inevitably violates them here or there. The authorities can turn a blind eye towards these violations, but anytime they are ready to punish a disagreeable candidate they can do so absolutely legally. Thus, it is about the selective use of law.

In situations where voting occurs more or less freely – which does exist in a lot of regions – elections look like a balanced system with all the elements interconnected. A kind of ‘law of conservation’ (developed as a corollary to Newton’s second law of motion) has taken hold in the background of democratic procedures and institutions that had become relatively well developed during the last decade. Accordingly, the act of managing democracy results in negative side-effects for the authorities. With regard to elections, these effects involve growing protest sentiment and actions in the form of absenteeism, negativism and voting for protest forces.

The basic MD conflict, between the predetermined results of elections and keeping their democratic decorum is unsolvable. It makes the MD system unstable and its transformation towards either management or democracy inevitable. In other words, to improve the MD model (which has shown itself to be insufficient), authorities need to add either more manageability or more democracy.

Managing democracy from a single centre with almost no differentiation by region provokes a rather different reaction across regional societies, which can lead to desirable consequences in some cases and undesirable ones in others. This facet leads to another serious contradiction in the MD model – the one between undivided authority and rigid centralism in management and the varying reactions of society, which differ a great deal along regional, ‘urban-rural’, ethnic, status and other lines.

Further, there is a functional contradiction within the electoral MD model, which results from the fact that among the elites, the task of management is split along federal and regional as well as departmental lines. There are pronounced conflicts of interest between the different elite sections, with each one seeking to demonstrate its loyalty and effectiveness rather than achieve a common result. Moreover, the increased strength of the federal elite, including the greater presence of *siloviki* [‘men of force’]⁴ in the regions (who represent federal interests), has stimulated efforts by the regional elite; a confrontation within the MD system seems inevitable.

⁴ A *silovik* is a Russian politician from the old security or military services who have come into power through the teams of former President Boris Yeltsin or Mr Putin and tend to favour a statist ideology at the expense of individual rights and freedoms.

The Russian federal elections of 2003-04 were the first held in the framework of a developed MD model and offer a broad impression of its general outlook and method of operation. Yet in that instance its capabilities were not fully demonstrated because the situation at the time was generally favourable for the party in power, which did not need to use all the levers and technological possibilities available under the MD framework. The overall result of this test can be summarised as follows: the MD model worked well but did not look so good.

The MD has continuously been tried/tested in different elections and is capable of self-adjustment and self-improvement. The feedback mechanism works, which entails the ability to gather information about how a campaign is going and prompt an operative reaction if needed. As such, the MD model can be adjusted and modified while a campaign is underway.

An MD system does not maintain itself. It requires hands-on management and constant intervention. Combining the disadvantages of both command and democratic systems, it needs a huge and complicated infrastructure for oversight. Otherwise, there is strong temptation for the medium-level elite to over-manage elections and manipulate existing opportunities in their favour.

A reform to end all elections

The second election reform under President Putin is practically complete. The president has signed the new law on electing State Duma deputies. In addition, a new set of amendments to a long list of laws related to elections has begun to move through the Duma.

The essence of this reform is to distance citizens from real participation in the electoral process and, more broadly, from any kind of governmental decision-making. It will further reduce the amount of the feedback the authorities receive from the people and lead to the further centralisation of the political system.

The first set of reforms a few years ago brought about the wholesale revision of election legislation in order to increase the Kremlin's control over the electoral process. Now, the authorities have changed more than procedure. They have dismantled whole sections of the electoral system. The public no longer elects governors or – in the majority of instances – mayors, and there are no more single-mandate districts for the Duma.

A party now has to win at least 7% to make it into the Duma and parties cannot form electoral blocs. Along with last year's changes to the law on political parties – which raised the minimum number of members to 50,000 and requires parties to have organisations in at least half of the country's regions – this change will allow the authorities to disqualify almost any political party on completely legal grounds. It has also become nearly impossible to hold a referendum, unless the government supports it.

The institution of election observers has suffered a particularly heavy blow. Now, only observers from the parties participating in an election are allowed to watch the polls. Independent observers are not allowed at all. The Kremlin learned its lesson from recent revolutions and has tightened its control over elections at all levels, while not getting rid of them altogether.

The so-called 'technical improvements' the authorities are making to the electoral system fall into two categories. First, the Kremlin is making it easier to disqualify undesirable candidates and parties by using biased courts and election commissions beholden to the centre. An example of this is the increasingly strict approach to the signatures needed to register a candidate. This was one of the ways the authorities got rid of candidates in the past, but now it has become even easier.

Second, the Kremlin is trying to get rid of all the ways that voters can have a direct effect on elections, whether it is by voting with their feet and staying away from the polls or voting 'against all'. It is merely a matter of time before they eliminate the against-all option, but even now, although it will still appear on ballots, it no longer functions as it once did.

There are three main myths surrounding election reform. The first is that this reform has a direct connection to the troublesome presidential election in 2008 and that reform will kick in immediately before. The next myth is that election reform will increase the Kremlin's control over political life and make democracy more manageable. Finally, the third myth is that the Kremlin is flexible and will adjust its plans as it goes, including possibly restoring certain democratic elements that had previously been eliminated.

Yet election reform will have an immediate effect, not only on gubernatorial and mayoral elections and on referendums, all of which have been practically outlawed, but also on the seemingly distant State Duma elections coming up in 2007. The elimination of single-mandate districts will radically shift the loyalties of current deputies who are hoping for re-

election in these districts. They will not depend on their governor or constituents to obtain a Duma seat. They will depend on the Kremlin. Refusing to allow smaller parties to form blocs is also a profoundly significant move. These blocs did very well against United Russia in regional legislative elections.

One would think that managed democracy had thus become even more managed and even less democratic. The Kremlin seems to think that elections are only good for the opposition and that the fewer options available on the ballot, the better. Undoubtedly, democracy is not perfect, and direct election, as one of its most important institutions, is no exception. Nevertheless, Winston Churchill's famous assertion that democracy was still better than anything humanity has managed to come up with applies not just to humanity in general, but also to the leaders in the Kremlin. They have done more than block all the possibilities for opposition members to take part in government decision-making. They have also plugged up all the outlets for the public to let off steam. The Kremlin is turning the political system into a pressure cooker. At the same time, the authorities continue to dismantle the last traces of the system that protect the public from the corrupt and incompetent. They keep turning up the heat underneath the cooker by instituting badly planned and badly executed reforms with unpredictable consequences.

The re-democratisation myth springs from a recent statement by the president that it may be appropriate to adjust the system of appointing regional leaders by allowing the parties that won regional legislative elections to nominate candidates for governor. The president also called for broader rights for Duma factions.

These elements of so-called 'political liberalism' that the president included in his annual state of the nation address are made utterly pointless by the election reform on the one hand, and on the other, without election reform they would not have been brought up by Mr Putin. In other words, first the Kremlin will build a fence keeping undesirables out of the Duma and regional legislatures, and only then will the government volunteer to expand the rights of those who are already on the inside.

This would all be rather amusing, if it were not so terribly dangerous.

The president's approval rating continues to fall, and this is the only basis of political stability at the moment. It is a matter of life and death that the authorities increase the flexibility and stability of the political system by decentralising and re-federalising it. The government needs to re-establish

communication with the public and break the giant monolith of vertical power into three flexibly connected 'horizontal powers' at the federal, regional and local levels.

The Kremlin also needs to open Russia's legislatures to the political opposition at all levels in order to send the energy of social protest flowing into parliamentary channels. It needs to shore up the democratic institutions that have been undermined by five years of the Putin regime. These institutions include the representative branch of government and the electoral process. Otherwise, the risk that the political system will collapse completely will become too great.

The Kremlin, however, continues to roll mindlessly in precisely the opposite direction. Russia's leaders keep throwing up new barriers barring opposition parties from the Duma. They have turned the elections that remain into a farce.

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PROSPECTS FOR DEMOCRACY IN BELARUS

ULADZIMIR ROUDA

Belarus is a country in which democratic revolution has not yet taken place, but this essay argues that its chances are rather high. This conclusion is related in some paradoxical way to one of the main shortcomings of Belarus at present in comparison with pre-revolutionary Georgia and Ukraine: the character of the current political regime in the country. A semi-sultanistic political system with its low level of institutionalisation, high fusion of the 'public' and 'private', and the concentration of all power in the hands of the head of state, leaves very limited opportunities for any other forms of democratic transition connected with reforms from above or bargaining by elites. As Larry Diamond has stressed, "when authoritarian rule has been highly personalistic and decadent...the real impetus for democratic change tends to originate outside of the regime in the mobilization of civil society".¹ The nature of the power – personal rather than organisational – makes it difficult for opponents within the regime to oust the ruler and also makes it unlikely that such opponents would exist in any significant numbers or the strength necessary for initiating reforms from above. In other words, the rapid transformation of President Alexander Lukashenka's power into a neo-patrimonial one simultaneously portends its movement towards an inescapable collapse in the form of "replacement" in Samuel Huntington's words or "ruptura" in Juan Linz's definition of this phenomenon.²

¹ L. Diamond, *Developing Democracy toward Consolidation*, Baltimore, MD: The Johns Hopkins University Press, 1999, pp. 233-34.

² See S. Huntington, *The Third Wave: Democratization in the Late Twentieth Century*, Norman, OK: University of Oklahoma Press (1991); see also J. Linz and A. Stepan,

The historical experience of other nations has demonstrated that tyrants can be replaced through *coups d'etat*, peoples' uprisings, 'stunning elections' that are arranged and sponsored by the authoritarian rulers but which lead to their defeat, and a combination of stunning elections with a civil society-led mobilisation of the population. Usually, *coups d'etat* only substitute one form of authoritarian rule for another. All other forms are related to contemporary democratic revolutions, which as a rule are non-violent. It is difficult to predict the chances of success of a revolutionary scenario under current Belarusian conditions. They depend not only on the extent of repression from above, but also, most importantly, on the level of consolidation of Belarusian civil society from below and the understanding of its leaders that different forms of 'replacement' are the only real alternative to the protracted authoritarian stagnation.

* * *

According to Francis Fukuyama, all contemporary, strong authoritarian powers inevitably have to face objective trends that are dangerous for their position and will sooner or later lead to inescapable collapse. At present, this applies to Belarus as well. It is necessary to stress, however, that Belarus has a number of advantages in relation to the ripeness of many objective prerequisites for democracy in comparison with Russia or countries in Central Asia or the Caucasus.

First, Belarus possesses all the necessary *structural conditions for democratic transition*. Structural conditions in this sense refer to the extent of social and economic modernisation in society, which do not directly lead to democracy, but makes its appearance rather possible there. In this field, Belarus is the leader among the Commonwealth of Independent States (CIS), including Ukraine. By the late 1980s, the Belarusian Soviet Socialist Republic (BSSR) had the highest rates of per capita GDP, labour productivity and growth in the former USSR. In spite of the barbarian administrative methods used in his economic policy, President Lukashenka has managed to preserve the industrial potential of the economy in the second half of the 1990s and the beginning of the 2000s. As is well known, an industrial economy generates an urbanised society (more than 70% of Belarusian citizens live in urban areas), a contemporary social structure and

new values among the population, which may involve perspectives that are incompatible with authoritarian ones.

Second, Belarusian society is also rather educated. More than 11% of the population have university diplomas. According to statistics of the United Nations Development Programme, Belarus ranks first among CIS countries and 53rd in the world in the development and accessibility of higher education. Many researchers in the area of democratic transitions give attention to the strong correlation between the development of education and democratic values of the people.

Finally, we borrow from Samuel Huntington an integral variable for the structural conditions of democratisation, the level of GDP per capita, with indicative levels ranging from \$300-\$500 to \$500-\$1000.³ In countries that fall below this threshold transition is less likely; countries above this level usually live under a democratic system. The level of GDP per capita is about the same in Belarus and Russia (at \$2,200 and \$2,300 respectively, according to World Bank statistics for 1999/2000).⁴ This means that the socio-economic conditions in Belarus fit the standards of transition countries. Of course the Belarusian economy is not a market one, and this fact will create additional difficulties connected with 'parallel transitions': the development of democratic institutions in the political sphere and market relationships in the economic sphere at the stage of democratic consolidation. But there are no objective social or economic barriers to the democratic replacement of the present authoritarian regime.

It is necessary to add that Belarus is a monocultural country without serious ethnic or religious conflicts. According to the last census (conducted in 1999), 79% of the population identified themselves as Belarusians. Robert Dahl thinks that the appearance of democratic institutions is more likely in countries with a low level or total disappearance of inter-cultural conflicts. Therefore, Belarusian society possesses very important cultural characteristics, making the formation of a truly democratic political culture easier in the future.

³ See S. Huntington, *op. cit.*

⁴ See J.S. Dryzek and L.T. Holmes, *Post-Communist Democratization: Political Discourses across Thirteen Countries*, Cambridge: Cambridge University Press, 2002, p. 91.

Thus, we now face a rather *paradoxical situation*. Prepared in general for a market-democratic transformation, the Belarusian economy and society have to live under the strict control of the most backward, semi-sultanistic political system in Europe. This situation generates a number of important clashes for the Lukashenka regime.

First, further economic development and especially progress of the post-industrial and increasingly globalised sectors have been artificially restrained by the authorities. Unfortunately, no important structural economic reforms have been carried out during recent years. After President Lukashenka was elected on an anticorruption platform, the new government adopted a populist approach to economic policy, based on an emphasis on production, price controls and direct credit to state-owned enterprises. Simultaneously, market-oriented reforms have been stopped. According to research by the World Bank, the level of development of private businesses in Belarus considerably lags behind all neighbouring countries in both their numbers and their sustainability.

On the other hand, the World Bank recognises that the economic targets set by Belarusian authorities in the middle of the 1990s were met by the year 2000, with the exception of capital investment and agricultural production. As stated in its 2002 report, "Perhaps uniquely among the more advanced former socialist economies of Europe, the GDP growth in Belarus has not been accompanied by private sector growth".⁵ Economic development made it possible for Mr Lukashenka to continue his populist policy: the direct financing of favoured sectors and selected enterprises.

The underlying reasons for the 'Belarusian economic miracle' are related to the high level of inflation. In 1999 it was about 250%, and recently, in spite of its substantial reduction, the annual growth of consumer prices is approximately twice as high as in the Russian Federation. But the most important factor of the unreformed economic development in Belarus is the help of Russia. It is well known that in March 1996 the president obtained the write-off of \$1 billion of debt to Russia in exchange for permission to leave Russian military bases on Belarusian territory. A year later, after signing the allied treaty, Belarus gained unlimited access to the Russian market as well as the opportunity to receive

⁵ World Bank, *Belarus: Country Assistance Strategy for 2002-04*, World Bank Report No. 23401, Geneva, February 2002 (retrieved from <http://siteresources.worldbank.org>).

oil and gas at the same prices as Russian consumers. The customs union between the two countries has given Belarus control over 70% of all Russian exports and imports to and from the West that pass through its territory. Even more essential preferences have been associated with barter trade with Russia. The annual sum Russia granted to the Belarusian economy during 1997-98 can be estimated at \$1.5 to \$2 billion. President Vladimir Putin's administration continues to provide Belarus with substantial economic benefits. According to the 2002 World Bank report, "Belarus has received very large energy subsidies, which [are] estimated to [be] around 10% of GDP, and it has enjoyed an open border providing easy access to the Russian markets together with generous provisions for barter trading".⁶

A unilateral orientation on the cheap raw materials, energy resources and large market of Russia has made it possible for the Lukashenka government to solve the short-term economic problems, but has simultaneously generated grave problems for Belarusian society in the longer term. These relate not only to the dangerous economic dependence of Belarus upon Russia, but are also connected to the isolation of Belarusian enterprises from the most-developed Western technologies and the foreign investment that is extremely necessary. The forecasts of many Belarusian and Western analysts, that the economic integration of Belarus with Russia would stimulate market reforms in Belarus, have proven to be invalid. On the contrary, the ineffective *command economic model has managed to survive owing to the substantial Russian support*. Nevertheless, the dominating administrative methods in Belarus have demonstrated their incompatibility with the country's strategic economic interests. The present government is absolutely unprepared for vitally important market reforms, because a command economy is one of the most significant foundations of sultanistic rule, with its high fusion of public and private domains.

Sometimes the relative economic success of Belarusian authorities is viewed as a guarantee against any political revolution in the country. This point of view can be rather misleading. According to Huntington, there is no direct connection between economic development and political stability:

In American thinking the causal chain was: economic assistance promotes economic development, economic development promotes political stability. This dogma was enshrined in legislation and,

⁶ Ibid., p. 2.

perhaps more important, it was ingrained in the thinking of officials in AID and other agencies concerned with the foreign assistance programs...In fact economic development and political stability are two independent goals and progress toward one has no necessary connection with progress toward the other. In some instances programs of economic development may promote political stability; in other instances they may seriously undermine such stability.⁷

At the same time, Huntington has demonstrated that there is a causal link between the level of political institutionalisation and political stability. Taking into account that a personalistic political system is the least institutionalised one, the Belarusian 'economic miracle' under semi-sultanistic power may generate serious problems. The rise of social mobilisation and new expectations of different social groups are not matched by an adequate flow of opportunities provided by the system. In turn, the inescapable social frustration will lead to increased demands on the government and the expansion of non-organised political participation to enforce those demands. The Orange Revolution in Ukraine has occurred in an authoritarian polity, in which the government has achieved the highest economic growth in an independent period of development. This fact once again proves the validity of Huntington's theory.

Second, President Lukashenka has gained the most support from less educated persons, inhabitants of villages and small towns, and older persons, i.e. from those social groups that are afraid of liberal and democratic reforms and would like to keep the *ancien regime*, which they find more suitable for them. By contrast, the least amount of support is to be found among the most educated segments of society, inhabitants of large cities and young persons. This situation is common for many post-communist countries. Yet in Ukraine, Russia, Georgia and lots of other nations adherents to the old regime form the social base for left-wing opposition to the more or less reform-minded governments. In Belarus, the situation is the opposite: its government is the most active defender of the old regime. That means that Belarusian authorities are voluntarily assuming the role of a *politically conservative force*, trying to prevent 'dangerous' trends of any progressive or future-oriented development.

⁷ S. Huntington, *Political Order in Changing Societies*, New Haven, CT: Yale University Press, p. 6.

At the same time, the 'Homo Sovieticus' mentality of the president is in glaring contradiction with the current values of the substantial part of the Belarusian nation. For instance, in spite of anti-Western propaganda by the Belarusian state media, many Belarusian citizens look at the European Union as a positive and winning case for them. It is interesting to mention in this context the results of comparative sociological research, conducted in spring 2004 by VCIOM (Russia), the NOVAK Laboratory (Belarus) and independent Ukrainian sociologists from Donetsk in the three post-Soviet Slavic countries. There are many more Belarusians than Russians or Ukrainians who support the idea of joining the EU. When answering the question of where they would prefer to live, 28% of Belarusians (and only 11% of Russians and 15% of Ukrainians) named the EU. Only 15% of Belarusians (19% of Russians and 19% of Ukrainians) would like to live in the former USSR. Finally, 28% of Belarusians (51% of Russians and 32% of Ukrainians) said that they prefer to live in their independent states.⁸ The rather low support of respondents for independent Belarus as a place to live can be explained by their scepticism about the possibilities of real economic and political reform in this country in the immediate future. These figures demonstrate that there is a substantial *value gap* between the Belarusian government and the rest of the population (principally its younger and more educated segments).

Third, analysis of the development of political systems of most post-Soviet countries in the 1990s and 2000s makes it possible to conclude that the Republic of Belarus is the only country in the region where the *social populist policy* of the ruling elite prevails. Japanese researcher Kimitaka Matsuzato called Belarus "an isolated island of populism, surrounded by waters of the ocean of clan policy". Social populism allows Mr Lukashenka to maintain a substantial level of internal legitimacy, concentrate all power in his hands and control the bureaucracy. On the other hand, populism is always limited and suffers from the ineffectiveness of the policy. It keeps the leader in a rather narrow framework. The leader is unable, for instance, to make necessary and timely decisions for maintaining a healthy economy, because they are not popular. Reserves of any populism are limited and they will inevitably run out.

⁸ See "Komsomol'skaya Pravda v Belarusi" [The Komsomol Truth in Belarus], Newspaper, No. 96, 26 May 2004.

The opportunities for the continuation of a social-populist policy have substantially declined in today's Belarus. In 2002-03, President Lukashenka encountered a serious crisis of confidence within the country. His projected electoral rating halved from 55% to 25-27%. According to data from the Baltic Gallup Service, in August 2003 only 36% of the population said that they would vote for the supporters of Mr Lukashenka in elections to the parliament and 45% would support his opponents. A significant share of the 'new Lukashenka opponents' consists of those who are disappointed with regard to their social and economic expectations. Only the inability of the opposition to use this situation prevented the Belarusian regime from facing a serious political crisis. This trends means that the epoch of social populism in Belarus is slowly coming to an end and Mr Lukashenka's popularity is coming to a critical point alongside it.

Parliamentary elections and the referendum in 2004 have completely confirmed this conclusion. For the first time since 1994, President Lukashenka needed mass falsifications not to embellish his real victory but to survive in his post. In spite of all the propaganda and nomenclature employed to guarantee the necessary political result, he received only 48% of the eligible votes instead of the 50% that is required for Constitutional change.⁹ Actually, it was the first real political defeat for the Belarusian leader in the last decade. But as before, lack of any coordinated and effective activities on the part of the opposition in relation to their mobilisation of the protest electorate helped Mr Lukashenka avoid a political eruption.

Fourth, a protracted policy of populism has resulted in the *deconsolidation of the power elite* in Belarus, in spite of Mr Lukashenka's total control over the bureaucracy. The ruling class is not only divided into those having advantages (the so-called 'Mogilev clan'¹⁰) and the disadvantaged outsiders, but nobody in the current top infrastructure is immune from being discharged, arrested or overturned because of the 'outrage of the crowd'. Frequent replacements of officials and permanent scandals have

⁹ See J. Maksymiuk, "Lukashenka Opens Path to Presidency - for - Life", *Belarusian Review*, Vol. 16, No. 4, Winter, 2004, p. 3.

¹⁰ Mr Lukashenka was born in Shklov, in the Mogilev region. Recent investigations into the responsiveness of civil servants to the central administrative authorities resulted in the promotion of those more loyal to the president, who were hence given this label.

become one of the distinguishing features of Mr Lukashenka's rule during the last 10 years. This in turn has had a significant negative impact on the initiatives and professionalism of public servants, as well as on the stability of the vertical executive system created by the leader.

At the same time, there are two important objective characteristics of Belarusian society that have helped President Lukashenka to maintain his control the situation: the *weak national identity* of the Belarusian people and the *Russian factor*. As articulated by Rodger Potocki,

[I]f Belarus was one of the most economically advanced republics, it was also the most backward in terms of national and civic identity. Today, although more than three-quarters of the country's population is ethnically Belarusian, most people speak Russian most of the time. Belarus was the most Sovietized and conservative of the USSR's republics.¹¹

The policy of 'Sovietisation' and 'Russification' has continued in the era of independent countries. This phenomenon can be explained by Mr Lukashenka's interest in mass reproduction of the main social basis of his power – denationalised and fragmented adherents.

On the other hand, probably to Mr Lukashenka's great surprise and that of many analysts in the East and West, Belarus has managed to survive as an independent state for a rather long time. These conditions are influencing and changing the consciousness of its population. The majority of people identify themselves with Belarus as a nation, not with an abstract Union of Belarus and Russia or the CIS. According to recent poll data gathered by the Independent Institute of Social-Economic and Political Studies (IISEPS), the number of supporters of complete unification of Belarus with Russia has decreased by almost two-fold (from 21.2% in 2002 to 11.6% in 2004) over the last two years. In spite of state media propaganda in favour of the Union of Belarus and Russia, the number of its opponents has risen by 1.6% since 2002. The popularity of integration with the EU (90%) substantially exceeds the popularity of integration with Russia (10%) among the so-called 'leaders of public opinion'.¹² Thus, in spite of its Russian language, the population of Belarus has distinguished

¹¹ R. Potocki, "Dark Days in Belarus", *Journal of Democracy*, Vol. 13, No. 4 October 2002, pp. 145-46.

¹² For further details, see the website of the Independent Institute of Socio-Economic and Political Studies (IISEPS) (<http://www.iiseps.org>).

itself from the Russian people. A new pro-independent consciousness is disseminating especially rapidly among the younger generations. The survival of Belarus as an independent state means that this country possesses the most important prerequisite for democratic transition.

Replacement of the present political regime by democratic forces has become much easier after the victory of democratic revolution in Ukraine, which substantially weakened the Russian factor – the last important pillar of the semi-sultanistic system in Belarus. President Putin's administration is probably ready to pay more to the Belarusian dictatorship in order to ensure Russia's strategic and political influence in the region. Therefore it is difficult to foresee any serious risks for Mr Lukashenka originating from the Kremlin. Nevertheless, the democratic revolution in Ukraine is a lesson for many post-Soviet autocrats, showing that their support from Moscow and dependence on Russia is not enough to guarantee a serene future.

The Orange Revolution has demonstrated the anti-democratic nature of the foreign policy emanating from Mr Putin's government to rest of the world. Far more important, however, is that Russia's open interference in the internal affairs of an independent state to save an authoritarian pro-Russian government has resulted in total failure. Sometimes the revolution in Ukraine is compared with the fall of the Berlin wall. As in 1989, when the non-violent uprising by the people of the German Democratic Republic symbolised the end of the cold war and the final liberation of Eastern European nations from the dominance of the USSR, which collapsed shortly afterwards, for the people of post-Soviet countries the Orange Revolution in 2004 means that Russian dominance is neither absolute nor effective.

The Ukrainian events are having an affect on contemporary Belarus in several ways. The isolation of Mr Lukashenka's regime will increase. He will probably seek additional aid from Moscow as the 'last true advocate of Russian interests' in the region. The success of both economic reforms and a pro-European foreign policy of Ukrainian President Viktor Yushchenko's government may have important demonstration effects for ordinary people in Belarus, who have a close affiliation with the Ukrainians. Civil society organisations could gain nice opportunities for study along with benefiting from the experience of the PORA! [It's Time!] movement and other Ukrainian organisations with the kind of national conditions present in Belarus. There is also an opportunity to include 'the Ukrainian factor' in the

strategy of the Belarusian opposition, such as the development of common proposals with Ukrainian authorities dealing with Russia and the EU.

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Thus, strong autocratic power in Belarus has a lot of weaknesses and shortcomings that undermine its stability and prospects for survival in the long run. In such circumstances the key becomes the internal factors of the development of Belarusian civil society, its consolidation and ability to use the weak features of the regime in its favour.

In spite of pressure from the government, NGOs have managed to survive in Belarus during the last decade. In the beginning of 2004, 2,214 public associations were registered (among these, 1,245 were local, 734 were national and 235 were international).¹³ More than 500 NGOs are members of the Assembly of Pro-Democratic Non-Governmental Organisations, including both registered and non-registered associations, making the Assembly the biggest coalition of democratic NGOs in Belarus. In Eastern Europe, only Belarus and Slovakia have managed to create united national coalitions of democratic NGOs. They have to develop their activities in a highly unfavourable legal, political and economic environment, which prevents the growth of the associations. It is necessary to stress that the present number of registered NGOs is less than it was in 1999 (when there were 2,500 organisations), which was prior to the re-registration campaign carried out by the authorities. In an index of the number of NGOs per 10,000 persons, Belarus yields to all neighbouring countries besides Russia; yet not long ago it was ahead of Ukraine.

Belarusian civil society consists not only of NGOs, but also of oppositional political parties, independent media and free trade unions. There are now 17 political parties registered with the ministry of justice. Only seven of them represent the opposition. Since the end of the 1990s, democratic political parties have been gradually forced out by the government into the sector of NGOs. The latest parliamentary elections provided the opportunity for Mr Lukashenka to remove the last opposition members from parliament through mechanisms that totally falsified the voting. In the 1990s, Belarusian democratic parties were active in organising mass protests. But since 2001, youth NGOs such as the Young

¹³ See *S'vedchan'ni peras'liedu Belaruskih niauradavyh arhanizacyiaiu* [Interdiction (Liquidation) of Belarusian Non-Governmental Organisations], Assembly of NGOs, Minsk, 2004, p. 7.

Front and Zubr [Bison] have played a more significant role than other parties in this field. So, civic education, cultural revival and human rights advocacy have become more important tasks for the opposition than the struggle for power. The latter has not ceased, but is becoming increasingly marginal on the agenda of the political parties.

One of the biggest problems of the opposition is its split into various organisations and the lack of effective cooperation among them. There are now two coalitions of Belarusian democratic parties: *Pyaciorka+* [Five+] and the European Coalition of Free Belarus. The first one consists of the Belarusian Popular Front (led by Vincuk Viachorka), the United Civic Party, the Belarusian Social-Democratic *Hramada* [Union], the Labour Party (liquidated not long ago by the authorities) and the Party of Communists (led by Siarhiej Kaliakin). The second one unites the Belarusian Social-Democratic Party (the People's *Hramada*) and the Belarusian Women's Party, *Nadzeya* [Hope]. The Belarusian Conservative Christian Party-Popular Front (led by Zianon Pazniak) does not participate in any coalition. No opposition party has had a poll rating higher than 5% since the end of the 1990s. Currently representatives of the first coalition are trying to expand their structure with other organisations and transform it into *Desyatka+* [Ten+]. It is difficult to predict their chances of success, taking into account all the previous negative experience.

In 2000, there were 1,110 periodical editions registered in Belarus. About 70% of them were independent, but only one-quarter of independent newspapers have been published on a regular basis. From the very beginning, President Lukashenka established his total control over electronic media. The situation of the independent press has worsened since the president was re-elected. The government has taken a tougher line with its pressure on independent editions, which has led to a reduction of their circulation and even the closure of the most popular papers. For instance, in 2003 alone five independent newspapers across the country were shut down. As Rodger Potocki stressed, "the independent press, whose total print run is only 6% of that produced by the state-run papers, could not make up the gap".¹⁴

Today, there are four non-governmental trade unions in Belarus. Unfortunately, the labour movement, as in most other post-communist nations, is restrained by the dependence of the workers on their

¹⁴ See Potocki, op. cit., p. 148.

enterprises. In uncertain economic times, labourers are interested first of all in the preservation of their workplace rather than the struggle for economic and political rights. This focus sharpened after the introduction of the so-called 'contract system' in 2004, expanding the rights of the administration in the 'struggle for high discipline' with regard to state enterprises. On the other hand, the country has active entrepreneurs' unions, which have arranged many effective strikes in the 1990s and 2000s.

Thus, Belarusian civil society, which has managed to survive governmental repressions, is rather small and isolated from 'greater society'. Nevertheless, it has experience (positive and negative) in adapting to an unfavourable political environment. NGOs and political parties are proficient in various ways of coalition-building for facilitating this task. Civil society is also politicised, as a result of both processes: the forcing out of the political parties in the non-governmental sector and the better understanding by the NGO community that in order to realise their missions, grass-roots organisations should be ready to effectively withstand an authoritarian regime. In some senses, the present situation looks like the return to the initial stage of the formation of civil society organisations in Belarus in the second half of the 1980s, when they had political confrontations with communist authorities. In any case, eliminating the borders between civil and political societies (as can now be observed in Belarus) is a valid step against non-democratic political regimes, and one that, as Larry Diamond pointed out, is helpful for preparing for the elimination of the regime itself.¹⁵

It is common among many contemporary analyses of Belarus to discuss the weakness of Belarusian civil society and political opposition. Democratic revolution in Ukraine once again confirmed the appropriateness of this conclusion. Strong and popular opposition together with effective civil society organisations were crucial for the success of the Orange Revolution. Against this bright background, democratic NGOs and parties in Belarus look colourless and unconvincing. What are the reasons for such large differences between the civil society structures of two such close peoples and nations?

The explanations usually deal with differences in the non-democratic political regimes of the two countries, the greater dependence of Belarus on Russia and the lesser preparation of Belarusian society for democracy in

¹⁵ See Diamond, *op. cit.*, p. 225.

comparison with Ukraine. A lot has been said about the 'weakness of the strong power' in Belarus and the permanent inability of the opposition to use it to de-legitimise the regime. Of course, on the one hand, there is the economic and political dependence of Belarus on Russia. On the other hand, it is not Belarus but Ukraine that occupies the key geo-strategic position in the region. The latter can explain the attempts of Mr Putin's administration to increase Russia's influence in Ukraine during last year's elections. The failure of these attempts in November-December 2004, along with other things, has substantially devalued the significance of the Union of Belarus and Russia: without the participation of Ukraine it stands to become less politically attractive and more economically expensive for the Russian elite.

It is argued here that internal factors play a more important role in explaining the weakness of Belarusian democratic forces, which are independent from government repressions and Russia's policy. For example, in the middle of the 1990s, the Belarusian opposition lost the real chance to use the anti-communist and anti-establishment populism in its favour. Democratic forces should have been ready at that time to bring forward anticorruption slogans and transform their economic strategies into some kind of 'social democratic' programme of reforms to enable them to come into power. Instead, the political opposition and civil society organisations stressed the necessity of the population's re-socialisation to prepare the electorate for national and liberal values. Lacking proposals for a state system of education, media, the economy, etc., this programme was condemned to failure. It has resulted in the *isolation of opposition and civil society organisations from Belarusian society*.

After the presidential elections in 2001, the discourse of the 'anti-government populism' has been restored. This attitude unites rather diverse members of society: former adherents of President Lukashenka, who are disappointed in the 'strong man's' policy alongside young and educated persons, and representatives of various professional groups who are disappointed in the opposition. This discourse is probably critical in relation to the policy of the political regime. Yet a lack of trust in the head of state is accompanied by a lack of confidence in the current opposition, which has demonstrated its inability to influence the political situation. Sociological research supports these conclusions. While the number of President Lukashenka's opponents has increased in 2002-03 from 28% to 47%, the ratings of the opposition have hardly changed, fluctuating

between 1.4% and 5.5%.¹⁶ Nevertheless, during the last referendum and the parliamentary elections in 2004, representatives of this discourse – without any political organisation or coordination – scuppered Mr Lukashenka's plans for 'pure victory'. In other words, the protest electorate in contemporary Belarus is not only affiliated with supporters of the opposition.

This situation may be regarded as both a challenge and a hope for civil society. Should the present opposition transform into some kind of limited minority, isolated from greater society and not threatening for the personalistic power, the situation will likely continue longer term. On the other hand, should the democratic parties and NGOs undertake an internal reformation and reject internal programme purity in favour of demonstrating real abilities to represent the interests of all the protest groups, this would provide civil society with a new opportunity to use the current wave of populism to de-legitimise the political regime in Belarus.

The solution to this problem is directly related to the *quality of leadership* in civil society organisations, their capacity to suggest not only a programme, but also a personal alternative to authoritarian power. The Belarusian opposition has worked out two models of its single candidate selection for presidential elections. The first one is focused on the internal determination of candidates by parties and NGO coalitions at the first stage, and then at the subsequent stage, the election of the joint leader at the Congress of Democratic Forces. The second model appeared during the presidential elections in 2001: when taking into account the weakness and low popularity of political parties and NGOs, it was decided to select an independent and moderate representative of the discourse as a single candidate of the opposition. Such a figure was acceptable to both the Belarusian elite and to the Kremlin.

It can be argued that neither the first nor the second model fits the current political needs of Belarus. Selection of the future democratic leader by political parties and NGOs does not consider the fact that the actual and potential protest electorate is significantly wider than supporters of the opposition. The popularity of political parties has not increased since the last presidential campaign. Moreover, internal elections, which are the most attractive method for parties seeking to nominate a single candidate, would not necessarily satisfy the demands of all democratic leaders or

¹⁶ See *Adkrytae Gramadstva* [Open Society], Vol. 12, No. 1, 2003.

organisations, which may lead to further conflicts and cleavages among the democratic forces.

Further, a repetition of the 2001 scenario and nomination of a new representative of the opposition does not take into account the substantial differences between the recent and previous political conditions. Mr Lukashenka has demonstrated the matrix of future presidential elections during last year's referendum. A recent poll by the IISEPS revealed that about 33% of respondents were ready to vote for a 'worthy alternative' to President Lukashenka at the next election (28% would still vote for Mr Lukashenka); but at the same time, 76% of respondents believed that the authorities will falsify the results of the future elections.¹⁷ Thus, the most important factor in 2006 will be the mobilisation of the protest electorate and the development of an effective, non-violent, mass campaign, at least in Minsk. Certainly, none of the current bureaucratic candidates are suited to the role of a charismatic popular leader, who could manage to mobilise the youth, entrepreneurs, workers and other citizens of the Belarusian capital for a decisive and protracted political struggle. Unfortunately, based on the results demonstrated by the political opposition, its chances are little better. Since 2001, its mobilisation potential has reduced to an average of 1,000 to 5,000 participants for mass actions, which is absolutely insufficient for the realisation of a 'Ukrainian scenario' in Belarus by split parties and NGOs.

The solution to the leadership problem should be seen as inseparable from a *radical institutional reformation* of the whole of Belarusian civil society. In other words, the future Congress of Democratic Forces should be able to declare the creation of a single and decentralised democratic movement, consisting of oppositional political parties, democratic NGOs, independent media and free trade unions, to develop and approve its political programme and focus on the replacement of the authoritarian regime. Only after such a step is it reasonable to elect a joint leader – an independent politician or well-known public figure – drawn from outside the present opposition. This last condition is highly important for the restoration of public confidence in the democratic forces, the formation of a new positive image and the prevention of further splits. The crucial factor for the selection of such a person should not be his/her popularity among

¹⁷ See the article on the Radio Free Europe/Radio Liberty website (retrieved from <http://www.svaboda.org/articlesfeatures/politics/4/16/2005>).

the 5 to 10% of the democratic electorate, but some objective data, for instance, his/her rating among the general public.

What about the acceptability of the single candidate to the Kremlin and the establishment? Taking into account that it is rather difficult to hope for a cardinal change to the pro-Lukashenka position of Mr Putin's administration, the future leader of the democratic movement should be openly pro-European, but at the same time not anti-Russian. Being dependent and passive, the Belarusian establishment will support the opposition and its leader only after the balance of forces in society change dramatically in its favour. Therefore, to ensure its neutrality in the crucial phase of political struggle, it would be reasonable to provide the bureaucracy with guarantees from future lustrations. The same would be appropriate in relation to military and police forces.

One of the most important problems of Belarusian civil society is the *lack of confidence* among organisations – a *lack of so-called 'social capital'*. According to Robert Putnam,

[W]hereas physical capital refers to physical objects and human capital refers to the properties of individuals, social capital refers to connections among individuals – social networks and the norms of reciprocity and trustworthiness that arise from them. In that sense social capital is closely related to what some have called 'civic virtue'. The difference is that 'social capital' calls attention to the fact that civic virtue is most powerful when embedded in a sense of a network of reciprocal social relations. A society of many virtuous but isolated individuals is not necessarily rich in social capital.¹⁸

In other words, in order to produce social capital in civil society structures, we need to establish a balance between their closeness and openness, integration and linkage, human abilities and social capacities. In the second half of the 1990s, the basic prerequisites for maintaining such a balance were formed in the Belarusian NGO community. Large-scale democratic organisations and chiefly 'resource centres' (closed and vertical structures) worked to increase the level of integration and development of the human capital of their members, and that of other NGOs with which they were connected. By contrast, the Assembly of Pro-Democratic NGOs – which at that time was decentralised and provided equal opportunities for

¹⁸ R. Putnam, *Bowling Alone: The Collapse and Revival of American Community*, New York: Simon & Schuster, 2000, p. 19.

all the member organisations to participate in its decision-making (open and horizontal structures) – focused on the development of links and social capacities within civil society. This balance was destroyed by two processes:

- 1) the re-orientation of some donor organisations in support of the resource centre model in Belarus instead of the Assembly one, in spite of the success of the 1999 ‘SOS campaign’ by this coalition to save the NGO community from total obliteration during re-registration; and
- 2) the introduction of the centralised model of management in the Assembly itself at the end of 2000.

The first process could be explained by the experience of civil society development in Western countries and some former communist states in Eastern Europe, in which resource centres played a key role in the spread of civil society organisations, providing them with necessary human capital. Such arguments did not, however, take into account the differences in the conditions between the old and new democratic countries, on the one hand, nor the open authoritarian regimes, on the other. In Belarus, for example, during the first stage it was more important to stimulate cooperation among the different democratic organisations and to foster their mutual confidence, and then advance the participation of ordinary people in their activities in the second stage. Neither resource centres nor large-scale organisations have been able to perform these tasks, because they are focused on the creation of human versus social capital. In other words, the possibility to stimulate social consolidation in Belarus passed its optimal level at the end of 1990s and the formation of “unsocial capital”, to borrow Seymour Lipset’s term, has increased.¹⁹

As a result, civil society has seen substantial inequalities in the distribution of material resources among its actors, the dependence of some organisations on others, the flourishing of patron-client relationships and a sharp deficit of trust and solidarity. According to sociological research, 64% of representatives of the regional NGOs negatively assessed the effectiveness of resource centre activity in Belarus.

¹⁹ S. Lipset and J. Lakin, *The Democratic Century*, Norman, OK: University of Oklahoma Press, 2004, pp. 96-97.

The second process, the introduction of the centralised model of management by the Assembly, was connected to the representation of the majority of member organisations by a small number of NGOs elected in regional and national working groups, without clear accountability of the elected to the electors. This step violated one of the basic principles of the Assembly as a horizontal structure – the equality of organisations – and created barriers for ordinary organisations to impact the decision-making process in the coalition. The bureaucratic structures prevented most organisations from developing lateral ties, realising important common projects and involving ordinary people. Nevertheless, despite centralisation, the Assembly has demonstrated its ability to protect the rights of member organisations from government repression and to promote their survival. The idea of a horizontal coalition is still popular in the Belarusian NGO community. Irregardless of the fact that a majority of respondents decided that the Assembly has transformed into a formal structure in the regions, its negative rating (54%) is less than that of the resource centres (64%).²⁰

Thus, Belarusian civil society currently faces many internal problems that prevent it from working effectively and preparing the necessary social and political foundations to replace its semi-sultanistic regime. On the other hand, most of these problems are subjective ones and could be solved by the leaders of political parties, NGOs, free trade unions and independent media. The solution depends on the knowledge, desire and will of the people.

* * *

The democratic revolution in Ukraine is probably the most striking illustration of the return of the democratic wave to the post-communist world after its reversal in the 1990s. Following the victorious ‘OK campaign’ in Slovakia in 1998, the replacement of authoritarian governments in Croatia in 1999 and in Serbia in 2000, and the victory of the Rose Revolution in Georgia in 2003, the success of the Orange Revolution in Ukraine in 2004 is the culmination of democratisation in the region. The recent downfall of the corrupt authoritarian government in Kyrgyzstan is

²⁰ “Sostoyanie i perspektivy razvitiya Belorusskogo obshchestva i gosudarstva, Analiticheskiy doklad” [The state and prospects of development of Belarusian society and state: Analytical report], manuscript, Minsk, 2002, p. 26.

additional proof that the wave of democratic revolutions will continue its movement through ex-Soviet nations.

There are no objective barriers to the spread of this wave to Belarus as well. The probability of repeating the non-violent uprising in Ukraine under the current national conditions in Belarus is rather high, taking into account that the next presidential elections are scheduled for 2006 and that there is more than enough time for democratic forces to prepare for this event. Unfortunately, the subjective barriers are more serious, in relation to the ripeness of civil society and the political opposition for carrying out any legitimate scenario for replacing the regime.

To avert the risk that the democratic wave will get bogged down in the Palesye Marshes bordering Ukraine and Belarus, it is extremely important for civil society forces to reassess their activities and learn the lessons from both their own defeats and the victories of their neighbours. In other words, political revolution in Belarus should be seen as an outcome of a revolution in the consciousness of the democratic elite. This conclusion is not new, because all true revolutions begin with a radical overturn in the mentality of the best part of the population, some of the reasons for which are outlined below.

First, no revolution could win without popular alternative candidates and programmes to the authoritarian government or without a new opposition leader, who could mobilise people to participate in protracted, non-violent mass actions. The reduced opportunities of Belarusian democratic forces to exploit electoral procedures in comparison with their Ukrainian counterparts only increase the importance and meaning of these factors.

Second, no revolution is possible without strong opposition. Now is the time to carry out a radical institutional reformation of the civil society structures in Belarus. Oppositional political parties should consolidate themselves into a single sustainable movement – something similar to the Popular Front at the end of the 1980s/beginning of the 1990s – with new leadership and a more contemporary and pragmatic programme. This step would be helpful for the creation of a new positive image of the opposition and the recruitment of new supporters. It is important that this movement is able to combine internal programme cohesion, in relation to change of the current political regime, with maximal organisational decentralisation, enabling people of different political views to participate in it (ranging from communists to nationalists). After the victory of democratic

revolution, such a movement would probably transform into independent political parties – an important element of any pluralistic political society under democracy.

Third, revolution cannot succeed without trust and solidarity among the revolutionaries. This means that Belarusian civil society needs the restoration of the balance between vertical and horizontal structures, closure and openness, and integration and linkage. In other words, the NGO community and principally the Assembly of Democratic NGOs should realise the insufficiency of their survival strategy and the acute necessity of producing ‘social capital’. The latter is only possible through networks with other, similar organisations and the spread of solidarity among various NGOs that are engaged in common work with ordinary people to gather their support for democratic changes.

Fourth, revolution would be not authentic without the understanding that its realisation is the task of the people themselves. After the Ukrainian experience it must be absolutely clear that Russia is not interested in a Belarusian democracy, because any serious democratic transformation of this country at the present time is impossible without the development of a strategy for its European integration and this task, as would be undertaken by Belarusian democrats, would contradict the interests of the Russian ruling elite. The manifestation of a Russian-imposed scenario for a replacement of Alexander Lukashenka will only correspond with the establishment of a new dictatorial regime in Belarus, to carry out its further incorporation. But recognition of these realities does not mean that any future democratic revolution in Belarus must use anti-Russian slogans – that would be a repetition of Zenon Pazniak’s mistake in 1993. On the other hand, bringing forward pro-Ukrainian slogans by democratic forces is absolutely necessary and helpful.

Finally, democratic revolution in Belarus may not take place in the short term without arresting the so-called ‘revolutionary game’ played out by the representatives of some political parties and NGOs. It is well known that the opposition proclaimed that it was carrying out its own version of the ‘Yugoslavian model’ in the last presidential elections in 2001. Yet in reality the result became the profanation of this model. In order to prevent mere imitation of the ‘Ukrainian model’ in 2006 change, Belarusian democrats should first realise the revolution of their own mentalities.

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ISLAM, FREEDOM AND DEMOCRACY IN THE ARAB WORLD

BASSAM TIBI

In addressing the problems related to the introduction of democracy in the Arab world, the well-known pro-democracy activist and scholar Saad Eddin Ibrahim¹ noted at the Madrid International Summit on Safe Democracy, Terrorism and Security² that Arab societies are squeezed “between autocrats and theocrats”. This succinct and precise phrase touches on the “Arab predicament”³ since the repercussions of the 1967 war. In that event, all pan-Arab secular regimes were defeated by Israel and thus de-legitimised in their rule as autocrats. Their opponents, however – the Islamists – are not democrats but rather real theocrats. The problem lies not with the Arab culture or Islam in general, but with the neo-patriarchy in the Arab world⁴ and the contemporary phenomenon of

¹ See Saad Eddin Ibrahim, *Egypt, Islam and Democracy*, Cairo: AUC Press, 1996, particularly chapter 12 on civil society and the prospects of democratisation in the Arab world, pp. 245-66; see also Saad Eddin Ibrahim (ed.), *Al-Mujtama’ al-Madani* [Civil Society], Annual Yearbook, 1993.

² Club de Madrid, *Democracy, Terrorism and Security*, brochure for the International Summit on Safe Democracy, Terrorism and Security in Madrid, 8-11 March 2005.

³ Fouad Ajami, *The Arab Predicament: Arab Political Thought and Practice since 1967*, Cambridge: Cambridge University Press, 1981.

⁴ Hisham Sharabi, *Arab Neo-Patriarchy: A Theory of Distorted Change in Arab Society*, New York and Oxford: Oxford University Press, 1992.

Islamism, resulting from the politicisation of Islam in a time of crisis of legitimacy.⁵

To be sure, democracy and civil society are related to cultural modernity,⁶ as it has unfolded in the modern history of Europe. Yet both democracy and civil society have ancient Greek origins.⁷ Those Islamists who reject democracy, addressing it with contempt as one among the “*hulul mustawradah*” [imported solutions]⁸ from the West, overlook the fact that Islamic civilisation not only encountered and adopted Hellenism long before Europe itself,⁹ but also acted as a mediator in passing on the Greek legacy in an Islamic version to the West. Leslie Lipson, the historian of civilisations, tells us that “Aristotle crept back into Europe by the side door. His return was because of the Arabs, who had become acquainted with Greek thinkers”.¹⁰

In view of these historical records the question arises as to why the Arabs of our present time cannot embrace the democracy of cultural modernity as their ancestors embraced Hellenism, which by then had become an essential part of the classical heritage of Islam?¹¹ For a proper understanding of the Arab predicament, an overview is needed that covers the questions addressing the claim of democracy to universality. To be

⁵ Michael Hudson, *Arab Politics: The Search for Legitimacy*, New Haven, CT: Yale University Press, 1977, especially pp. 1-30.

⁶ For more details, see Juergen Habermas, *The Philosophical Discourse of Modernity*, Cambridge, MA: MIT Press, 1987.

⁷ For further information, see John Ehrenberg, *Civil Society*, New York: New York University Press, 1999 and Anthony Birch, *The Concepts and Theories of Modern Democracy*, London: Routledge, 1993.

⁸ Yusuf al-Qaradawi, *Al-Hall al-Islami* (3 volumes), *Al-Hulul al-Mustawradah* [The Imported Solutions], Vol. 1, Cairo: al-Risalah, 1980; first published in 1970.

⁹ On the two waves of the Hellenisation of Islam, see W.M. Watt, *Islamic Philosophy and Theology*, Parts Two and Three, Edinburgh: Edinburgh University Press, 1979; first published in 1962.

¹⁰ Leslie Lipson, *The Ethical Crises of Civilization*, London: Sage, 1993, p. 62.

¹¹ Franz Rosenthal, *The Classical Heritage of Islam: Arab Thought and Culture*, London: Routledge, 1994.

sure, globalisation and universalisation¹² are different issues that ought not to be confused. There can be no 'global' but rather 'universal' democracy. In our age of the cultural turn one needs to acknowledge the existence of culturally different understandings of democratic rule, not only between civilisations – e.g. Islam and the West – but also on an intra-civilisational level, i.e. within the West itself. Thus the universality of democracy is questionable as well. For example, within the Islamic civilisation itself the problems of democracy in Indonesia are different from those in the Arab world.¹³

Yet despite diversity, the search for a common, post-bipolar world order requires the acceptance of basic rules and common values of democracy as grounds for democratic peace. This acceptance in the Arab world presupposes the combination of universality with an unfolding of an Arab-Muslim cultural underpinning that not only diffuses the fears ignited by Islamists of an imposition by external powers – i.e. the West – (such as 'imported solutions'). It should also enable Arabs to speak the language of democracy, civil society and human rights in their own tongue as a way for smoothing an endogenisation of democratic rule based on law. The working hypothesis of this chapter is that diversity and commonality need to be related to one another when it comes to an envisioned universalisation of democracy to be shared by all of humanity.

In going beyond the ideological bias of both the contention of a sweeping universality of Western democracy and of the opposite-named 'Islamic or Arab democracy', one cannot escape the rooting of democracy in the cultural modernity from which it has been generated. In this understanding democracy is an addition to the Arab-Islamic heritage as much as earlier Hellenism was in classical Islam. The Arab and Muslim encounter with modernity led to an Arab and Muslim rediscovery of Europe,¹⁴ in which the predicaments hinted at are involved. The first Arab-

¹² On the difference between globalisation and universalisation, see Bassam Tibi, *Islam between Culture and Politics*, expanded 2nd edition, New York: Palgrave, 2005; first published in 2001, pp. 8-10.

¹³ Robert Hefner, *Civil Islam: Muslims and Democratization in Indonesia*, Princeton, NJ: Princeton University Press, 2000.

¹⁴ See Ibrahim Abu-Lughod, *Arab Rediscovery of Europe*, Princeton, NJ: Princeton University Press, 1963 and Bernard Lewis, *The Muslim Discovery of Europe*, New York: Norton & Co., 1982.

Muslim who studied in the West was the Imam supervisor of an Egyptian group of students, who was sent to Paris by the modernising ruler Mohammed Ali in 1824. This Imam, Rifa'a al-Tahtawi, himself became a student in Europe. In his Paris diary he stated his admiration for the democratic rule and the compliance of both rulers and their opponents with the civilisational standards during the regime change that he observed in Paris.¹⁵

Since that encounter in the early 19th century, there have been continuing Arab efforts to introduce democracy at home. The outcome, however, has been extremely poor. About two centuries after al-Tahtawi, the Arab authors of the UNDP report on the Arab world in 2002 acknowledged that the core problems underlying the backwardness of the region are basically related to the lack of democracy and human rights.¹⁶ It is simply wrong to blame outside powers for this malaise. One can ask: Why is India a democratic country while no Arab state is? Colonial rule fails to be an explanation; this chapter considers the question of why the introduction of democracy to the Arab world has failed and why – unlike other non-Western countries – the Middle East continues to be outside the third wave of democratisation. Could the rising political Islam, acting as the new opposition to Arab autocrats, close this gap?

The Arab world and democracy: An overview

An overview of the contemporary history of democracy in the Arab world from the first Arab liberal, al-Tahtawi, up to the recent 2002 UNDP report can be mapped out under a scheme of periodisation that includes three patterns of rule as follows.

First, Arab history in the period of Arab liberal thought¹⁷ as set out in the course of the encounter with Europe – positively as a challenge of modernity and negatively in a colonial context – has to be taken into

¹⁵ Rifa'a R. al-Tahtawi, *Takhlis al Ibriz fi Talklis Paris*, Beirut: Dar Ibn Zaidun (reprint, no date); for a German translation, see Karl Stowasser, *Ein Muslim entdeckt Europa*, Munich: C.H. Beck Verlag, 1988.

¹⁶ United Nations Development Program (UNDP), *Arab Human Development Report: Creating Opportunities for Future Generations*, United Nations, New York, 2002.

¹⁷ Albert Hourani, *Arabic Thought in the Liberal Age*, London: Oxford University Press, 1962.

account. Early post-colonial experiments with democratic rule (in Egypt, Syria and Iraq for instance) are part of this first period.

Second, the failure of democratic rule under a multiparty system smoothed the way for the many *coup d'états* that resulted in establishing military populist rule. The existing corruption was identified with the democratic multiparty system and was replaced by the one-party systems of Nasserism and Baathism. This secular pan-Arab populism emphasised the unity of the nation against pluralism and supported the negation of democracy as a divisive form of rule. Some contended that this was a specific type of Arab democracy, which in fact concealed that dictatorship was at work.

Third, the defeat of the Arab secular-populist regimes in the Six-Day War of 1967 first opened the way for a kind of 'enlightenment' that was instigated by the disillusioned Arab intellectuals seeking self-criticism (Adjami, 1981). This trend was not lasting in view of the rise of what has been named '*al-hall al-Islami*' [the Islamic solution] (al-Qaradawi, 1970), which has become a truly mobilising ideology. Political Islam has its own ideology and system of rule called '*Hakimiyyat Allah*' [God's rule]. In the first volume of his trilogy, *Al-Hall-al-Islami* (1980), the most influential Muslim Brother of today, Yusuf al-Qaradawi, coined the already-quoted term of the "imported solution", in contrast with authentic "Islamic solutions". In the first volume, "democratic rule" is depicted as one of the failed solutions. Democracy, which has its roots in the Greek *polis*, is considered to be alien to Muslims. As previously noted, al-Qaradawi and his followers ignore the historical fact that the Greek legacy was not alien to medieval Muslims and was even one of the pillars of Islamic rationalism in high Islam. Why can this sentiment not also be applied to a contemporary Arab who is receptive towards democracy?

It goes beyond saying that any application of a political model – be it democracy or whatever – without considering local givens and constraints is doomed to failure. Nevertheless, the honouring of cultural peculiarities must have its limits and not be promoted to a cultural relativism that denies universal outlooks shared on cross-cultural grounds by all of humanity. International standards of democracy and individual human rights do in fact exist. Among them we find the basics of a democratic rule and the institutional safeguards guaranteeing its existence, above all the institutions of law.

In equally acknowledging cultural peculiarities and the return of the sacred under conditions of a crisis of secularism, one is compelled to consider Islam while dealing with democracy in the Arab world. In putting restraints on an application of cultural relativism to the Arab world, acknowledging limits in diversity in favour of establishing cross-cultural international standards is the preferred option. Above all, the reintroduction of the Shari'a in the name of democracy and also what is labelled by the Islamists as the '*dawla Islamiyya*' [Islamic state] is to be argued against.¹⁸ This pattern of rule is not consonant with democracy but should rather be addressed as a new totalitarianism. In this spirit, democracy and human rights are presented as an alternative to Islamic fundamentalism.¹⁹

To establish a cultural underpinning for democracy in the Arab world, the reference to Islam needs to be restricted to Islamic ethics²⁰ of democracy, but never elevated to an Islamic Shari'a-based rule. Therefore, the approach taken by John Esposito and John Voll to Islam and democracy is utterly wrong.²¹ More promising are the efforts to rethink Islam and to aim at an Islamic reformation by enlightened Muslims themselves. First, we need to distinguish between Islam and Islamism and then, within political Islam, between institutional and jihadist Islamism.

This discussion aims at addressing the contemporary debate on democracy in the Arab world both under conditions of post-bipolarity and the repercussions of the Iraq war, while taking pains to contextualise the entire issue.

¹⁸ On the ideological concept of an Islamic state, see Bassam Tibi, *The Challenge of Fundamentalism: Political Islam and the New World Disorder*, updated edition, chapters 7 and 8, Berkeley: University of California Press, 2002; first published in 1998.

¹⁹ *Ibid.*; see chapters 9 on democracy and chapter 10 on human rights as alternatives to the concepts of political Islam.

²⁰ See Sohail Hashmi, *Islamic Political Ethics: Civil Society, Pluralism, and Conflict*, Princeton, NJ: Princeton University Press, 2002, specifically chapter 9 by Bassam Tibi.

²¹ See John Esposito and John Voll, *Islam and Democracy*, New York and Oxford: Oxford University Press, 1996 along with the critical review by Bassam Tibi in the *Journal of Religion*, Vol. 78, No. 4, 1998, pp. 667-69.

Today, Western politicians also consider the need for democratisation in the Middle East as part of 21st century outlook, after having dealt with Arab dictators for decades. Especially after September 11th, the West began to seriously promote democracy in the Arab world. But long before “the promotion of liberal democracy became the catchword of the 1990s”²² in the West, Arab opinion leaders themselves engaged in discussing the problems of Islam, freedom and democracy in the Arab world, arranging to meet in November 1983 to address these issues. After having been denied the right to hold their meeting in an Arab city they had to convene in Limmassol, Cyprus. The title of that historical meeting was *Azmat al-Democratiyya* [The Crisis of Democracy].²³ The speakers attending the conference were aware of the fact that democracy was a novelty to the Arab-Islamic ‘*turath*’ [cultural legacy], and they were conscious of existing structural and cultural obstacles that create impediments for democratisation.²⁴ The alarming 2002 UNDP *Arab Human Development Report* prepared by Arab experts does not refer to the proceedings of that meeting, but it nevertheless highlights that the intensifying misery of the region is primarily home-made. Without overlooking the structural and political impediments, the lack of democracy can indeed, although not exclusively, be related to cultural factors. Indeed, the lack of democracy and human rights is a theme to being further elaborated upon by the “Culture Matters” project.²⁵ Democracy is a political culture.

All of these problems of democracy in the Arab world are currently discussed in the context of post-Saddam Hussein Iraq. To be sure, the Iraq

²² Beverly Milton-Edwards, *Contemporary Politics in the Middle East*, Cambridge: Polity Press, 2000, p. 145.

²³ Center for Arab Unity Studies (eds), *Azmat al-Democratiyy fi al-Watan al-Arabi*, Beirut: CAUS Press, 1984.

²⁴ For the Limmassol meeting, the author of this chapter was asked to address the structural requirements for democracy in a paper presented there on existing obstacles. That paper is included in the volume referenced above by the Center for Arab Unity Studies, 1984, pp. 73-87.

²⁵ “Culture Matters” is a research project directed by Lawrence Harrison at the Fletcher School/Tufts University (2003-05), which will result in three forthcoming volumes (a general one and two volumes with case studies). The author of this chapter has also prepared a study on Islam in Vol. 1 and on Egypt in Vol. 2 for that work.

war²⁶ waged in the name of democracy did not contribute to promoting the envisioned democratisation, but has instead exacerbated the issues under consideration on two levels: first, Arab-Muslim-Western tensions have intensified; and second, tensions within the West with regard to the understanding of democracy have also deepened the transatlantic rift between European and American opinion leaders. The repercussions of the Iraq war seem to reverse the formula of ‘from global jihad to democratic peace’, which arose in the hope of including the Arab world in the new wave of democratisation while formulating principles for a post-cold war order.²⁷ In Iraq, it has become clear that a different understanding of democracy and the rule of law prevails in Arab public opinion. The call for an Islamic state based on the Shari’a illustrates this issue. The view of democracy referred to in this case is clearly different from the one pursued by the Bush administration. Meanwhile, Europeans have taken the position evidenced at the one-year commemoration of the Madrid attacks on 11 March 2004, in which “security” was linked to “safe democracy”.²⁸ This appears as an alternative to the American approach of ‘war on terrorism’. These transatlantic differences are not the concern of this chapter. Yet a reference to the different American, European and Arab understandings of the concept of democracy is pertinent to the present analysis, because the existence of these differences challenge the claim concerning the universality of democracy and the rule of law. The focus of the following discussion is to address pending issues related to both the cultural constraints underlying the contemporary introduction of democracy in the Arab world and the lack of structural support required for it. Iraq continues to be referred to as an example of what is envisaged as an Arab-Islamic democracy.

²⁶ Liam Anderson and Gareth Stansfield, *The Future of Iraq: Dictatorship, Democracy or Decision?*, New York: Palgrave, 2004.

²⁷ See Bassam Tibi, “From Islamist Jihadism to Democratic Peace?”, *Ankara Papers 16*, London: Taylor & Francis, 2005, pp. 1-41, with a reference to the debate launched by Bruce Russett, *Debating the Democratic Peace: Principles for a Post-Cold War*, Princeton, NJ: Princeton University Press, 1993.

²⁸ See the brochure by the Club de Madrid, *op. cit.*, which documents a European democratic response to the challenge of jihadist terrorism and the events of 11 March 2004 as the European version of 11 September 2001.

Is Shari'a as a constitutional law in an 'Islamic state' the alternative needed?

For an average Muslim, 'law' is tantamount with Shari'a. In talking about the rule of law as essential for establishing democratic rule, the reference to this perception seems pertinent. Yet there is no common understanding among Muslims about what Shari'a really is. Despite all the tensions between Sunna and Shi'a, Iraqi opinion leaders argue in their call for the Shari'a that it constitutes a constitutional law for the respective state. Other Muslims contest this claim by addressing the deep contrast existing between democracy and the political Islamist understanding of a Shari'a-based Islamic state.²⁹ While acknowledging cultural differences, Muslim reformers are committed to the universality of democracy and point at tensions between Shari'a and international law.³⁰ Without overlooking the existing Middle Eastern peculiarities, which are partly determined by Islam and its worldview³¹ creating obstacles for the universality of democracy, it is argued that while being honoured those particularities need to be limited. But first they have to be determined. The core question is: Is Islam to be democratised or democracy to be Islamised? This section considers Arab debates on these issues while seeking an answer to this question. In this venture there is a need to look beyond ideological contentions as well as the accusations of the West. One needs to understand the issues underlying the lack of political freedom in Arab societies.

First, it is useful to refer to an Arab debate that took place a quarter of a century ago, initially in Tunis in October 1980. There, the assembled Arabs addressed the future of their region by including the option for democracy in the Arab world. In this context they easily reached a consensus on that occasion: there is no political freedom in the majority of

²⁹ Bassam Tibi, "Islamic Shari'a as a Constitutional Law?", paper presented to the 3rd International Conference on Comparative Constitutional Law, Tokyo on 2-4 September 2005; see also the chapter on Shari'a in Tibi, *Islam between Culture and Politics*, op. cit., pp. 148-66.

³⁰ See Abdullahi A. An-Na'im, *Toward an Islamic Reformation: Civil Liberties, Human Rights and International Law*, Syracuse, NY: Syracuse University Press, 1990 and Bassam Tibi, "Islamic Law/Shari'a, Human Rights, Universal Morality and International Relations", *Human Rights Quarterly*, Vol. 16, No. 2, 1994, pp. 277-99.

³¹ On the Islamic worldview, see Tibi, *Islam between Culture and Politics*, op. cit., chapter 2.

Arab countries and there is a need for change for the Arabs as they “*face leur destin*”.³² Two decades later, this observation was restated less rhetorically in the 2002 UNDP report. Owing to this lack of freedom, Arab intellectuals, who are committed to the cause of liberty, are unable to act freely towards establishing any authentic framework of democracy in their own countries. Either they fear imprisonment if they reveal their political commitments, or if they are allowed to do so, they lack access to means of cultural and political expression. These means, as with most other facilities, are under the complete control of the state. All means of articulation are under the surveillance of state institutions and reserved for those mercenary intellectuals willing to subject themselves to the respective state ideologies and to propagate it.

At present, Islamism is the only opposition to this repression, presenting a Shari’a-inspired order for the future of Arabs and the option for an Islamic state as an alternative. It is argued here, however, that this prospect is by no means a promising one. Democratisation in our age of Islamism proves to be a most uneasy task. The contention is as follows: Shari’a is not a constitutional law and its use to legitimate an Islamic state cannot be considered an alternative. Yes, there is a need for a change. But in talking about change, mere descriptions alone of such a sad situation cannot be satisfactory. Change first requires an explanation of the social malady in order to determine how and where to begin to remedy the situation.

In the West, be it in Europe or in the US, Arabs are usually viewed with an Orientalist bias. They are often regarded as ‘sons of the desert’ and therefore unfit to practice democracy. Currently, we see this sentiment revived with reference to Iraq. Yet it should be noted that this reference and a disregard for Orientalist explanations related to the alleged incompatibility between Islam and democracy does not imply putting all the blame on ‘Orientalism’ or on the West. The latter view has become fashionable among some Arab and non-Arab left-wing intellectuals in the West, which continues the tradition of Edward Said and ignores the

³² See the chapter by Bassam Tibi in the publication by the Centre d’Études et de Recherches Economiques et Sociales (eds), *Les Arabes face à leur destin*, Tunis, 1980, pp. 177-216.

critique of “Orientalism in Reverse”.³³ But the real issue is to accept the fact that post-bipolarity is part of an age of cultural turn.

In this context different explanations are given here for the lack of democracy in the Middle East. Imperialism and other external factors are mostly presented as the causes of the lack of freedom in Arab societies. In his presentation at the Arab conference entitled *The Revolution in Contemporary Arab Thought*, held at the University of Tunis in 1978, Khaldun al-Sham’a complained about the “infantile tendency to attribute everything to the objective external factors while almost completely neglecting the subjective ones!”³⁴ This dispensing with the analysis of combined structural and cultural constraints blinds Arabs to the requirements for building up democracy. As compensation, the attitude of blaming others flourishes. Contemporary political Islam shares with secular Arab ideologies the commonality that foreign domination is to be viewed as the key issue for explaining the lack of any progress. No tasks related to the needed homework are acknowledged. In this situation authenticity has been brought to the fore to articulate particularism and, in this context, to raise the banner of Islam. The call for Shari’a is the chosen symbol.

To be sure, in addressing the lack of democracy, in almost all Arab societies an emancipation from foreign dominance is a pertinent issue, but home-grown shortcomings need to be pointed out. When Arab opinion leaders met in Limmassol in 1983, it was emphasised that the need for democracy in terms of achieving participation on all societal levels requires cultural change in Arab societies (Center for Arab Unity Studies, 1984). One could not fail to notice that the notion of ‘external factors’ has been repeatedly employed to distract Arabs from the lack of political freedom in

³³ See Zachary Lackman, *Contending Visions of the Middle East: The History and Politics of Orientalism*, Cambridge: Cambridge University Press, 2004. Unlike these post-modern fashions, the Arab-Muslim Yale-educated Enlightenment philosopher Sadiq J. al-Azm speaks of *al-Istishraq Ma’kusan* [orientalism in reverse] and addresses it as conspiracy-driven thinking in his book, *Dhahmiyyat al-tahrin* [The Mentality of Taboos], London: Riad El-Rayyes Books, 1992, pp. 17-128.

³⁴ Khaldun al-Sham’a, “Al-adab w ath-thaura. Ba’d al-mafahim” in *Ath-Thaura fi al-fikr al-‘arabi al-mu’asir*, Centre d’Études et de Recherches Economiques et Sociales, Tunis, 1983, pp. 9-19, specifically p. 9.

their own societies.³⁵ For instance, one would be hard-pressed to find a foreign influence to blame for the state authoritarianism practiced by the police-governments in most Arab states. Instead of focusing on those who practice these methods to oppress political freedoms, external factors are blamed and ‘*Mu’amarah*’ [conspiracies] are imagined.³⁶ A prominent Arab, Sadik Jalal al-Azm, expresses the need for a different approach to these questions, one that is committed to the ideals of the Enlightenment and rationality.³⁷ In the medieval Islam that reflected the Greek impact in the context of Hellenisation, this standard of reason-based knowledge was accepted in Islamic civilisation, but not today (Watt, 1979). It is not the Shari’a in the new garb of constitutional law but rather Islamic rationalism that needs to be revived. What is at issue is the discourse for dealing with the problem of political freedom (i.e. democracy) in Arab societies. Political freedom is a notion that has a wide range of meanings. The discourse employed determines the outcome: a Shari’a state (Islamism) or the *al-Madina al-Fadila* [the proper order], which was once addressed by Abu Nasr al-Farabi with regard to the Islamic rationalism of medieval Islam.

No democracy without structural and institutional underpinning

The first issue to be addressed relates to the human rights to freedom of expression and assembly and the required safeguards that are needed to ensure these freedoms. The crux of the matter here is the institutional framework of the political system. It is not enough to refer to political freedom as a democratic value. Democracy is a system of participation of the members of a society on all levels. These values cannot be practiced, however, without the respective structural and institutional frameworks that provide safeguards. It follows that the concern related to the structural and institutional requirements of political freedom in Arab societies is not an Arab or Islamic particularity.

³⁵ Bassam Tibi, “Political Freedom in Arab Societies”, *Arab Studies Quarterly*, Vol. 6, No. 3, 1984, pp. 222-27.

³⁶ On conspiracy-driven Arab political thought, see Bassam Tibi, *Die Verschwörung/al-Mu’armorah. Das Trauma arabischer Politik*, Hamburg: Hoffmann & Campe, 1993.

³⁷ Sadiq Jalal al-Azm, *Al-naqd al-dhati ba’d al-hazima* [Self-Critique after the Defeat], Beirut: al-Tali’a, 1968; see also footnote 32 above.

The second issue to be addressed relates to history, which provides the social scientist with rich material from which to learn, to draw comparisons and to undertake comparative studies. In an effort to obtain general historical guidance, this second point of inquiry focuses on the origins of democracy as it has evolved in European societies after the French Revolution. It is to be recognised that since then, there has not been a separate Middle Eastern time, but a *world* time. This expression is not one of sweeping universalism.

Third and finally, one needs to look at contemporary Arab writings on the issue of democracy. How do Arab intellectuals view political democracy? In regarding social change as a combination of social-structural and attitudinal transformation, how do the majority of contemporary Arab intellectuals perceive the problem at hand? In view of the failure of Arab liberals, one has to enquire into the options currently presented as alternatives by the new Islamists to what is pejoratively called '*hulul mustawradah*' [imported solutions]. At the outset of this discussion, reference was made to al-Qaradawi, who placed democracy among such imported solutions to be rejected.

Despite the acknowledgement of the cultural turn, the debate on democracy is not merely a cultural issue. Democracy is not only a beautiful idea, it primarily refers to a political system. Any democracy that lacks the needed structural and institutional framework for practicing its values cannot flourish. Pre-modern societies lack the structural facilities required for democratic participation. In addition to institutions, the socialisation of individuals in a respective system of democratic values is an essential component of democracy. Therefore, along with the institutional setups needed for the practice of democracy it must be clear that culture matters as well. In this regard, the argument follows on with the interpretation of the late Iranian scholar of Oxford, Hamid Enayat, that Islam can be viewed as a distinctive system of democracy only if reconciled with modernity.³⁸ To a *Faqih*, as an Islamic scholar of law, it is a matter of textual interpretation as to how to see Islam. But to a social scientist, social facts – in the Durkheimian sense of *fait social* and not the divine texts – must be the point of departure. From this point of view democracy is a socio-political system that first emerged in industrial societies. Arab societies are still lacking the

³⁸ Hamid Enayat, *Modern Islamic Political Thought*, Austin, TX: University of Texas Press, 1982.

structural framework for implementing this system as well as the political culture related to it. It is by no means an expression of Orientalism to articulate the absence of the necessary requirements for democracy in Arab societies. Any critical, social scientific analysis of the existing constraints leads to the statement that the Arab political culture of neo-patriarchy is as much an obstacle to the introduction of democracy as the missing institutions of a democratic political system.

In preparation for the Limmassol meetings of Arab opinion leaders, I was asked to review and revive the much-earlier effort of the distinguished Arab scholar Charles Issawi.³⁹ Issawi's groundbreaking analysis of the "economic and social foundations of democracy in the Middle East" has not lost its validity to date, although the situation has changed immensely. In his essay, Issawi points out that democracy does not thrive in the contemporary Middle East, "because the economic and social basis which it requires is as yet nonexistent". Issawi was not a revolutionary, but rather a good scholar who was able to provide a profound analysis from which he drew his conclusion:

What is required is a great economic and social transformation which will strengthen society and make it capable of bearing the weight of the modern state. Such a development is [a] necessary, if not sufficient, condition for the establishment of genuine democracy in the region.⁴⁰

The quoted analysis was published in *International Affairs* in 1956. In the past half century, the Middle East has undergone processes of rapid social change. It is true that change has taken place, but no structural transformations favourable to democracy have occurred. To quote Issawi again, "In the Middle East the economic and social soil is still not deep enough to enable political democracy to strike root and flourish. What is needed is not merely constitutional or administrative reforms, not just a change in government machinery or personnel."⁴¹

Since the publication of this classical article by Issawi, Arabs have witnessed numerous changes of government and the replacements of political leaders with others who only have different labels. Nevertheless,

³⁹ Charles Issawi, "Economic and Social Foundations of Democracy in the Middle East", *International Affairs*, Vol. 32, No. 1, January 1956, pp. 27-42, specifically p. 28.

⁴⁰ *Ibid.*, p. 41.

⁴¹ *Ibid.*, p. 40.

the political culture of political oppression and the lack of political freedom continue to exist. Most Arab states reserve for themselves the monopoly of all facilities, while civil society not only means very little but is almost nonexistent. In short, it is not a Western conspiracy but the lack of the institution of democracy and the related political culture that determines the overall political situation.

Is democracy alien to the Arabs because of its European origins?

Identity politics⁴² is paramount in the context of the cultural turn. In this regard, authenticity is stressed and the spirit of gated communities is thriving. How does this affect democratisation? The claim of democracy is universal, but the fact that its origins refer to Europe closes the door for adoption elsewhere. The reference to European origins does not imply that any Eurocentric drive is followed here. The above-mentioned Hellenisation in Islamic civilisation reveals a rich record of learning from others.⁴³ In his famous work on civilisations, *Der Prozeß der Zivilisation*,⁴⁴ Norbert Elias enquires into the structural causes of the emergence of democratic rule in French history. Between the 14th and 17th centuries, France underwent crucial societal changes and also an attitudinal (in Elias's terms, "sociogenetic" and "psychogenetic") transformation in society. Germany was less developed and lacked not only territorial unity but also a similar structural transformation. These structural changes strengthened French society and were conducive to the unfolding of a complex structure in the state machinery. The structural reinforcement of French civil society contributed to limiting the all-encompassing, dominating power of the state. Elias labels this process with the term "*Vergesellschaftung der Macht*" [societalisation of social power]. Yet it can be argued that comparable processes in Islamic history, in which the state has always been in a

⁴² See Gary Lehring, "Identity Politics" in Mary Hawkesworth and Maurice Kogan (eds), *Routledge Encyclopedia of Government and Politics*, new edition, London: Routledge, 2004, pp. 576-86; see also the chapter by Bassam Tibi, "Fundamentalism", 2004, pp. 184-204.

⁴³ Marshal G.S. Hodgson, *The Venture of Islam*, Chicago, IL: Chicago University Press, 1977.

⁴⁴ Norbert Elias, *Über den Prozeß der Zivilisation*, 6th edition, Frankfurt: Frankfurt am Main, 1982; first published in 1978, English translation, *The Civilizing Process*, New York: Pantheon Books, 1982; first published in 1978.

position to impose its preferences on the *umma* society, are not seen. The lack of institutionalisation of power is a major factor in Islamic history.

Prior to the French Revolution, the French king could rhetorically say: “*L’état c’est moi*”, although in reality, the French state consisted of a very complex structure that could not be governed by one person alone. The same cannot be said of any traditional Islamic ruler. It is not superfluous to refer in this context to Majid Khadduri’s many books, in which Arab politics is reduced to the study of biographies of Arab politicians.⁴⁵ While this approach is methodologically extremely problematic, it does make the point that power in Arab politics is personalised. That does not mean, of course, that there are no structures underlying personalised politics in Arab societies. In Islamic history, the prevailing traditional question has been: ‘Who is the *Imam fadil* [the true Imam]?’ and not ‘What are the proper and just institutions?’⁴⁶ Among the very few exceptions one finds al-Farabi’s classical work on *Al-Madina al-Fadila*, in which he discussed the proper order⁴⁷ continuing from the ancient Greek legacy in an Islamic tradition of rationalism.

In the context of institutions, it is also worthwhile to look at Barrington Moore’s *Social Origins of Dictatorship and Democracy*,⁴⁸ in which he provides a comparative analysis of Western and non-Western historical types of political development. Moore shows that those European societies that were able to develop a pattern of democracy had had some comparatively autonomous medieval institutions. The unfolding of these institutions contributed to strengthening the society *vis-à-vis* the state. Democracy requires the institutions of a civil state and society, and not only

⁴⁵ See Majid Khadduri, *Arab Contemporaries: The Role of Personalities in Politics*, Baltimore, MD: The Johns Hopkins University Press, 1973; see also the more recent publication by the same author, *Arab Personalities in Politics*, Middle East Institute, Washington D.C., 1981.

⁴⁶ Bassam Tibi, *Der wahre Imam: Der Islam von Mohammed bis zur Gegenwart*, Munich: Piper, 2002; first published in 1996.

⁴⁷ Abu Nasr al-Farabi, *Al-Madina al-Fadila* [On the Perfect State], Richard Walzer (ed. and trans.), New York and Oxford: Oxford University Press, 1985.

⁴⁸ Barrington Moore, *Social Origins of Dictatorship and Democracy*, Boston: Beacon Press, 1966.

a concept of a civil Islam as that which exists on cultural grounds in Indonesia.⁴⁹

The reference to the historical origins of democracy in Europe shows that without a strong civil society protected from the state, there can be no effective societal control over state power. If a society is weak, there is no real limit to the dominance of state power over the society. Without radical transformations of the existing economic, social and cultural structures, there can be no strong society in the Arab world and thus no real freedom. Some small organisations such as Saad Eddin Ibrahim's Ibn Khaldun Center for Civil Society⁵⁰ provide a model for the needed direction. These efforts are, as is well known, oppressed by the state and lack the needed impact. In summing up, it can be concluded that learning from others is not alien to the Arab-Islamic heritage. Democracy has Greek origins and Hellenism is a part of the Islamic legacy. Nevertheless, there are different varieties of democracy, which are adjusted to diverse local conditions. The local/global duality should, however, never serve as an argument for rejecting universality, i.e. commonalities above civilisational differences are to be shared by all of humanity. Authenticity, identity politics and the need for cross-cultural commonalities can work in harmony.

Conclusions: Contemporary Arab political thought and democracy

The question of an 'Arab democracy' needs to be related to the contemporary Islamic revival. Islam and its relation to democracy can be viewed in different ways. Yet we need to distinguish between Islam in general and the political Islam calling for a Shari'a state. Long before the rise of political Islam, the Lebanese political scientist and one of the true proponents of liberal democracy in the Arab world, Hassan Saab, published his book on a pro-democracy form of Islam as opposed to an Islam of despotism. Saab argues for a "comprehensive spiritual revolution in the soul of the man and in his life too"⁵¹ and applies his claim to the whole world of Islam. This is a plea for the attitudinal change required for achieving democracy in the Arab world and it supports the argument that

⁴⁹ See Hefner, op. cit.

⁵⁰ See Saad Eddin Ibrahim, op. cit.

⁵¹ Hassan Saab, *Al-Islam tihah tahidiyat al-hayat al-'asriyya*, Beirut: Dar al-Ilm, 1965, p. 123.

culture matters for the introduction of democratic traditions. At present, such liberal Arab thinking committed to democracy is rarely found. Has it been phased out? Arab liberals have viewed democracy as an idea and overlooked the structural and societal requirements to underpin it. The political culture of Arab liberals has failed to achieve democracy in Arab societies and therefore contributed to the decline of Arab liberalism. The introduction of a new value system first requires cultural innovations and second the awareness that it cannot flourish if the corresponding structural roots are missing. This insight has been absent in liberal Arab thought.

Populist Arab socialists, who in the 1950s replaced the liberals with their rhetoric of populist freedom, believed in the collective political freedom ('freedom of the Arab nation'), which was carried out by the state and aimed at shaping society in a totalitarian manner according to the respective populist ideology. Under their rule (Nasserism, Baathism and Qadhafi, etc.) there was no room for any individual political freedom, be it free expression or free assembly, let alone the freedom to build up political or social organisations (such as free trade unions). Pan-Arab socialists have continued to deny diversity and address it with contempt: *man tahazaba khana* [he who belongs to a political party/*hizb* is a traitor!]. Populist ideology has failed to conceive of society as a pluralist civil entity and instead views the nation as an organic whole. Like the liberals, the populists have failed and the new Islamists are on the rise.⁵² We need to understand this phenomenon and how to deal with it. Is there a light at the end of the tunnel or a continuation of the darkness?

First, on the grounds of a quarter-of-a-century long study of political Islam, it can be argued that the politicisation of religion in Islam is resulting in the concept of a Shari'a-based Islamic order (the *nizam Islami* or Islamic system).⁵³ This is the substance of Islamism. It is not a renaissance of

⁵² See Bassam Tibi, "The Renewed Role of Islam in the Political and Social Development of the Middle East", *Middle East Journal*, Vol. 37, No. 1, Winter, 1983, pp. 3-13, and a more mature and elaborated discussion on this issue in Tibi, *The Challenge of Fundamentalism*, op. cit.

⁵³ The first articulation of a '*nizam Islami*' as an 'Islamic solution' is to be found in the first organisation of political Islam, the Muslim Brotherhood, established in Cairo in 1928. Concerning this movement, see the classical study by Richard Mitchell, *The Society of the Muslim Brothers*, London and Oxford: Oxford University Press, 1969, chapter X, pp. 260-94.

religion,⁵⁴ or a spiritual Islam. If Islamists honestly – i.e. not tactically – accept democracy, then it would be fully wrong to address them as Islamists, because the term Islamism is bound in the belief in ‘*din-wa-daula*’ [unity of state and religion]. Islamism has two directions: institutional and jihadist (Tibi, 2005c). Institutional Islamists accept working in democratic institutions for tactical reasons and dispense with violent jihadist actions. In contrast, Islamist jihadists believe in global jihad/Islamic world revolutions as the only means to restore the *siyadat al-Islam* [Islamic global supremacy] (Tibi, 2005c).

As to the question of how to deal with them, there are inclusive and exclusive strategies. It is democratic to include the institutional Islamists in the game of democracy but it should be recognised that such a move risks undermining democratisation in the name of democracy. When it comes to jihadism, the only approach is security, because for jihadists all that counts is the *action directe* of violence. This sort of double strategy is what is needed.⁵⁵

The defenders of militant and political Islam point to the ascendancy of new actors who reject the notion of individual freedom. It does not even exist as rhetoric because the discourse of political Islam is based on the *umma* [community] and does not take freedom into consideration. In the course of the recent political revitalisation of Islam, a process labelled in the West as ‘Islamic resurgence’, one cannot even find rhetorical pleas for democracy such as the previously cited one by Hassan Saab. It needs to be stressed that the foremost authority of contemporary political Islam, Yusuf al-Qaradawi, views democracy as a “*hall mustawrad*” [imported solution]. Al-Qaradawi expresses this attitude in his three-volume publication (*Al-Hall al-Islami wa al-Hulul al-Mustawrada*, 1980).⁵⁶ It follows that Islamist

⁵⁴ On this issue, see the controversy presented in Bassam Tibi, “Habermas and the Return of the Sacred: Is it a Religious Renaissance or the Emergence of Political Religion as a New Totalitarianism?” in *Religion-Staat-Gesellschaft: Journal for the Study of Beliefs and Worldviews*, Vol. 3, No. 2, 2002, pp. 205-96.

⁵⁵ On the needed double-track strategy see Bassam Tibi, “Between Islam and Islamism: A Dialogue with Islam as a Pattern of Conflict Resolution and a Security Approach vis-à-vis Islamism”, in Tami A. Jacoby and Brent E. Sasley (eds), *Redefining Security in the Middle East*, Manchester: Manchester University Press, pp. 62-82.

⁵⁶ See Yusuf al-Qaradawi, op. cit.

ideology is not favourable to democratic solutions but makes use of them for convenience. The commitment to the values of political freedom and democracy must be related to a structural transformation of Arab societies combined with an Islamic reformation to culturally underpin democracy. An Islamic ethics of democracy could be the alternative to religious fundamentalism in Islam, but it must be free of the misconception that Islam is a system of government.

Finally, it is argued that the developments in the field of democracy in the Arab world have more important implications for Europe than for the US. If democracy is dismissed, it will be impossible for the European Islamic diaspora to integrate. Political freedom in Arab societies will not fall from heaven. Nor will it be presented as a gift by a ruler or be successfully imposed from outside by an external power. History teaches us that people have to fight for their rights and will continue to be subjugated as long as they fail to do so. In this context one needs to ask whether political Islam provides a light at the end of the dark Middle Eastern tunnel. The answer of the present analysis suggests that it does not. Yet the historical experience of introducing democracy to the Arab world has shown that no one can overlook the religion of Islam while talking about democracy in a political sense. The place of Islam has to be restricted, however, to an ethics of democracy and never be extended to a system of government and state. This author cannot detect the spirit and institutions of democracy either in the concept or practice of a Shari'a state. Therefore, the de-politicisation of Islam is an essential part of the needed democratisation of this religion.⁵⁷ Stated in a nutshell, the formula presented by the Islamists of *al-Islam huwa al-Hal* [Islam is the solution] is to be reversed: political Islam is not the solution! The conclusion is thus twofold – on the one hand, there can be no democracy or democratisation without engaging an Islamic discourse on this issue. On the other hand, an

⁵⁷ See Tibi, *Islam between Culture and Politics*, op. cit. In addition to the needed de-politicisation of religion, an education in democratic values is essential. See also Bassam Tibi, "Education and Democratization in an Age of Islamism" in Alan M. Olson, David M. Steiner and Irina S. Tuuli (eds), *Education for Democracy*, Lanham: Rowman & Littlefield Publishing, 2004, pp. 203-19. This publication grew from the Paideia Project managed by Boston University. The papers that arose from it were presented and discussed at Boston University ahead of this publication, and are most pertinent to the CEPS project associated with this book.

Islamisation of politics in the Arab world is *not* the right avenue for introducing a civil Islam that is consonant with democracy. To be sure, democracy is a political culture of rule based on pluralism; it is not a value-free procedure of voting for a political direction that opposes pluralism in a civil society in favour of a religion-based rule under the heading of '*nizam Islami*' [Islamic system]. This *nizam* would be no road to democratisation. Arab democracy cannot be a copy of Western democracy. Nevertheless, it could be a variety of the phenomenon of a universal democracy, but never really a rule in its own terms.

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EGYPT'S MOMENT OF REFORM: A REALITY OR AN ILLUSION?

EMAD EL-DIN SHAHIN

Introduction

The movement for democratic reform in Egypt seems to be gathering strength. Some of the factors that would make a good case for democratic transformation are rapidly converging: the formation of a wide spectrum of discontented segments in society; the mushrooming of pro-reform grass-roots movements that agree on a clear list of short-term demands; and a sympathetic pro-reform international context. With presidential and parliamentary elections scheduled to take place in September and November respectively, will Egypt finally experience its democratic spring? The answer to this question still seems uncertain. The reform movement faces numerous challenges: the possibility of being sidelined by an agreement between the regime and external actors for the sake of stability and containing change; regime repression of the reform movement; and the radicalisation of the movement itself and the possible eruption of sporadic violence or chaos. For reform to become a reality and not another missed opportunity, certain structural changes and institutional safeguards must be introduced.

Mounting discontent

Several developments at the beginning of 2005 sent clear signals that the year would be a difficult one for the Egyptian government. The regime has become a target for internal and external pressures to undertake qualitative democratic reforms. The pro-reform forces in the country became

determined to publicly and forcefully challenge the regime's attempts to circumvent reform and outmanoeuvre the growing demands for ending the state of emergency, amending the constitution and allowing for a competitive presidential election. In an attempt to avert these pressures, the governing National Democratic Party (NDP) held a conference in September 2004 to launch its new vision for the country and propose ways to activate political life. But the NDP congress came as a big disappointment to the opposition, whose demands were all rejected. The party insisted on setting its own reform agenda by giving priority to economic reforms and proposing minor political changes to some of the existing laws. In fact, the congress refused to even discuss the possibility of amending the constitution, changing the rules of the presidential elections or lifting the state of emergency. Instead, it focussed on superficial changes to the laws on party formation, public assembly and the practice of political rights. All the changes proposed sought to reinforce the party's grip over the pace of political reform.

It became obvious that the regime chose to derail the democratic reforms. Most alarming was the fact that the country was being prepared for a hereditary succession of power. President Hosni Mubarak, who is the head of the party, did not participate in the congress proceedings, except for the concluding session. The president's son, Gamal Mubarak, who also heads the party's Policies Committee, received wide publicity and most of the attention during the congress, as he appeared to be spearheading the reforms and the 'reformist wing' within the party. He assumed the role of explaining the party's plans, outlining the government's future vision and restructuring the party to increase the presence and influence of his own clients, the party's 'new guards'. As the presidential elections were at that time only one year down the road, and despite official denials, it became clear that the way would be open for Gamal Mubarak to become Egypt's next hereditary president – a scenario that all the pro-reform forces in the country vehemently reject and are willing to resist.

Another discernable development this year concerns the extent of the opposition to the regime's agenda. The spectrum of pro-reform movements has been expanding daily and has become wide enough to include a diversity of activists such as university students, professors, lawyers, doctors, engineers and journalists – and perhaps for the first time – judges and Azharite scholars. Strangely enough, through its reluctance to change and unresponsive policies the government has managed to alienate almost

all of these groups, who have begun to feel that the fulfilment of their demands is directly linked to a larger process of reform.

The case of Egypt's judges is worth elaborating upon because it could have significant political ramifications in the future. Traditionally, the judges have deliberately refrained from interfering in politics or taking a public political stand in order to ensure the independence and neutrality of the judicial branch. Yet last April, judges finally joined the movement and stressed the need for overall reforms. They pressed the government for certain demands in return for their supervision of the upcoming presidential and parliamentary elections. These demands included approving a new law for the judicial branch (which they had proposed but the regime had been stalling since 1991), to ensure complete independence of the judiciary from government interference. They insisted on their full supervision over the entire electoral process, from the preparation of the lists of voters to the announcement of the election results. The judges have been outspoken about past election irregularities and expressed their determination not to participate in future elections that could be rigged. Their stand received support from various organisations - representing lawyers, journalists, engineers, workers, the Muslim Brotherhood and the Egyptian Movement for Change, known as the '*Kifaya* [Enough]' movement, which consider the complete independence of the judiciary and its total supervision over the elections as a necessary safeguard for a democratic transition and the future of reform in the country.

Pro-reform movements from the grass-roots level

Egyptian political life has for a long time been monopolised by an over-dominant state party. Its strength has not been driven by its popularity or clear vision, but has emanated simply from its close association with the state administration and control over an elaborate patronage system. This monopoly over the political arena has been recently challenged and broken by the emergence of several pro-reform movements from the grass-roots level, which have managed to attract various segments of the country's 'dormant' and 'ineffective' counter-elites and mobilise its 'silent' and 'apathetic' public. Reform movements have been proliferating over a relatively short time. In one year, more than 14 pro-reform movements have emerged in opposition to the possibility of renewing Mr Mubarak's presidency for a fifth term and to a hereditary succession.

'Change' seems to be the buzzword or the common denominator among all these movements. An inventory of the recently formed movements includes: the *Kifaya* movement, the National Rally for Democratic Transformation, Journalists for Change, Doctors for Change, Intellectuals for Change, Writers for Change, Youth for Change, the Association of Egyptian Mothers and the Movement of White Ribbons. Obviously these groups vary in influence and impact, but their rapid growth has several indications. It is a clear sign that the existing legal political parties are not effective in articulating the demands of the people; that professional or particular reform interests cannot be achieved unless overall transformation occurs; and that the collective momentum for change requires the solidarity of various groups. All these forces seem to agree on a clear list of demands that call for ending the state of emergency, rejecting hereditary succession, holding free and clean elections and changing the constitution. The following sections address some of these movements for their potential future significance, particularly *Kifaya* and the National Rally for Democratic Transformation, as well as the Muslim Brotherhood, which has witnessed a clear change in its strategy over the past few months.

The Kifaya movement

The *Kifaya* movement appeared in August 2004, as a non-partisan, umbrella pressure group that reflects the major political trends in society. Its founders consist of a wide range of political activists, professionals and intellectuals, representing the Nasserites, Islamists, liberals and leftists, in addition to independents. *Kifaya* started with the formulation of basic reform demands on which all the political activists could agree, such as preventing the re-election of the incumbent president and hereditary rule. It also expressed its opposition to any foreign intervention in the reform process. *Kifaya's* objectives started to evolve as the movement gathered initial support from different political forces. It decided to take its demands directly to the streets. The movement organised its first demonstration on 12 February 2005, which has since been followed by several more throughout the country. Despite its relatively short history and limited influence, last April it was able to organise 14 demonstrations in different parts of the country in one day. As a sign of further evolution, the movement is planning to hold a conference on democracy, to which it has

invited all the key political forces and intellectuals to discuss the future of democracy in the country. It is also planning to form popular committees to monitor the presidential and parliamentary elections.¹

Since its establishment, the *Kifaya* movement has become the focus of heated controversy. Even some of its founders are uncertain about its future or how it will evolve. Some question the objectives behind the formation of the movement and the reasons for the government's toleration of some of its activities. The tamed political parties (those that have accepted to engage in a dialogue with the regime) are wary of the movement and are keen to discredit it. They consider the movement as a sporadic phenomenon and accuse it of being elitist and of maintaining foreign links. The Muslim Brotherhood, which participates in the movement and its demonstrations, expresses reservations regarding the language and the slogans used by the movement in these events. The Brotherhood also harbours some concerns about the possibility that *Kifaya* may evolve or be used to undermine its popular influence and presence among the public. In a sign of growing divergence from reality, the government accuses the movement of being foreign-inspired and of receiving finances from external sources. Referring to the *Kifaya* movement in an interview by *Le Figaro*, President Mubarak stated that "some movements are being dropped [in] by the outside".² In an attempt to undermine the impact of *Kifaya*, he hinted that it was easy for him to establish a counter-movement in support of the regime, entitled '*mush Kifaya* [not enough]'

The fact of the matter is that *Kifaya* is an evolving political movement, with genuine concerns for reform and for not leaving the political spectrum widely open to the manipulation of the regime or the influence of the Muslim Brotherhood. It has adopted effective protest tactics and achieved some successes in crystallising agreed-upon reform demands. It certainly reflects popular requests for change, and that could be a reason for its growing influence despite the relatively limited number of its supporters (estimated at 3000, mostly through the Internet). In addition, the movement has demonstrated high skills in using the Arab and foreign media. The *Kifaya* movement phenomenon also reveals the ineffectiveness of the

¹ "Kifaya Resorts to the International Crime Tribunal", *Hayat*, 3 June 2005, p. 5.

² Muhammad Gamal Arafa, "The Brotherhood and the Regime at Crossroads" (retrieved from www.Islamionline.net), 23 March 2005.

existing legal political parties and their inability to mobilise the people. This reason may explain why 'tamed' political parties are suspicious of the movement. The movement also presents a clear source of pressure on the regime, which has resorted to an unconvincing way to discredit the movement through accusations of foreign links. In fact, *Kifaya* is a transitional movement with short-term demands and it is unlikely that it would evolve into a political party, because of the nature of its formation through representatives of various political parties. *Kifaya* acknowledges that it has not articulated a comprehensive, long-term vision for reform; however, it could become a residual force that could assume a monitoring role for the process of democratisation in the Egypt and appeal to 'the street' whenever violations occur.

The National Rally for Democratic Transition

Another potentially important movement is the National Rally for Democratic Transition. It was created by a group of politicians and intellectuals in June 2005. The Rally is led by former Prime Minister Aziz Sidqi and includes former officials, diplomats, university professors and well-known experts in economics, education, diplomacy, media and law. In a press conference that was attended by more than 100 prominent figures, the group appealed to all the national forces to join together for the purpose of creating a 'national front' to crystallise and reach an agreement over a strategic vision of political change and democratic transition in Egypt. The founders confirmed their intentions not to organise demonstrations or compete for power, but to formulate ideas that would "rescue Egypt from the current state of stagnation and check the alliance of corruption and authoritarianism that blocks reform".³ The group eventually seeks to hold a general conference of the national and democratic forces and form a constituent committee representing all the political and intellectual trends. The main task of this committee is to write a new constitution for Egypt. It is still too soon to assess whether this newly established movement will be successful. The most important aspect about the group is the idea it stands for and its attempt to devise a futuristic

³ "Egyptian Intellectuals Call for Rescuing the Country from Corruption and Despotism", *Hayat*, 4 June 2005, p. 6.

vision that would generate the agreement of the main political actors. This challenge is not an easy one.

The Muslim Brotherhood

Many have noticed a clear change in the strategy of the Muslim Brotherhood in their relationship with the regime and in the reform agenda they have proposed. This change was observed in March 2005, when the Muslim Brotherhood insisted on carrying out a demonstration to demand a faster pace for the reforms and for increasing public freedoms. Despite a refusal by Egyptian state security to grant permission for the group to demonstrate, the Muslim Brotherhood defied the ban and organised a 'symbolic' demonstration in which 10,000 persons participated. The government responded with the subsequent arrests of hundreds (thousands, according to some reports) of the Brotherhood's followers. The show of force by both the state and the Muslim Brotherhood seemed to be heading towards a major escalation, or what some have already called a 'bone-crushing phase'.

In a clear break from past practices, the group refused to relent and continued with even larger intermittent demonstrations over a period of three weeks. The Muslim Brotherhood did not promulgate its usual traditional slogans in these demonstrations, but adopted an appealing reform agenda that called for ending the state of emergency, allowing public freedoms, precipitating the pace of reform, holding clean presidential elections under total judicial supervision and releasing all political detainees (estimated at 20,000). In one day last May, it organised 41 'surprise' rallies in which 70,000 persons participated in 18 governorates. The surprise element was necessary to avoid the pre-emptive arrests of organisers and prevent state security from blocking the roads leading to the destinations of the demonstrations - a practice state security forces have been following recently. The group withheld the time and locations of the demonstrations from the media, which were only informed on the same day. The ability of the Muslim Brotherhood to organise these demonstrations despite government harassment attests to its organisational skills and popular influence.

The government considered this continued defiance as a clear violation of all its redlines and stepped up its crackdown on the group by arresting some of its top leadership, particularly those in charge of

preparing for the Brotherhood's participation in the coming parliamentary elections as well as many of the group's potential parliamentary candidates. Two days later, the group organised another demonstration. That day was later dubbed 'Black Friday', because of the violent confrontations that led to the death of one demonstrator, the injury of tens and the arrest of hundreds. This prompted the supreme guide of the Muslim Brotherhood to threaten "civil disobedience if that was the only way to achieve freedom and justice for the Egyptian people" and to insist on achieving comprehensive reforms.⁴

The explanations behind the Brotherhood's change of strategy varied. The government, its official media and critics of the group tried to attribute this change to external pressures. This view was widely publicised in order to discredit the group through claims of foreign affiliation and clandestine contacts and dialogue between the Muslim Brotherhood and the US and the EU. It was argued that the Muslim Brotherhood had become emboldened by the statements of American officials, indicating acceptance of the results of a democratic process even if it brings Islamists to power, and by some EU officials, who have considered engaging the moderate Islamic movements in the reform process.

Yet it is more likely that the change in the Muslim Brotherhood's strategy is related to the rapid political developments and alterations in the balance of power that have been taking place in the country over the past year and a half. The general political atmosphere has been generating new (and reviving old) forces for change and reform in which various groups are competing for a place and a role. The government and the 'legal' opposition have opted for the exclusion of the Muslim Brotherhood, the most organised popular force. In March 2004, the group issued a comprehensive reform initiative that reflected a noticeable difference in its language and views. The main objective behind this initiative was to provide a common ground for discussion and agreement on basic reforms, over which the opposition would rally against the regime. The legal opposition, however, preferred to engage in a 'national' dialogue with the regime and exclude the Muslim Brotherhood from the negotiation process. This dialogue was completely manipulated by the regime, which used it to give the impression that its intended reform measures had been discussed

⁴ "The Brotherhood Supreme Guide Threatens with Civil Disobedience", *Hayat*, 9 May 2005, p. 6.

and sanctioned by the opposition. In addition, the emergence of new movements (particularly *Kifaya*), which have succeeded in gaining publicity in a relatively short time and in acquiring a *de facto* recognition, must have moved the Muslim Brotherhood to try to reassert its presence as a significant player and to avoid being marginalised or perceived as a non-recognised political actor.

Another probable explanation for the change in the Muslim Brotherhood's strategy is the mounting pressures on the government and the feeling that the moment is ripe for extracting concessions and gaining new ground from a faltering regime. For the past year, the government has been exposed to domestic and external pressures to introduce meaningful political reforms and effective democratic advances. All its attempts to pay lip-service to reform and outmanoeuvre the pressures by introducing changes that could be described at this stage as more than cosmetic but less than profound have raised the expectations of its opponents and made the regime even more vulnerable. A calculated show of force and a popular presence on the part of the Muslim Brotherhood could add to these pressures, helping the group to reach a negotiated agreement with the regime that would perhaps grant them a larger representation in the next parliamentary elections in return for preventing the grass-roots supporters from plunging into total chaos and extremism.

Notably, even when the tension between the government and the Brotherhood was mounting, both exchanged direct hints for easing the situation. President Mubarak declared in April that he did not hold any enmity towards the Muslim Brotherhood and would not mind the group's participation in the political process as members of existing parties. The Brotherhood returned this courteous gesture. The group continued to confirm that they were not seeking to topple the regime and that they were interested in a dialogue. The supreme guide, himself a member of the *Kifaya* movement, criticised *Kifaya*, for not showing enough respect to the head of the state and for using insulting language against the president. This move should not come as a surprise. In fact, it is in the interest of both sides to prevent an all-out escalation and reach a compromise. The Brotherhood cannot afford the destruction of the organisational structures that it has worked for years to rebuild. Further, there is no reason for the time being to offer itself as the only scapegoat for government wrath, particularly in the absence of a supportive stance from the liberal and secular opposition. Likewise, by crushing the Muslim Brotherhood, the

government would remove a moderate Islamist movement and indirectly contribute to the emergence of radical Islamic groups. This scenario is not difficult to imagine, taking into consideration the re-emergence of such groups and the bombings that took place earlier this year.

External actors

Over the past few months, the US and EU have become more vocal in their support of real democratic changes and political reforms in the region. Unfortunately, the signals that the external actors have been sending are mixed and in some cases contradictory. There are clear inconsistencies and even retreats. To mention but a few examples, the regime's sham constitutional amendment to Art. 76 concerning candidates for presidential elections has been described as 'historic'; news about a possible EU engagement of moderate Islamic movements has been vehemently denied; human rights violations are selectively condemned. More importantly, and perhaps disappointingly, it is not yet clear which side either of these two external actors has decided to support: that of stability with reformed autocrats or change with unreliable reformers. There are growing indications that the choice might be 'change with stability'. Ironically, that is exactly the slogan that the autocratic rulers in the region have been expounding for a long time.

The Egyptian government has been exploiting this state of indecisiveness to pit domestic and external actors against each other. It has intimidated the pro-reform movements and the independent, non-governmental organisations by raising issues of national sovereignty, violation of the country's independence and even treason. The official press is accusing *Kifaya* of foreign funding and the president himself has threatened to take action against the Muslim Brotherhood upon proof that it has had contacts with external actors. Meanwhile, the regime continues to use the Islamist threat as a scarecrow to fend off the US and the EU. This strategy seems to be working. Almost all the pro-reform forces have gone at length to deny any foreign contacts and even condemn any external attempt to bring about reforms, despite that the fact that this could run against their interests in the long run.

Nevertheless, external actors can play a role in supporting the pro-reform movement. They can:

- limit the government's ability to circumvent reform and outmanoeuvre the demands for effective and substantive democratic changes;
- send clear, unequivocal signals to the regime that they would not allow it to crush the opposition or violate basic human and public rights (the right to demonstrate, articulate demands, assemble, form political parties, etc.);
- urge the state to include all the non-violent and moderate groups in the political process;
- support the demands of Egyptian judges for ensuring the independence of the judiciary;
- insist on free and clean presidential and parliamentary elections; and
- support effective, independent domestic monitoring of the elections.

This task has to be handled in a highly diplomatic way. In general, the pro-reform forces are suspicious of US and EU intentions. There is a strong objection to any possible outside interference. Some may even fear that the external actors might be contemplating a forceful regime change, which, despite opposition to the government, is unacceptable.

Obstacles to the democratic spring

The movement towards transition can turn into a democratic spring or a democratic mirage. It faces several challenges that could arrest this potential opportunity for transformation. A major challenge is that the regime might succeed in aborting this momentum for change by striking a deal with the US and the EU. The government could plea for a transitional phase to introduce gradual reforms in return for maintaining stability. Such an initiative could be carried out through appropriating some of the demands of the opposition, yet adapting them to legalise the continuation of certain restrictions and maximising the gains. A good case in point is the constitutional amendment to Art. 76. It scuppered a major demand of the opposition to prevent hereditary succession and ensure competitive presidential elections by introducing a structural change that legalises the ascendancy of Gamal Mubarak to power in a nominally competitive presidential election, in which, given the conditionalities of the amendment, only the candidate of the official state party can stand a chance. In a similar vein, the new package of laws that the regime has recently proposed for the parliament, presidential elections, party

formation and the practice of political rights promise only superficial changes.

Another major obstacle is the lack, so far, of a clear alternative to the existing regime either at the level of a popular presidential candidate backed by the opposition or a future political alternative. It is true that the pro-reform movements are in agreement on a short-term list of reform demands. This is a remarkable achievement that should not be undermined. But the problem is 'what next?'. Most of the proposed demands are partial measures for reform. Admittedly, the regime is in no other position but to respond to the mounting domestic pressures; however, it will do so in its own manipulative way. Will that be enough to achieve a democratic reform or must a real transfer of power come about? Are the pro-reform movements ready – with candidates, programmes and alternatives – for such a possibility? This situation really calls for a national conference that includes all the pro-reform forces in the country to debate and formulate a future vision and concrete alternatives for the country. In fact, the Muslim Brotherhood, *Kifaya* and the National Rally for Democratic Transition have all called for such a step.

This last point raises a number of concerns. The multiplicity of reform movements with similar demands, but different objectives, can easily generate competition, discord and potential fragmentation of the reform momentum. It also underscores the continued absence of a mainstream organisation that can aggregate the bulk of these objectives and represent the majority of the public. Despite the coordination between the Muslim Brotherhood and other pro-reform movements, tension transpires every now and then. It is natural at this stage that many of the members of the Muslim Brotherhood feel disappointed by the inadequate support given to them by other movements, despite the fact that they have been subjected to government condemnation the most. Undoubtedly, the regime will not spare any opportunity to create divisions and fragment its opponents. It will use its typical tactics of selective repression, toleration and co-option in order to break down their temporary and fragile unity.

A serious obstacle to a democratic transition is the possible loss of control and deterioration of the situation into a state of chaos and violence. This remote, but possible scenario could arise if the government insists on repressing the moderate opposition. In a transitional process, both the regime and the pro-reform movements should have an interest in avoiding an all-out escalation that could turn the process into a violent one. Such an

escalation would give radical elements the opportunity to sabotage the entire reform movement. Radical forces within the government could use the pretext of the spread of violence for repression in order to restore stability; a radical opposition could easily undermine the moderates and validate arguments to resort to violence.

Structural changes and institutional safeguards

It is impossible to build a democratic system on authoritarian structures and dynamics. The existing constitution, state structures and political culture in Egypt would turn the most idealist of democrats into a repressive dictator. The system has a history-old tradition of making 'pharaohs'. In addition, the existing distrust and mutual fear among almost all the players, regime and pro-reform forces alike, cannot be addressed by good intentions alone. Likewise, the practice of guilt by association unfairly excludes an important group, namely the moderate Islamists, from the right of inclusion in the political process. All this calls for the need to construct institutional guarantees and strong safeguards that would prevent any force – radical Islamic, radical secular or a military junta – from sabotaging any future democratic gains.

Most likely, Mr Mubarak's regime will continue for a term or less, depending on his state of health and his government's ability to handle the domestic pressures. The pro-reform movements should use this transitional phase to continue to push for: 1) dismantling the structures of authoritarianism; and 2) constructing structural safeguards. They seem to be clear about the first step. It is the second step, however, that needs some elaboration.

Democracy by nature allows for different visions and perspectives. The expectation that an agreement must be reached on a universal vision for the future of the country is closer to totalitarianism than democracy. This is exactly where the role of political parties comes in, as they compete for support for their particular visions and plans. In other words, each party has the right to have and propose its vision, with the voters being the decisive element. Yet, a successful transition requires agreement on certain political practices and processes, which could be enshrined in a national charter for political action or in a new constitution. Such a charter cannot avoid addressing three main issues: identity, economic growth and public liberties (citizenship rights). It has to secure the consent of all political

forces, regardless of their orientations, on principles concerning the transfer of power, free and fair elections, the condemnation of violence, respect for public and individual freedoms, the freedom of association, an independent judiciary and de-politicisation of the military. These measures could provide assurances to all the political forces that they can have a chance to compete in a stable and fair process.

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DOES THE EU PROMOTE DEMOCRACY IN PALESTINE?

NATHALIE TOCCI

Introduction

Particularly since the late 1990s, EU actors have become increasingly vocal about the need for democracy and good governance in Palestine. Palestinian democracy is viewed officially both as desirable per se as well as instrumental to the peace process since the eruption of the second intifada. To support Palestinian democracy, the Union has used diplomatic instruments, as well as bilateral aid and trade policies, delivered conditionally upon the fulfilment of political and legal benchmarks. The Palestinian Authority (PA) is also included in the nascent European Neighbourhood Policy (ENP).

Compared to other cases in the southern neighbourhood, the EU can take pride in achieving relative success when it comes to strengthening Palestinian democracy and good governance. Palestine's economic and political dependence on Europe has translated into a high degree of potential EU influence on the PA. This influence has been exerted by graduating the delivery of EU (principally aid-related) benefits in compliance with specified and monitored obligations. Yet the Union's potential influence has not been fully realised. At times, reforms passed have been inadequate, superficial or implemented for the primary purpose of acquiescing to foreign demands. The reasons explaining the limits in EU conditionality are manifold. The most critical are those linked to the *sui generis* context in Palestine. The deteriorating economic and humanitarian situation, the deepening Israeli occupation, the blunt US approach to Palestinian reform during Arafat's rule and internal Palestinian political

dynamics in a non-state context have all hindered the potential impact of EU conditionality.

But a second set of limits, far more linked to the EU as an actor in international affairs, relates to the inadequate or incomplete specification of EU conditions. In cases such as judicial reform, conditions have been too general and have not been sufficiently specified and followed-up to yield effective long-term results. In other cases, the Union has pushed for reforms that were not necessarily the most desirable or urgent. The passing of the Basic Law may be a case in point. Furthermore, while some areas have received disproportionate EU attention (such as the security sector, or the prime minister's post), others have received none at all. Most critically, the questions that lie at the centre of Palestinian democracy, such as the relationship between the PLO and the PA and the exclusion of the Islamic factions from both organisations, have been neglected by EU actors. Tackling these questions is no simple feat. Indeed underlying these questions are three fundamental dilemmas: namely which polity, which territory and which authority do we refer to when talking about Palestinian democracy.

The renewed international attention to Palestinian politics in the post-Arafat period offers scope for enhanced EU action on Palestinian reform. The concomitant publication of the EU-PA Action Plan, which largely focused on questions of reform, provides the avenue for revamped EU efforts in this direction. Several ideas are presented to enhance the EU's support for democracy in Palestine through its new (and old) instruments. However, over and above the modalities of EU conditionality, successful EU policies requires an internal EU consensus on whether and to what extent the Union is truly intent on fostering democracy in Palestine.

EU Aims and Instruments in Palestine

Supporting reform to further democracy, end violence and promote the peace process

Collectively, Europe has defined its end-goals in Palestine over the course of three decades. Since the 1970s, EC member states have affirmed with

increasing clarity their support for Palestinian self-determination.¹ By the end of the Oslo Process in the 1990s, the EU asserted that Palestinian self-determination would be best fulfilled through the creation of a viable, sovereign and independent state, on the basis of the 1967 borders, with minor adjustments agreed by the parties.²

When the concept of a Palestinian state took root in the 1990s, the Union was largely unconcerned with the internal governance of the Occupied Territories. The focus was on institution-building in general, rather than on the precise modalities and quality of Palestinian democracy. This was in part because of the embryonic nature of the PA. It was also because, in the context of the Oslo process, the EU (as well as the US) opted not to criticise the parties (i.e. Israel for its violations of international law and the PA for its corruption, human rights violations and authoritarianism), fearful of disrupting the negotiations.

Condemnations surfaced towards the end of the process, and most acutely since its demise. As negotiations came to a halt and violence re-erupted, EU policy-makers became more vocal about the shortcomings of the Palestinian state-in-the-making. Since the 1999 Berlin European Council, all EU official statements specified that the future state should be democratic as well as independent, sovereign, peaceful and viable.³ With the eruption of the intifada, the European Council affirmed that the reform of the PA was essential and would be supported by the Union. Underlying these statements were three inter-linked objectives. The first direct objective was to support democracy and good governance as an end in itself. The two indirect aims were to quell Palestinian violence and to remove any US and Israeli reason (or excuse) to reject negotiations with the Palestinians.

The objective of reform tailored to strengthening Palestinian democracy came in response to donor experience and to the internal

¹ Declaration by the European Council on the Situation in the Middle East, Venice, 12-13 June 1980, point 7.

² The European Council, Presidency Conclusions, Seville, 25 June 2002; Council of the EU, Declaration of the EU for the Fourth Meeting of the EU-Israel Association Council, Brussels, 17-18 November 2003, point 4.

³ European Council in Berlin on 24-25 March 1999, Presidency Conclusions; see also European Council in Laeken, 14-15 December 2001, Declaration on the Situation in the Middle East; and European Council in Seville on 25 June 2002, Presidency Conclusions.

mounting criticism within the OTs. By the mid-1990s, Palestinians increasingly criticised their leadership for having failed to deliver peace and better standards of living. They resented the widespread corruption, inefficiency and authoritarianism of the Authority. Palestinian scholars have argued that in view of these resentments, divisions emerged between the 'old guard', including the revolutionary PLO leadership from Tunis, and the 'young guard', including younger secular and Islamic groups, indigenous to the OTs and connected to the grass-roots.⁴ Other scholars have painted a more complex picture, identifying different and often opposing actors within the Palestinian political scene.⁵

The objective of reform as a means to curb violence (and re-engage Israel and the US) is far more problematic, in so far as it is based on a tenuous (if at all existing) link between reform and a permanent end of violence. The second intifada saw the perpetration of grave human rights abuses by Palestinian militant groups. The PA leadership may have initially ridden the wave of violence as a means to regain its lost legitimacy post-Camp David II. However, there is no internationally-corroborated evidence showing that the PA planned, ordered or carried out attacks on Israeli civilians.⁶ The identified responsible groups have been Hamas, Islamic Jihad, the PFLP and the al-Aqsa Martyrs Brigade, none of which are part of official institutions, and indeed most of which oppose the Authority. The former leadership under Yasser Arafat was criticised for not taking sufficient remedies to prosecute those responsible for the attacks. It

⁴ Khalil Shikaki, "Palestinians Divided", *Foreign Affairs*, Vol. 81.1, January/February, p. 92.

⁵ These have included members of the Fatah Central Committee, the Fatah High Committee including younger generations forming the backbone of the Fatah-Tanzim apparatus, members of the Palestinian Legislative Council, the PLO Revolutionary Council, the senior echelons of the security forces, the Islamic camp (including parties, armed groups and civil society actors), other militias and militant parties (PFLP and the Al-Aqsa Martyrs Brigades) and independent intellectuals and NGOs. See Salim Tamari, "Who Rules Palestine?", *Journal of Palestine Studies*, Vol. 31, No. 4, 2002, pp. 102-113. On questions of control and capability within the Palestinians' political scene, see also Jean-François Legrain, "Les Phalanges des Martyrs d'Al-Aqsa en Mal de Leadership National", *Maghreb-Machrek*, Vol. 176, 2003, pp. 11-34.

⁶ Human Rights Watch, *Erased in a Moment: Suicide Bombing Attacks against Israeli Citizens*, October 2002.

responded by claiming that its actions were contingent on Israel's behaviour, given that Israel's violations reduce the PA's ability to repress crimes perpetrated by groups not acting under its instructions. The difficulties encountered by the new leadership under Mahmood Abbas, despite its efforts to end violence, validate this point. It has been difficult to pinpoint the line separating the PA's capability from its political will to end violence. Reform may strengthen capability, but alone it is unlikely to quell violence.

The deployment of EU instruments tailored to reform

Diplomatically, EU objectives on Palestinian reform have been pursued through its participation in the Quartet since 2001 (and the Quartet's work on reform since 2002) and through bilateral diplomatic channels (via the High Representative, the Special Envoy and individual member state initiatives). In 2002 and 2003, High Representative Javier Solana and British officials engaged in back-channel attempts to broker cease-fire talks between Palestinian factions. The High Representative has also elaborated plans to train Palestinian security forces in Gaza in the light of Israel's disengagement.⁷ Alongside him, British Prime Minister Tony Blair organised two international conferences (in 2003 and 2005) on Palestinian reform.

EU objectives have also been pursued through bilateral aid and trade policies, delivered conditionally upon the fulfilment of political benchmarks. In 1986, the member states established a preferential import regime for Palestinian goods produced in the occupied West Bank, East Jerusalem and Gaza Strip. In 1997, in the context of the Barcelona Process, the Community signed an Interim Association Agreement with the PLO, at the heart of which lay the anticipation of Palestinian statehood. The aim was to further trade liberalisation and to establish a framework for political dialogue with the nascent Authority. Like other agreements of its kind, the Interim Agreement included a 'human rights clause', which opened the scope for the EU's use of political conditionality as well as for the discussion of democracy and human rights in the context of political

⁷ Javier Solana, EU High Representative for the CFSP, "Outline of Presentation on Proposals to Revitalise the Roadmap", Meeting of EU Foreign Ministers, Brussels, 2 November 2004.

dialogue. In 2003, the PA was included in the ENP, which holds the promise of deepening the bilateral contractual relationship. Far more than the Interim Agreement, the 2004 Action Plan on Palestine offers wide scope for political conditionality. Indeed it states that its principal *raison d'être* is that of furthering Palestinian reform and democracy.

However, due to the absence of a state and the humanitarian and economic conditions in the OTs, bilateral relations with the Palestinians have far more emphasised aid over trade. Since 1971, Community assistance has been channelled to Palestinian refugees through UNRWA (United Nations Relief and Works Agency). In 1987, this was complemented by direct assistance to Palestinian civil society. In the context of the Oslo process, the member states, through a Joint Action, stepped up their economic support to the Palestinians, this time directed primarily to the PA. In the delivery of aid, particularly since the eruption of the intifada, the Union has gone the extra mile to ensure that EU funds have not been redirected to finance political violence. The Commission has investigated the use of EU funds to Palestine by initiating an independent enquiry by OLAF (European anti-fraud office), which concluded that monies disbursed have been subject to careful monitoring.⁸

Furthermore, financial assistance has been made conditional on reform obligations. Increasingly stringent conditionality has been imposed since 2001. In particular, with Israel's withholding of revenue transfers to the PA, the EU provided the PA approximately €10 million per month in direct budgetary assistance in 2000-03. These funds were disbursed under strict conditions and IMF monitoring. As Israel partially resumed revenue transfers in 2003, the EU cut direct budgetary support and established a new Reform Instrument. This included €80 million for the targeted support of SMEs, municipalities and social services, and €10 million in technical assistance for ongoing fiscal reform. The Commission also financed the preparation for new elections, the institutional reform of the judiciary and the security services, and counter-terrorism measures. It has stepped up its technical support and initiated twinning projects and training initiatives. In view of the January 2005 presidential elections, the EU committed over €3

⁸ Chris Patten, Letter to the *Jerusalem Post*, 18 July 2002; European Commission, Statement to the EP's Foreign Affairs Committee on EU Budgetary Assistance to the PA, 19 June 2002, Doc. SPEECH/02/293.

million to finance an observer mission. EU observers have and will be dispatched also for the municipal and parliamentary elections in 2005.

The Commission began focusing on Palestinian reform well before the widespread Israeli and American interest in the question. The first EU-sponsored attempt to highlight the deficiencies of the PA came in 1999, with the publication of the Rocard-Siegman report.⁹ In addition to the report's proposals, EU conditions drew from the recommendations of the Palestinian Legislative Council in 2001, numerous Palestinian NGOs and PA officials. Internal Palestinian recommendations included ratifying and enacting the Basic Law and the Law on the Independence of the Judiciary, establishing a Constitutional Court and a High Judicial Council, abolishing State Security Courts, holding general elections, redistributing competences between the President and the Cabinet, ensuring transparency of public finances and restructuring municipalities, the civil service and the security sector. These calls were supplemented by the 100-day reform plan, approved by President Arafat in June 2002. In particular, EU conditions called for greater transparency in public finances through the consolidation of all revenues in a single account monitored by the IMF and under the full responsibility of the Finance Ministry, a freeze on public sector hiring, the adoption on a Law on the Independence of the Judiciary, and the passing and application of the Basic Law.

Several EU-demanded reforms were implemented. In 2002, the Basic Law was adopted, and it was revised in 2003 to allow for a Prime Ministerial post (pushed for by the US and Israel). In October 2002, the Cabinet was restructured and reshuffled. A law on the independence of the judiciary was passed. Significant progress was made in the management of the PA's finances, curbing the potential for corruption. PA revenues were included in a single transparent account, the President's budget was cut and there has been ongoing work on an effective audit system. In 2003, the security sector was partly restructured, as the former 12 (poorly coordinated) apparatuses were streamlined into six sectors, although three remained under the President's direct authority (efforts are currently being made to streamline further the six sectors into three branches). Particularly in the areas of judicial and financial reform, EU conditionality has been

⁹ Yezid Sayigh and Khalil Shikaki, *Strengthening Palestinian Public Institutions*, Task Force Report, Council of Foreign Relations, New York, 1999.

pivotal. At specific moments in 2002-03, EU threats to withhold assistance provided the necessary external trigger to pursue the reform agenda.

There have been also clear limits to the impact and effectiveness of EU conditionality. At times reforms have been superficial and implemented for the sole purpose of pleasing EU (and US) interests. The cabinet was reshuffled in 2002, but apart from a few exceptions, changes were largely cosmetic. Despite the passing of the Law on the Independence of the Judiciary in 2002, this was immediately followed by amendments introduced by the President, diminishing its effective independence. In 2003 the creation of the Prime Minister's post did not come with its effective empowerment, since most control remained in the President's hands. In the security sector, the bulk of the reform began only in 2005, and the new President is facing acute problems in recruiting former militants in the security forces. In the fiscal sector, the President retains approximately 8% of the budget, i.e. enough to persist in the nepotism that has lied at the fore of the corruption and the skewed inter-institutional balance of powers. Despite the announcement of elections in early 2003, presidential elections took place only in January 2005, in view of the imperative to replace the late President Arafat. Parliamentary elections, due to take place in 1999, were initially scheduled to take place in July 2005, but have now been postponed, ostensibly due to technical reasons relating to the passing of the new electoral law, yet in practice due to the fears of a strong showing by Hamas.

Explaining the Impact of EU Conditionality on Palestinian Reform

The international and domestic contexts

The reasons explaining the effectiveness of EU conditionality, as well as its limits, are manifold. The most critical are those linked to the *sui generis* context in which EU conditionality operates. There are four inter-related features constraining the EU's potential impact and influence in Palestine. First is the deteriorating status quo and the downsizing effect this has had on EU objectives. Particularly during the most acute years of the second intifada in 2001-2003, maximalist goals of state-building were scaled down to minimalist goals of survival. Israel's destruction of PA infrastructure as well as the deepening humanitarian crisis in the OTs meant that rather than focusing on long-term goals of state-building, good governance, democracy

and development, donor assistance shifted its attention to short-term goals of crisis management, poverty alleviation and institutional survival.

Second is the deepening Israeli occupation, which has erected mounting material and political obstacles to Palestinian reform and the end of violence. The restrictions on movement and Israel's withholding PA revenues have posed tangible obstacles to the accomplishment of reform as an aim in itself. In order to strengthen and empower different institutions, to hold free and fair elections and to reform the security sector, legislators, civil servants and police forces need to dispose of the necessary resources, and to move freely across the territories. However, as put by one Palestinian minister: "How can we speak of a separation of powers when we don't have any?"¹⁰ Put differently, how can reformist domestic actors be empowered to pursue domestic change under the status quo? Turning instead to the corollary aim of ending violence (bearing in mind the tenuous link between reform and violence), Israeli actions have limited the political ability of any Palestinian leader to quell violence. The extent to which any PA leader can use his (limited) powers to repress Palestinian violence is directly linked to Israel's conduct. It has often been argued that without Israel's easing of the situation in the OTs, no Palestinian leader could put an end to violence without causing internal strife. This point is repeatedly made by Mahmood Abbas, who is intent on ending the violent intifada.

The third feature is the blunt approach adopted by the international community to Palestinian reform, and in particular by the US and Israel during Arafat's rule. As long as the peace process continued, the international community refrained from heavy criticism of the Authority, despite the mounting complaints amongst the Palestinian population.¹¹ In early 2002, Israel, following the US, began focusing on the question of Palestinian reform. Yet their discourse was framed in terms of 'regime change' and focused on the demonisation of Arafat. The frontal attack on the former leadership strengthened its waning legitimacy, hindered succession, weakened Palestinian voices that had long called for reform

¹⁰ Interview in Ramallah, November 2002.

¹¹ Amira Haas, "Two Government Crises", *Haaretz*, 30 October 2002. See for example the letter written by Human Rights Watch to the US President concerning the functioning of Palestinian State Security Courts: HRW, A Letter to President William Jefferson Clinton, 19 March 1999 (www.hrw.org).

and at most triggered merely superficial reform. The widespread expectation that Arafat would have won new elections also delayed presidential elections until 2005 (in view of Arafat's death).

Likewise, the expectation of Hamas' strong showing in the parliamentary elections, initially scheduled for July 2005, led to informal American and Israeli pressure to postpone them. While the postponement was ultimately decided by Abbas, not least due to the internal chaos within his secular Fatah faction, the fact that Israel and the US supported the decision deepened doubts within the OTs on the international community's genuine support for Palestinian democracy. Suggestions made by Israeli and US officials concerning their response to a possible victory by Hamas further weakened moderate forces in Palestine. In this respect, it is important to note that popular support for the Islamic factions is far more linked to their stance on internal governance matters than to their positions on the conflict. As such, to the extent that the public viewed the postponement of the elections as the ruling elite's attempt to cling to power while bending to foreign demands, their support may have fallen.

Finally, Palestinian political dynamics constitute another contextual reason for the limited success of EU conditionality. The Palestinian political scene is highly complex, with many actors interacting in constantly changing ways. While this is true for most countries, the distinctiveness of Palestine is the absence of a state and thus the limited ability of governing structures to exercise full and effective control over its territory and people.

When it comes to EU conditionality aimed at curbing Palestinian violence, the principal problem has been that the targets of conditionality have not been the direct authors of most violent acts perpetrated against Israel. Despite back-channel contacts aimed at brokering a cease-fire, the EU has had no direct official contact with and thus leverage on Palestinian actors such as Hamas. Indeed under heavy US and Israeli pressure, Hamas was included in the EU's terrorist list in 2003. Instead, EU conditionality has targeted the PA, in direct opposition to the Islamic camp. The question is thus whether EU conditionality could have been indirectly effective by inducing the PA and Fatah (the dominant party in the PLO) to repress violence orchestrated by others. It has been difficult to ascertain to what extent this could have happened. The degree to which late President Arafat could have curbed violence, had he so wished, will be determined in the period following his death. Evidence in 2005 certainly points to an increased willingness and ability of the new leadership to curb violence.

The February 2005 cease-fire agreement and the leadership's efforts to reform the security sector led to a significant drop in Palestinian violence. However, the temporary reduction in violence is linked to many other time-contingent factors, including Hamas' desire to participate in elections and enter the PLO. As such, the ability and strength of the new President to put a permanent end to violence is uncertain and can only be credibly tested after the parliamentary elections.

When it comes to wider questions of reform and good governance, the hindrance posed by the late President is far more evident. Under Arafat, the pre-eminence of the presidency within the executive and between the executive and other branches of government was enshrined in law and augmented by the personal status of the late president. The resulting institutional hierarchy and centralisation has started to change since November 2004. There is now a greater sharing of powers within the executive (between the president, the prime minister and the cabinet) and a greater separation of powers between the three branches of government. Furthermore, the Palestinian Legislative Council is likely to be empowered through parliamentary elections.

The reform agenda is being pursued with unprecedented vigour. Under the new leadership, a technocratic cabinet has been appointed, mandated to further the reform process. The president and cabinet have pursued security sector reform, working to consolidate three stream-lined apparatuses, namely general security (including policing), general intelligence and national security (i.e. the embryo of a future defence force). The president has overhauled the personnel service, downsizing and training forces and preparing to recruit former militants. Administrative and legislative work is underway to establish a 12-member National Security Council, as well as to create budget and oversight parliamentary committees with effective financial powers. In the fiscal domain, transparency in public finances is being enhanced through the control of the President's funds. In foreign affairs, the new Foreign Minister Nasser el-Kidwa is intent on overhauling the diplomatic service, introducing rotation and affiliating the diplomatic corps to the PA (rather than the PLO). In the judicial sphere, a draft law is being prepared clarifying the relationship between the Ministry of Justice and the Higher Judicial Council. Work is also underway to review the role of the Public Prosecutor. Regarding overall administrative reform, the Ministry of Planning is devising proposals to restructure the cabinet, so as to minimise ministerial

overlaps and improve coordination. Discussion is also underway to restructure the institutional relationship between the cabinet and the parliament, so as to enhance the latter's benchmarking, monitoring and oversight roles.

Finally, in 2005 there has been an intensified dialogue between the secular and Islamic camps, as well as an ongoing redefinition of roles and power balances within the main secular Fatah movement. Dialogue between the factions has enhanced and improved, as the new Palestinian president intensified his efforts to broker a ceasefire in February 2005. The militant groups and in particular Hamas have consented to temporarily end violence. Hamas has also accepted to participate in the parliamentary elections. Its success in municipal elections in 2004 and 2005 and the rising tensions within (and thus weakening of) the secular camp persuaded Hamas that the politically expedient moment has come to enter official institutions, namely the PLC, and depending upon electoral results possibly the executive itself. Dialogue is also underway concerning the possible inclusion of Hamas in the more comprehensive PLO. When it comes to the secular camp and in particular Fatah, tensions have been mounting within the movement, triggering violent acts perpetrated by activists and militants against PA institutions since March 2005. It remains to be seen whether the sixth Fatah Congress, scheduled for August 2005 (the first held in 16 years), will empower young Fatah members with strong backing from the public, and whether this will regenerate the largest secular movement in Palestine and enhance the coherence of the Palestinian liberation strategy.

Assets and constraints of EU instruments and their deployment

Turning to the intrinsic merits and deficiencies of EU policies in Palestine, the first observation to make is that the relative success of EU conditionality is linked to the Palestinian economic and political dependence on Europe. The sheer magnitude of EU economic aid to Palestine created the scope for significant political influence and leverage on the Authority. Community assistance to Palestine, linked to different budget lines, has risen progressively since the 1990s. In 1994-98, the EU committed 400 million ECU in grants. It committed a further €600 million in 1998-2002. Through these monies, the EU financed both PA institutions as well as key infrastructure projects such as the Gaza airport and seaport.

During the intifada, EU assistance increased exponentially. The Palestinian humanitarian crisis and Israel's withholding of revenues to the PA in 2000-03 led to a rise in EU assistance of over €300 million per year in 2000-03. Today, the EU (including member states) represents by far the largest donor to Palestine, and without EU aid since 2000, the PA may well have collapsed.

Table 1. EU aid to the Palestinian Authority

	2000	2001	2002	2003
Total aid (€ million)	215	144	317	256
Direct budgetary support (€ million)	90	101	97	16

Palestinian political dependence on Europe is also high. Like Israelis, Palestinians frequently accuse Europe of playing an inadequate political role in the Middle East. However, unlike Israel, they would warmly welcome a more substantial and effective European involvement in the conflict. Given their view of the US bias in favour of Israel and their appreciation of the multifaceted weaknesses of the Arab world, Palestinians view Europe as the international actor that could best support their cause.

Palestinian economic as well as political dependence on Europe creates the scope for a relatively high degree of potential EU influence. In addition, financial assistance to Palestine does not suffer from problems of time inconsistency often present in *ex ante* or *ex post* EU conditionality (i.e. the time lag between the demanded conditions and the delivery of the benefit, which decreases the value of the latter). In the case of the Palestinians, the nature of the benefit (aid) allows for its graduated delivery. Indeed, as the PA became critically dependent on EU budgetary transfers over the course of 2002-03, the Commission refined its techniques of delivering assistance in return for and in compliance with strict conditions and monitoring over time.

However, there are discernible limits in the value of the EU's economic and political ties to the Palestinians. In terms of aid, over the course of the intifada, many EU-funded projects have been destroyed by Israeli raids, thus reducing the objective value of positive EU incentives. When it comes to negative incentives, while threats of suspending budgetary assistance may be credible, the EU cannot credibly threaten to

withdraw the bulk of its economic assistance to the Palestinians. Doing so would trigger the collapse of the Authority and would consequently oblige Israel to undertake the financial responsibilities that derive from its legal status as occupying power. EU actors have never realistically contemplated or desired this outcome.

In terms of trade, EU carrots are of minimal value. Even the limited provisions for preferential trade included in the 1997 Interim Association Agreement are largely unimplemented, due to Israeli obstructionism. In view of Israel's non-recognition of the EC-PLO agreement, the government has prevented the preferential import of European products with certificates of origin issued under the EC-PLO Agreement, and it has often issued Israeli certificates of origin for Palestinian exports. This problem has received little EU attention, and the Union has made no systematic attempt to persuade Israel to alter its stance. Under this status quo, it seems unlikely that the ENP Action Plan with the PA will succeed in enhancing trade ties with the Palestinians. At best, the Union, through its Action Plans with both Israel and the PA, can push for a more effective implementation of the trade aspects in the existing Palestinian Agreement, particularly in relation to Palestinian trade through Gaza port (in view of Israel's disengagement). Corroborating this point is the fact that the EU-PA Action Plan foresees hardly any trade-related benefits to the Palestinians.

Politically, the EU's influence is also constrained by the widespread Palestinian perception of Europe's weakness and the belief that ultimately the US is the only third party worth taking seriously. Much to their frustration, the Palestinians are all too aware of the external and self-imposed constraints in European foreign policy in the Israeli-Palestinian conflict.

Conflicting political priorities?

But perhaps the major limit to the effectiveness of EU conditionality relates to its insufficient, inadequate or incomplete specification of conditions and obligations. In some cases, conditions have been too general and have not been sufficiently specified and followed up to yield effective long-term results. Judicial reform is a case in point. In 2002, under heavy EU pressure, the PA passed a Law on the Independence of the Judiciary. With the passing of the law, EU attention waned. Yet despite marginal improvements, most problems remain. The judges in the Higher Judicial

Council, the Supreme Court and the Public Prosecutor are still appointed by the executive without clear and objective selection criteria. This has caused persisting limits to the real independence of the judiciary and to its ability (and willingness) to hold the executive accountable. There have been acute tensions between the Higher Judicial Council, the Public Prosecutor and the Ministry of Justice, partly due to the unclear division of competences between the three. This has caused delays and inefficiencies in the judicial system, with a disproportionate number of unimplemented judgements and several key unimplemented laws. For example, the Higher Judicial Council has not yet established a Constitutional Court or administrative courts, although these are foreseen in the approved Basic Law.

In other cases, the Union pushed for reforms that are not necessarily the most desirable or urgent under present circumstances. In 2002, the Union insisted on the implementation of the Basic Law. While the Law was welcomed by some, many Palestinians have doubted its desirability in the absence of territorially-defined statehood.¹² The Oslo accords set the legal basis of the Basic Law, casting it in a legal and political straightjacket, which may well hinder Palestinian self-determination in the long-term. This is not least because it entrenches the distinction between territorial sovereignty and the authority over individuals. Under current circumstances, a more fruitful way ahead would have been to adopt a Bill of Rights defining the extent and manner in which the PA is responsible for the protection of its citizens.¹³ Indeed the carrying out of four death penalty sentences in Gaza in June 2005 reminds us of the pressing need to secure human rights in the OTs.

More problematic still is the fact that some areas have received disproportionate EU attention (such as the security sector, or the post of prime minister), while others have received none at all. The questions which arguably lie at the forefront of Palestinian democracy have been largely neglected by EU actors. A core issue in Palestinian democracy that has received scarce attention from EU policy-makers is the non-comprehensive nature of the PLO and PA and the subsequent

¹² Contribution by Raja Shedada at the Conference on 10 Years of the Palestinian Authority, 14-17 March 2005, Ramallah.

¹³ Contribution by Kamil Mansoor at the Conference on 10 Years of the Palestinian Authority, 14-17 March 2005, Ramallah.

consolidation of a one-party system (i.e. Fatah). Beyond creating a territorial divide between Palestinians (inside and outside the OTs), the Oslo accords also generated a political divide between proponents and rejectionists. Rejectionists in turn have been excluded from PA structures (legally and politically based on the accords), leading to a fracture in the Palestinian political system. Current domestic dynamics to include the Islamic parties, and most notably Hamas, in the PLO and the PLC could considerably enhance the quality of Palestinian democracy. The Union, through High Representative Solana, has exerted efforts in the past to sponsor inter-factional dialogue, but this has been for the sole purpose of brokering a cease-fire agreement, and has not been directed to wider questions of Palestinian politics. In fact, the Union has shown remarkably little interest in these questions, which arguably lie at the very core of Palestinian democracy.

Another key issue is the duality between the PLO and the PA. While the (uneasy) co-existence between the two institutions was frozen during Arafat's rule, due to the historical and overarching role of the former Chairman-President, PLO-PA tensions have mounted since Arafat's death. More precisely, there has been an increasingly vocal debate on the relative merits of the two organisations to legitimately represent the Palestinians. Similar debates apply to the duality between the Palestinian Legislative Council (the legislative branch of the PA) and the Palestinian National Council (the representative body of the PLO), and between the PLO Executive Committee and the PA Cabinet.

PA-PLO duality touches on three fundamental dilemmas underlying Palestinian democracy, namely the definition of a polity, a territory and an authority being democratised. When referring to Palestinian democracy, which Palestinians are included? The entire Palestinian people dispersed throughout the diaspora, the Palestinians in the OTs and the Palestinian citizens of Israel, or the Palestinian minority in the OTs? In turn, which is the relevant territory to which democratisation policies apply? The OTs, Israel and Palestine combined or all the territories hosting large numbers of Palestinian refugees (Israel, Palestine, Jordan, Lebanon and Syria)? And finally, which are the authorities to be democratised? The PA, Israel and the PA, or the PLO throughout the diaspora?

In principle, to enhance Palestinian democracy, greater efforts should be exerted to re-empower the PLO, as the only institution representing all Palestinians. The PA, confined to the occupied East Jerusalem, West Bank

and Gaza Strip, can only claim to represent a minority of the people. As such, it is particularly ill-suited to externally represent the Palestinian cause and to decide upon pan-Palestinian issues such as refugees. Furthermore, in view of Israel's status as occupying power, the PA is not responsible for key policy areas affecting Palestinian lives (even within the OTs).

However, the EU has implicitly decided to focus on the PA rather than the PLO. In this respect, it is interesting to note that while the Interim Association Agreement was signed by the PLO (which at the time represented the only legal entity), the ENP Action Plan was negotiated with the PA. A strong case can be made in justification of this choice. The PA (rather than the PLO) represents the Palestinian-state-in-the-making, whose establishment is a declared EU objective. Furthermore, even if the EU was intent on revamping the PLO due to its more representative nature, the practical difficulty is that the Organisation is scattered throughout the Arab world, and thus cannot meet, let alone be elected democratically (not least due to the lack of democracy in its host countries). While PLO-affiliated organisations are theoretically far more legitimate and representative, they are materially prevented from acting as democratically-elected institutions. However, quite apart from the relative merits of the EU's *de facto* choice to focus on the PA, the notable fact is that there has been no EU debate on these problems. While supposedly advocating Palestinian democracy, EU actors have never confronted the most basic questions on this issue: namely democracy for whom, of what and where?

Policy Avenues

The renewed international attention to Palestinian politics in the post-Arafat period offers scope for enhanced EU action on Palestinian reform. The concomitant publication of the EU-PA Action Plan, largely focused on questions of reform, provides the avenue for revamped EU efforts in this direction.

One of the major challenges stems from the Palestinian elections and the desirability to allow these to enhance the legitimacy and accountability of the PA. In order for desired effects to occur, competitive, free and fair elections would be in order. The conduct of presidential elections on 9 January 2005 was largely considered a success story. The same effort should be devoted to securing successful legislative and municipal elections. The EU's commitments to support free and fair elections through

its voice in the Quartet, through financial and technical assistance and through monitoring, are all welcome. It is fundamental that the international community accepts whatever results emerge from the elections. In this respect, the EU has a pivotal role to play by adopting and keeping a principled position to be followed by the considerably more sceptical US administration.

On longer-term questions of reform, the Union could pay greater attention to three key factors underlying the reform agenda; namely, domestic actors, incentives and capability. First, EU policies could focus more on local Palestinian actors and their interaction, in so far as these, rather than externally-imposed conditions, represent the driving force of any progress (or lack thereof) of reform. One step to support home-grown reform is to encourage greater involvement of Palestinian civil society. The Quartet set up a separate track on civil society. The reform process would benefit if civil society actors were not simply part of a separate reform track, but were included as stakeholders in the determination and implementation of the reform agenda.

Another key issue, which resurfaced in late 2004, is that of Palestinian intra-factional dialogue, particularly between the secular and Islamic blocs, and the ultimate inclusion of the Islamic parties within the PLO and the PA. Ideas for dialogue and inclusion have long been sought by several key personalities on both sides. The purpose would be to enhance the quality of democracy and representation and provide greater clarity and unity in Palestinian national objectives as well as in the legitimate means to achieve them. Beyond the Islamist parties (and affiliated armed groups), dialogue with and participation of Islamic groups, particularly those active in civil society, would also enhance the effectiveness of humanitarian assistance and socio-economic development in Palestine. The merits of intra-factional dialogue and inclusion should not overlook its potential drawbacks. These drawbacks exist also in other contexts (from the Basque ETA, the Irish IRA, the Kurdish PKK to the Islamic parties throughout the Maghreb and Mashreq), and relate to the general desirability of including 'anti-system' groups within the legal political system. The merits are those of enhancing moderation and receptiveness to the rule of law. The dangers lie in legitimising radicalism or violence.

In the Palestinian case, a more nuanced understanding of the intricacies within the Islamic bloc and in particular the important distinctions between groups operating in different sectors (i.e., between

armed groups, political parties and civil society actors) represents a first necessary step to resolve this dilemma. Greater European attention to these distinctions could contribute to more effective humanitarian and development strategies towards Palestine. When it comes to political participation, irrespective of whether their full inclusion in the PLO and the PA is on the horizon, the need for dialogue is likely to persist. The Union, and in particular High Representative Solana, building on its former support for intra-Palestinian ceasefire talks, could contribute more actively to mediating a strengthened dialogue, if and when needed.

Second, the EU could formulate more consistently the incentives embedded in its conditionalities. The EU-PA Action Plan goes far in specifying the 'priorities for action' in the areas of institutions, democracy, human rights, the legal system, the fiscal and security sectors.¹⁴ Greater clarity in the reform objectives, to be followed through in political dialogue and monitored through joint EU-PA sub-committees, are all welcome developments. However, while rightly heavy on the obligations, the Action Plan is thin on the incentives. The only additional incentives mentioned in the Plan include efforts to implement the trade aspects of the association agreement and possible cooperation in the areas of transport, energy, research and people-to-people contacts. It is indeed hard to draw up feasible 'integration incentives' for a non-state actor under occupation. Moreover, given that the overarching Palestinian preoccupation is that of liberation and state-building, the most valuable EU incentives would be those directly or indirectly related to these aims. Firmer EU commitments to persuade Israel both to facilitate Palestinian trade and development (through its control of territorial waters, borders and airspace in Gaza post-disengagement), as well as to respect human rights and international law in the OTs would be viewed as the most valuable incentives to the Palestinians. In this respect, it is interesting to note that while the EU-Israel Action Plan covers internal Palestinian questions (such as reform and terrorism), the EU-PA Action Plan makes no mention of Israeli policies towards the Palestinians. EU pledges geared towards increasing Palestine's autonomy vis-à-vis Israel would also be valued highly by the Palestinians. High on the agenda would be aiding the PA to reach full fiscal autonomy

¹⁴ European Commission, "Proposed EU-PA Action Plan", Brussels, 9 December 2004, pp. 3-8 (www.europa.eu.int).

through an amendment of the Paris Protocol and supporting early accession to the WTO.

Third, effective EU conditionality would factor in the limited capability of the PA as a non-state actor. As such, in the context of the EU-PA Action Plan, EU policy-makers would need to distinguish between reform priorities that the PA can and should meet, priorities that require Israeli cooperation and priorities that need external support. On the first, including fiscal, judicial, legal and education reform, the EU could strengthen targeted positive and negative conditionality, particularly following amendment of the Paris Protocol, granting the PA full fiscal autonomy. On the second, such as security sector reform, the Union would hold the PA responsible up to and not beyond its capabilities, lest it fuel unrealistic expectations. Beyond PA capability, EU policy-makers should make the most of the enhanced EU-Israel relations to encourage Israeli cooperation. On issues requiring external support, including administrative reform, institution-building, trade and development, the EU would continue to focus on targeted financial and technical assistance.

Making such distinctions in practice is no simple feat. Measuring relative capability is not only open to subjective interpretation, but it also requires continuous review, in so far as capability is contingent on time and circumstance. Yet however imperfect, breaking down reform priorities along these categories would be a first necessary step for an effective EU policy of conditionality. This could be done by EU and PA officials together through an appropriate sub-committee under the existing EU-PA Joint Committee. One method to move forward on this issue would be that of projecting what conditionality benchmarks would look like under 'normal' circumstances of sovereign statehood, and then work backwards from this end-point to current circumstances. The fact that the Palestinian context is highly open and internationalised, relative to cases of sovereign states, eases this task. As such, acquiring the necessary information for the specification of conditions and benchmarks may prove easier than in contexts of sovereign statehood.

By way to conclusion, two key dilemmas are opened for discussion and further research. The first concerns the potential danger that ongoing support to the PA may perpetuate Israel's occupation rather than contribute to Palestinian statehood. The dilemma arises because developments on the ground inevitably shape international assistance priorities. Hence, the growing international focus on Palestinian

municipalities in 2002-03, in the light of Israel's 'cantonisation' policies or the rising attention to security reform in the light of the Gaza disengagement. Yet when aid follows developments on the ground, developments which are also largely shaped by Israeli policies, the risk becomes that of acting to support spoiling strategies, viewed as incongruent with EU aims. There seems no easy way out of this dilemma. The best way out could be that of strengthening conditional support for the PA, but only if the Union holds Israel legally and thus financially responsible (in deed and not only in word) for its actions in the OTs.

Second, and linked to the discussion on the EU's neglect of key reform priorities (such as the PA-PLO duality or the reform of the PLO), is a question of fundamental importance: namely, does the EU truly wish to promote democracy in Palestine? More accurately, what is the priority accorded to democracy and good governance compared to other goals, such as the end of violence and a peace agreement with Israel? Security and conflict settlement do not necessarily compete with democracy promotion and good governance. On the contrary, in the long-term and particularly if the focus is on conflict resolution over and above settlement, democracy and good governance may be a *sine qua non* for peace in the region. However, to the extent that EU actors may believe that particular manifestations of Palestinian democracy (such as the inclusion of the Palestinian diaspora or of Islamic parties) may hinder or preclude a putative agreement with Israel, its policy goals could become competing, if not mutually exclusive. No conclusive answer to this question can be provided here. Suffice it to say however that with without it, analysts and policy-makers could become overly preoccupied with the capability and modalities of EU democracy promotion, while failing to acknowledge that the core problem may lie elsewhere.

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PARTIES OF POWER AS ROADBLOCKS TO DEMOCRACY: THE CASES OF UKRAINE AND EGYPT

MADALENA RESENDE & HENDRIK KRAETZSCHMAR

Introduction

Political parties are the backbone of any functioning representative democracy. They are the agents that compete in the political arena for public office by offering programmatic alternatives to voters. It is not surprising therefore that an analysis of countries that have failed to democratise shows political parties suffering from a severe pathology that renders them weak institutions. In both the eastern and the southern neighbourhood of the EU, a type of party has emerged, the '*party of power*' characterised by its dependence on the state, the absence of ideology and the linkage with specific sectoral groups. Examples of such parties can be found in Ukraine during the reign of President Kuchma and in present-day Egypt.

The ideological weakness of parties of power and their dependence on the state is both a symptom and a cause of the failure of democratic consolidation. Because they prevent the emergence of a multi-party system based on competing ideological-programmatic currents, these parties and their legacies should be seen as an important stumbling block in the transition towards and consolidation of democracy. This paper attempts a summary analysis of the phenomena, suggesting that an alternative model of party development is required in order for democracy to take hold in the eastern and southern neighbourhood of the EU.

Both Ukraine and Egypt are going through critical political transformations. Whilst in post-Orange revolution Ukraine, the pro-Yushchenko coalition is now attempting to reproduce its victory over Kuchma's oligarchs in the 2006 parliamentary election, there are signs in Egypt that rising domestic and international pressures for change are finally being met by government efforts to reform the political system. To be sure, serious differences exist between these two countries in the depth and pace of political change. In the aftermath of the Orange revolution, Ukraine is taking its first tentative steps towards democratic consolidation with crucial constitutional issues being discussed. During the Orange revolution, profound changes were introduced to the institutional environment, affecting the electoral system and the balance between presidential and parliamentary powers. Because these changes were imposed by the outgoing elite, the current government questions their legitimacy and is presently discussing how to settle these crucial questions.¹ The ruling elite's constitutional choices will be of paramount importance for the development of political parties and, ultimately for the democratisation of Ukraine.

In Egypt, by contrast, mounting pressures for change on the eve of crucial presidential and parliamentary election this year have so far failed to produce real changes to the political status quo. Nevertheless, it is clear that domestic demands for reform, which have gained momentum in recent months, probably pose the most serious political challenge to the legitimacy of the Mubarak regime since the early 1990s.² It is interesting to note in this regard that these pressures for reform do not primarily emanate from the legalised political opposition which, being co-opted into the regime, carries little pressure potential to challenge the established order. Instead - and this is a new phenomena in Egyptian politics - they emanate from a rising number of grass-roots reform movements and a more assertive and emboldened Muslim Brotherhood. Being united in their demands for immediate political reforms, these movements have in fact managed to challenge the authorities by mobilising a seemingly apolitical

¹ V. Yushchenko, *Ukraine President Hints at Referendum on Constitutional Changes*, Interview with One Plus One TV, BBC Monitoring Unit in Kiev, 2005.

² E.E.-D. Shahin, *Egypt's Moment of Reform: A Reality or Illusion?*, CEPS Policy Brief No. 78, July 2005.

public and by organising a vast number of rallies and demonstrations across the entire country.

Despite these differences between the two countries in the pace of reform, there is little doubt that the success or failure of democratic change in Egypt and Ukraine will largely hinge on the capacity of the political elites to shed the legacy of parties of power. In Ukraine this implies that the pro-Yushchenko coalition must go beyond creating a vote-winning coalition by laying the foundations of a centre-right party. In fact, if the current elite in power takes seriously the task of building an independent, centre-right party before the next election, Ukrainian democracy seems to have a chance. Otherwise, the patronage system set up by Kuchma could be reproduced again.

For Egypt, this means that the authorities ought to do two things. First, they need to abolish all legal restrictions that have hitherto stifled the autonomy of political parties and their development into programmatic mass-based organisations. Second, and setting an example for other parties in the country, the Egyptian authorities must also cut the lifeline with the National Democratic Party (NDP), enabling the party to mutate into a truly autonomous and programmatic political force that can survive under competitive conditions.

Surely, from the regime's perspective, both of these measures are highly problematic, as they shake the very foundations on which the authoritarian system has been built. With rising domestic and international pressures for reform, however, it is all too clear that the logic of repression and patronage, so successfully employed by the Egyptian authorities during the 1980s and 1990s, will in the end have to give way to a logic of pluralism and competition. Consequentially, there are two ways forward for the NDP: it can either strive for greater autonomy from the state and stand a chance of survival, or, on failing to do so, crumble with the authoritarian regime that it has sustained over the past 20 years.

The Concept of 'Parties of Power'

Parties of power develop from a ruling elite's drive to maintain control over the state by means other than programmatic competition, normally in situations of unconsolidated democracy or of limited pluralism. Being created from above, these parties are not meant to become autonomous political forces in their own right, but are utilised by the ruling elites as

instruments of co-optation, sometimes even coercion and political hegemony. To begin with, they simply serve the regime to sustain a network of patronage relationships with the major socio-political, economic and administrative actors of the country. By using the patronage networks, in fact, the regime seeks to ensure its very survival by granting these actors access to the spoils system of the state in return for their complacency concerning the existing order. What is more, such ruling parties also serve to provide regime-supportive majorities in the major elected institutions of the state. Since we are dealing with transitional regimes, all of which have introduced regimes, some form of multi-party elections, the control of the ruling elite in parliament is no longer guaranteed. Facilitating the formation of crushing majorities in parliament, ruling parties hence serve to sustain the political hegemony of the ruling elite in parliament and government.

Despite their instrumental value within the political system, and possibly even because of that, there is little interest on the part of the ruling elites to develop these parties of power into fully institutionalised organisations with a clear ideological profile. The dependency of the party on the state would be broken by the formation of a ruling party with a will and a power base of its own. The oxygen of these parties of power is hence their relationship with the state. In fact, being an exceptionally weak institution, such parties will most likely disintegrate once deprived of their connection with the state.

And herein lies the paradox. A truly competitive multi-party system cannot emerge within a system of parties of power, which unbalances the electoral game in favour of single party or a set of political parties that thrive on the spoils of the state. For democracy to take hold, these parties must be de-linked from the state and put on equal par with the other political forces in the country. In concrete terms, this means that political leaders have to yield to a different logic of party-building that undercuts dependency on the state and creates links with civil society through programmatic choices.³ At the same time they ought to facilitate the development of parties based on distinct ideological profiles to undercut existing patronage patterns and to facilitate electoral competition around

³ V. Randall and L. Svasand, "Party Institutionalization in New Democracies", *Party Politics*, 8, 2002.

clear programmatic alternatives. Only once these preconditions are met will parties make the transition to a different model and contribute to a further democratisation of the political system.

Yushchenko's Ukraine

The failure to consolidate democracy in Ukraine during Kuchma's period in office owed much to the system of parties of power, characterised by a strong alliance of the political elites with common economic interests, who increasingly took control of political power in Ukraine during the 1990s.⁴ With few exceptions, political parties in Ukraine represented networks of economic client-patron relations rather than expressing wider social and economic options for ruling the country.

After the election of Kuchma to the presidency in 1994, the strengthening of the grip of several economic groups over the legislative, executive and judicial branches accelerated. Kuchma's ruling Party of the Regions was little else than an assembly of clans and oligarchs who used state structures to further their vested interests. In parallel, the 1996 Constitutional Amendments pursued by Kuchma strengthened the presidency by transferring political powers to the office from the parliament. The formal concentration of powers by Kuchma was also accompanied by the strengthening of the control of the executive power over the judicial and legislative branches as well as the local state authorities.⁵ The hopes of further democratisation raised by Kuchma's rise to power in the 1994 presidential election were dashed when the regime tightened its oligarchic control over the state and increased its authoritarian practices.

The December 2004 mobilisation of masses to protest against electoral fraud in Independence Square was essentially a rebellion of civil society against the oligarchs' control and the elite's authoritarianism. The promise of a break with the past regime symbolised by the Orange revolution will

⁴ P. Kubicek, "The Limits of Electoral Democracy in Ukraine", in *Democratization*, 8, 2001.

⁵ O. Sushko and O. Lisnychuk, "The Political Campaign and Ukraine's Political Evolution", in H. Kurth and I. Kempe (eds), *The Political Campaign and Ukraine's Political Evolution*, Kyiv: Friedrich Ebert Stiftung, 2005.

only be attained, however, when deep institutional reform takes place. Political parties are arguably central elements of such a transformation, and the new political elites should seriously attempt to break the legacy of parties of power. A first step is the strengthening of political parties by cutting their dependency on an illicit relationship with the state and strengthening their relationship with the voters through programmatic appeal. The strengthening of political parties is a building block for the strengthening of parliament and, ultimately, a more democratic form of control of political power.

Arguably, the Orange revolution might have provided the institutional incentives for such a move. Indeed, a side-effect of the revolution, even if opposed by Yushchenko, was a constitutional settlement limiting the extremely wide powers gained by the President in the 1996 constitutional reform. Although the legitimacy of the constitutional settlement is being now questioned for it was achieved under the threat of the use of force against the masses in Independence Square, the settlement still created a benchmark in transferring some of the powers back to the parliament. Although Yushchenko might try to limit the loss of presidential powers to the parliament implied in the package of constitutional reform, the reinforcement of the parliament's powers appears inevitable. Although uncertain as to its scope and timing, the strengthening of the parliament will be an incentive to the creation of parties based on programmatic lines.

But even if a more powerful parliament increases the value of political parties, a more powerful parliament will not lead automatically to the emergence of independent, programmatic parties and a structured party system. For this to happen, it is crucial that political leaders commit to take ideological coherence as their primary criteria for party-building, even when this implies a short-term loss of votes and office control. For the time being, Yushchenko's priorities seem focused on creating a winning coalition for the 2006 parliamentary elections, with the institutionalisation of a party relegated to second place. When in early 2005, Yushchenko announced the formation of a new party, many expected it to be based on the parliamentary bloc created in 2001 to support his candidacy, the 'Our Ukraine'. However, it soon became clear that the new party would be based on the public movement 'For Ukraine! For Yushchenko!' and would mainly include members of the new government, while on the whole the parties participating in the 'Our Ukraine' parliamentary bloc remained outside. When the founding congress of the 'Our Ukraine' People's Union

(NSNU) took place in early April 2005, observers raised concerns in the political community that a new party of power was being created.⁶

For the moment the new 'Our Ukraine' shows a number of features that augur poorly for its institutionalisation as a programmatic party. First, being based on a social movement rather than a structured party or coalition of parties makes the process of creating a coherent internal structure much harder to achieve and therefore decreases its chances of long-term survival.⁷ Second, the only ideological inheritance that the new party received from the popular movement supporting Yushchenko is rather vague: a commitment to democracy, opposition to the outgoing authoritarian regime and a commitment to the European route. Such commitments do not appear to give any decisive direction to the government in terms of political and economic decisions, which means that these identities do not provide sufficient glue and the parties do not survive much beyond the first set of elections.⁸ Political ideologies should thus provide more convincing indications regarding political and economic policies, such as positions on nationality or the size of the public sector.

Obviously, ideological identities are not built instantaneously; one short-cut to ideological definition is thus the assimilation of existing parties' ideological profiles by integrating parties with established profiles. At the time of writing, it remains unclear whether the original 'Our Ukraine' (Viktor Pynzenyk's former 'Our Ukraine' party) and the parties descending from the Ukrainian Popular Movement (Rukh) – Yuriy Kostenko's Ukrainian People's Party and Boris Tarasiuk's People's Rukh of Ukraine – will eventually be included on the NSNU's party lists as the Parliamentary elections of 2006 approach. Their exclusion would worsen the chances of consolidating the NSNU as a centre-right party.

The descendents of Rukh would help build the ideological identity of the new party. Not only were the descendents of the Rukh, Kostenko's People's Party and Tarasiuk's Rukh, instrumental in the unification of the opposition parties behind Yushchenko's presidential candidature, but as the movement that had earlier propelled Ukraine to independence, and the

⁶ J. Maksymiuk, *Is New Pro-Yushchenko Party More Than a Party of Power?*, RFE/RL Special Report, Prague, 2005.

⁷ See Randall & Svasand, *op. cit.* and Sushko & Lisnychuk, *op. cit.*

⁸ Randall & Svasand, *op. cit.*

one that is “most rooted in an independent civil society”,⁹ it carries an important symbolic heritage. Even when attempting a catch-all strategy, the NSNU could define its ideological profile by combining the Rukh’s moderate and inclusive nationalism and Yushchenko’s moderate economic liberalism in a typical conservative profile.

Yushchenko’s electoral coalition with Yulia Tymoshenko’s bloc and the Agrarian Party of Vlodymyr Lytvyn is advancing, with talks underway on the principles for parity of seats. Unfortunately, this seems to go hand in hand with a disregard for the basic procedures involved in forming a party with coherent structures and ideology. By relinquishing the party leadership, Yushchenko increased the uncertainty over the party leadership. In his way Yushchenko weakened the identity of the party, with the latest opinion polls showing a decline in the support for the Our Ukraine People’s Union.¹⁰

Summing up, the ruling elite in Ukraine faces crucial decisions concerning the shape of the country’s political system. The choice is roughly between a semi-presidential system in which the parliament and parties are strong, and a presidential system where political parties remain dependent on the state. By taking a short-cut to electoral success rather than agreeing on building a single party structure based on a clear-cut ideology, the carriers of the Orange revolution would be reproducing the path taken by Kuchma following the 1994 elections. Circumventing the process of party institutionalisation allows a short-term attitude to the control of political power to dominate, at the expense of strengthening democratic institutions. In the absence of institutionalised political parties, the single-minded logic of political leaders’ control over the state institutions that characterised Kuchma’s system parties of power could thus prevail. The democratisation of Ukraine is thus at stake.

Mubarak’s Egypt

In many respects, the Egyptian party political scene resembles that of Ukraine prior to the Orange revolution. Here again we come across a system of parties of power, which as elsewhere in the Mashrek region, has prevented the country from developing a functioning multi-party system

⁹ S. Birch, *Elections and Democratisation in Ukraine*, Basingstoke: MacMillan, 2000.

¹⁰ See Yushchenko, *op. cit.*

based on programmatic-ideological competition. At the heart of this system stands the ruling National Democratic Party (NDP), which was carved out of the Arab Socialist Union (ASU) by President Sadat, when he abolished the single-party state in favour of limited party pluralism in 1977. From the onset, the NDP was not intended to become an autonomous political force in its own right, with a strong organisation and a clear ideological profile. Rather the ruling elite at the time, and President Sadat in particular, wanted to create a party that was subservient to the needs of the government and dependent upon it. Essentially the NDP was to function as an instrument of political hegemony and co-optation, ensuring the regime's political supremacy in parliament and government and facilitating its linkage to the country's major sectoral organisations, such as the trade unions and business associations.¹¹ In this sense then, the NDP differed little from its predecessor, the ASU, which, under the authoritarian single-party regime of the 1950s and 1960s, had served as a corporatist umbrella organisation, linking all major societal sectors to the state.

To perpetuate the NDP's regime dependence, Sadat, and even more so his successor Mubarak, made sure that the party remained both underfinanced and understaffed and that the appointments of all senior party positions remain the prerogative of the president. Most crucially, both presidents ensured that the NDP lacks a clear ideological profile and so also an ideologically committed membership base. Indeed, to this day, no serious attempt has been undertaken to unite the party's vastly different ideological currents and fractions under a coherent programme and to build up a membership base that is defined by ideological commitment rather than by access to state patronage. As it stands, the NDP is populated by old Nasserites, market liberals, moderate Islamists, members of the 'parasitic bourgeoisie' and state technocrats, and its programme remains little else than a collection of vaguely formulated principles. In fact, probably the only glue holding together this diverse blend of currents and fractions within the NDP is the dictum of *statism*, i.e. the belief in the legitimacy and continuity of the established order, and with it the party's close ties to the all-powerful Egyptian presidency and the state's spoils and patronage system.¹²

¹¹ See M. Kassem, *In the Guise of Democracy: Governance in Contemporary Egypt*, Ithaca, NY: Ithaca Press, 1999 and H. Nafaa, *Al-Ahram Weekly*, 12-18 October 1995.

¹² See Kassem, *ibid.*

According to most observers of Egyptian politics, the ideological vagueness of the ruling party is deliberately sustained by the regime for two reasons. First, it is sustained to pre-empt the development of an ideologically committed membership base that could turn the party into a new locus of power with a potential of undermining the supremacy of the Egyptian presidency. Second, this vagueness is also sustained as a means to justify any policy decisions taken by the government, without formally breaching official party doctrine. In other words, the party is being instrumentalised to legitimise *post-factum* the policies pursued by the government.¹³ This means that, contrary to the role of ruling parties in established democracies, the NDP carries little policy-making initiative despite its status as party in government. Here, as elsewhere in the region, policies emanate from the executive, with the parliamentary party functioning as a rubber-stamp institution for policy ratification. Whilst plaguing its day-to-day operations, the ideological weakness and state dependency of the NDP are probably most noticeable during election times. In most representative democracies, this heightened period of electioneering usually exposes the programmatic-ideological profiles of the parties that vie for the voters' attention and confidence. This is not the case, however, with the NDP and its candidates which, rather than being selected by the party's grass roots, have in the past been handpicked by the president to run for public office. In fact, over the past two decades of multi-party elections, the NDP has rarely produced an election manifesto, outlining the party's policy proposals based on a coherent ideological profile. In the absence of such a profile, the party has instead relied on its linkage with the government in order to attract voters and secure election victory. Amongst other means, this has been done by instructing party candidates and their campaigners to propagate the government's five-year plan, the past achievements of the NDP regime and, most importantly, the direct connection between the party and the president.

In recent years, however, some steps have been undertaken by the NDP to revive the party as a mass-based organisation and to re-assert its position as a prominent player in Egyptian politics. These attempts follow on the heels of the 2000 parliamentary poll, which saw a drastic decline in the electoral fortunes of the NDP. Held under partial judicial supervision, these elections robbed the NDP of a home-grown majority in parliament,

¹³ Ibid.

which it was only able to salvage by re-admitting those de-selected NDP members who had defied party orders and run as independents. Alarmed by the dire state of the NDP, and particularly by its decreasing credibility as the governing party, the calls for internal reform rapidly gained prominence within party ranks and even amongst the ruling elite.

At the 2002 general party conference, these calls for change eventually culminated in the implementation of a set of internal reforms that were intended to reconnect the party with the Egyptian electorate and to enhance its position within the power structure of the state. Under the direction of Gamal Mubarak, the son of the incumbent president and leader of a reformist camp within the party, several structural changes were introduced to the party statutes. Propagating greater internal democracy, for instance, the party introduced the direct election of its top positions and the grass-roots participation in the selection of candidates for parliamentary elections.¹⁴ Under the captivating slogan 'new thinking', the congress also debated and adopted a new programme for the party, which was meant to better reflect the changing socio-economic realities in Egypt. Most crucially, however, attempts were made to reverse the NDP's junior position within the party-government relationship. Realising that a party without a programme and command of government policy could not survive in the long run, Gamal Mubarak, who in 2002 took over the NDP's powerful policy committee, stated clearly:

The NDP is the party that formed this government because it is the party that won the majority of votes in parliamentary elections. This is why the government must be restricted by the party's recommendations, proposals and strategies on socio-economic and political developments in Egypt.¹⁵

That Gamal Mubarak's demands did not entirely fall on deaf ears within the regime became apparent in 2004, when the President formed a new government under Prime Minister Ahmed Nazif. As it later transpired, the NDP's policy committee was directly involved in the formation of the new government, nominating a number of crucial cabinet

¹⁴ J. Brownlee, "Democratisation in the Arab World? The Decline of Pluralism in Mubarak's Egypt", *Journal of Democracy*, 13, 2002.

¹⁵ See G. Al-Din, "NDP Congress' Aftershocks", *Al-Ahram Weekly*, 26 September-2 October 2002.

ministers with strong linkages to the younger cadre of the NDP. These included amongst others the Ministers of Higher Education, Youth, Communications and Information Technology as well as the Minister of Industry and Foreign Trade. What is more, not only was the policy committee directly involved in the formation of the cabinet, but immediately after taking office, the new PM also promised to work closely together with the NDP in the development and implementation of government policy and to hold regular meetings between the party and government to that effect.¹⁶

Surely, any move by the NDP to obtain greater policy initiative over the government, as demanded by the young Mubarak and evidenced in recent developments, would constitute a significant step in reducing the party's dependence on the state, and hence a move away from the current system of parties of power. The same can be said about the introduction of greater internal democracy, which could reduce the influence of the executive over the composition of the party leadership and its candidates, and thus increase the overall autonomy of the party.

At this point in time, it remains to be seen whether the recent internal reforms will indeed enhance the NDP's position vis-à-vis the state. In any event it seems fair to say that even if these developments are to stay, many obstacles remain for the party to become a truly autonomous actor with a clear ideological profile. For this to happen, the party must engage in far bolder internal reforms aimed at strengthening its own organisational structure and at clarifying its position within the ideological spectrum. Such reforms must include a proper system of party financing that attempts to reduce the NDP's current dependence on the infrastructure of the state, a clear separation between government and party officials and the development of a membership base that is programmatically and not patronage-oriented. At the same time, of course, the ruling elite must support such developments and put the conditions in place for further internal reforms of the NDP.

Summing up, what are the chances that such reforms are on the cards, and that the system of parties of power will eventually make way for one that is structured around competitive and ideologically-oriented

¹⁶ See G. Al-Din, "Bringing the News", *Al-Ahram Weekly*, 2004 and G. Al-Din, "Preparing for September", *Al-Ahram Weekly*, 2004.

political parties? At present, the dire answer must be 'none', given the regime's unwillingness to significantly alter the political status quo. Indeed, despite a recent string of political reforms, there are few signs that the ruling elite is truly committed to the emergence of a more competitive party system, in which the NDP would have to assume the position of one amongst equals in the electoral game. A case in point is the recent amendment of the Egyptian Constitution, which for the first time in the country's electoral history introduced multi-candidate elections for the presidency. Although initially hailed as a significant step forward towards democracy, it quickly became clear that the amendment was never meant to open the presidency to true contested elections. Having been drafted by an elite unwilling to concede power, the new presidential election law makes it virtually impossible for opposition parties to stage their own candidates and to lead an effective election campaign on an equal par with the ruling NDP.

What is more, it is even debatable whether any transformation of the NDP from a party of power to one of ideology can take place within the confines of a regime whose very existence is based on the fusion of party and state. In fact, unless the ruling elites are willing to resort again to violent coercion as a means to sustain power, they will require the presence of a timid regime-supportive party that provides the Egyptian regime with the necessary political hegemony in the central institutions of the state. De-linking state and party would hence upset the logic of authoritarianism under conditions of controlled pluralism and most likely lead to the demise of the incumbent regime and certainly to the disintegration of the ruling party.

Conclusions

As typified by Ukraine and Egypt, most of the semi- or non-democratic countries of the European neighbourhood pretend to offer a degree of political pluralism. The standard is for a plurality of parties to run in national elections and participate in parliamentary sessions. In contrast to fully fledged democracies, however, these electoral rituals have little bearing on the composition of government and its policy output, which remains entirely dominated by the executive institutions.

Parties of power constitute a crucial element of such political order. As discussed above, they function as instruments of co-optation and

political hegemony, enabling the ruling elites to sustain their regime without major internal challenges. In so doing, parties of power rob the concept of 'political party' of its traditional meaning in Western democracies. Throughout this paper we argued that the trademarks of these types of parties constitute a serious stumbling block for the development of a multi-party system based on competing ideological currents. For democracy to take hold in the eastern and southern neighbourhood of the EU, it is crucial that the logic of parties of power be replaced by one structured around autonomous and ideologically cohesive parties.

These conclusions have of course significant implications for policy-makers with an interest in promoting democracy in the region. If democratisation is of central concern to the European Neighbourhood Policy, ideological and organisational party-building should be an integral part of its current agenda. Beyond the democratisation of authoritarian regimes, assistance and encouragement should be given to the formation of autonomous and ideologically cohesive political parties. Equally, parties should be encouraged to translate such ideological precepts into coherent policy positions so that in the long run the shift of loyalties from clientelistic practices to programmatic principles can be achieved. Together these changes would surely enhance the nature of multi-party competition and with it the quality of procedural democracy in the region.

Certainly, the regional significance of this analysis of parties of power varies. Where revolutions have already created a more pluralist environment, such as in Ukraine and Georgia, independent political parties will be the cornerstone of a system of democratic institutions. In Ukraine this demands that the Yushchenko elite institutionalises its visions in a political party. However, if an instrumental attitude towards the parliament and political parties prevails, the Orange revolution could still be remembered as an unfulfilled promise. Indeed the challenges faced by the Yushchenko regime in 2005 and 2006 are paramount: not only to secure electoral victory in the 2006 elections but also to ensure that the strong popular movement taking them to power is not transformed into a simple agent of the state. On the other hand, in those countries under authoritarian government, the only way for the ruling elite to introduce more pluralism without completely losing control is to progressively cut the links between the ruling party and the state. In Egypt and other countries of the southern neighbourhood, reforming the secular ruling parties is crucial as a means of

facing Islamic parties in a more pluralist scenario. Indeed, it is only once the ruling parties are taken off the state's life-support that a truly competitive party system can emerge, in which the ideological contest comes to outweigh the importance of patronage and state spoils.

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Part II

The EU as Exporter of Democratic Values

THE RELUCTANT DEBUTANTE: THE EU AS PROMOTER OF DEMOCRACY IN ITS NEIGHBOURHOOD

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Some paradigms and syndromes

The role of the European Union in the promotion of democracy in its wider neighbourhood can be assessed at different levels, from the broad sweep of the history of Europe through the centuries, to the contemporary history of the European Union as a set of norms, values and institutions, and finally down to the technicalities of democracy promotion programmes. The substance of the EU's role is bound up with the paradigm of 'Europeanisation', which has a strong normative democratic content, and at the same time relates to the empowerment of the EU institutions.

There are certainly inhibitions in the system holding the EU back from playing this role, which come from particular sensitivities of individual member states. These reflect a whole collection of syndromes, ranging from different proximities and historical experiences in relation to the various neighbours, to different European visions and world views. The divergences represented by these syndromes sometimes make it difficult or impossible for the EU institutions to pursue active foreign policies, including democracy promotion.

Historical perspectives

Europe has a long tradition of contagion of ideas and revolutionary political movements: from the Renaissance and Reformation of the 15th to 17th centuries, to the republicanism of 1789, the liberalism of 1848, the communism of 1917, the post-fascist democracy of 1945, and the post-communist democracy of 1989-91, which is receiving a new boost in 2004-05.

Starting with 1789, there have been well-defined starting points to several revolutionary episodes. As one tries to assess whether the Rose, Orange and Cedar Revolutions of the last year have the real hallmarks of revolution, it is worth remembering that the maturing of most of the earlier revolutionary episodes took decades. The regime changes were often long and drawn out processes, especially when they were not introduced by war, as in the case of 1848, and this seems to be true also of the current episode from 1989 onwards.

Should the 1989-91 episode of collapse of the Berlin Wall and the Soviet Union be seen as part and parcel of the current episode, beginning in 2004? Yes and no. 1989-91 was an episode of demolition of a flawed system. 2004 onwards marks the ratification of solid new democracies centred on the enlargement of the European Union. As a stylised simplification, one may view the wider Europe as having entered a two-stage democratic revolution in 1989-91. In the first stage, from 1989 to 2004, one group of states – the EU accession candidates – locked onto a fast track for becoming real democracies. Meanwhile the rest of Europe only became phoney democracies, adopting the institutional forms of democracy, but with deeply corrupted and unaccountable regimes that neglected the rule of law. For them, the second stage of democratisation may have begun in 2004.

More precisely, three things happened in 2004, all more or less at the same time.

First, 10 states acceded to the EU, of which eight were former communist countries of Central and Eastern Europe, with two more to follow in 2007.

Second, the peoples of some of the phoney democracies, who were close to the new member states of the EU, showed that they were ready to protest. Both new governments (Georgia and Ukraine) and the continuing old ones (Moldova and Armenia) have stressed the long-run objective of EU membership, seemingly as part of their campaigns to gain credibility

and legitimacy as democratic regimes. For these states the second part of a two-stage democratic transition seems to have begun, after a sufficient number of years of phoney democracy for the public to be ready to demand a second revolution.

Third, is the possibility that the movement may be extending beyond Europe to the Arab/Muslim wider European neighbourhood, from Morocco to Central Asia. The post-war government of Iraq is presented by the US as herald of its drive to transform the region. Whatever the impact of the Iraq war, which is surely too recent for one to know, the Arab world on the whole, and with great variations, seems to be moving towards at least the first stage of setting up the formal institutions and electoral mechanisms of democracy. Even the most authoritarian regimes are under pressure, from Egypt to Uzbekistan, while the Cedar Revolution and the case of Kyrgyzstan have already shown the power of street democracy. Is the contagious democracy virus now spreading from Tbilisi and Kiev to Central Asia and the Mediterranean? In the Arab Mediterranean states the EU offers a different political concept compared to its European neighbours, but still an important one. This may be described as fashioning a sense of Euro-Mediterranean identity, with partial penetration of EU norms and standards into the economies and societies of the southern neighbours, and with the important Arab and Turkish diasporas within the EU being also party to the process of demonstrating the compatibility of Islam and democracy.

On balance it seems that 2004-05 is acquiring some claims for becoming a landmark date in the political history of the wider European neighbourhood.

Institutional perspectives

The EU has been progressively mandated to take up certain responsibilities for foreign policy. It started from a near zero role in foreign policy in its early days to something that has been on an accelerating curve of significance in the last 15 years following the collapse of the communist regimes of Central and Eastern Europe. The early developments were firmly cast in the institutional setting of inter-governmentalism at the EU

level. The principals were the member states, and the EU was assigned agency roles with strictly limited mandates.¹

In the early days of the EU, the institutional structure consisted of the European Economic Community (EEC), which had no foreign policy competence at all. Outside this institutional framework however there began to develop some 'political cooperation' over foreign policy matters through the so-called Davignon Committee, named after Viscount Etienne Davignon, whose legendary diplomatic charms successfully persuaded jealous foreign ministries to dare to sit together to discuss some foreign policy matters in a forum that was emphatically not part of the EEC. The member states met together as principals, but they hardly appointed any person or institution to be their agent.² The EEC was not a foreign policy actor, except in the strictly circumscribed role as trade policy negotiator. The member states were on their guard to prevent the horrifying prospect that the mandates accorded to the EEC or later EU as foreign policy agent might ever become so substantial that the agent would turn into a principal actor in its own right.

Since those early days, there have been major systemic developments in all three EU institutions in the foreign policy field.

The Commission has acquired huge increases in its instruments of economic aid and technical assistance, especially after the collapse of communism in Central Europe through to the Soviet Union. These instruments were first intended to help consolidate the transition to democracy and market economics. It soon led to the Commission's major institutional role in the enlargement process for the former communist states of Central and Eastern Europe – perhaps the most spectacular democratisation policy ever seen.

¹ Paul Pierson, "The Path to European Integration – An Historical Institutional Analysis", *Comparative Political Studies*, Vol. 29, No. 2, April 1996, pp. 123-163.

² There was the egregious incident in 1973 when foreign ministers were meeting in Copenhagen to discuss internal EEC matters. They wished then to turn to some foreign policy matters, whereupon the French foreign minister, Michel Jobert, insisted that they could not do so without flying all together to Brussels before treating this topic, since otherwise there would have been an unacceptable slide towards the institutionalisation of foreign policy.

The European Parliament has gradually grown in stature and developed a certain voice in foreign policy matters, particularly on matters of democracy and human rights, using its budgetary powers to push through the creation of a special budget line for democracy promotion – the European Initiative for Democracy and Human Rights (EIDHR). It also harasses the Commission over any suspected financial irregularity, at the price of user-friendly effectiveness of the instruments of democracy promotion, a subject to which we return below.

The Council enhanced its own institutional role with the designation of a High Representative for Foreign and Security Policy in the person of Javier Solana, who also acquires responsibility for executive capabilities in security and military domains. A climax to this institutional development is the intended creation of the post of EU Foreign Minister in the European Constitution, which would double-hat the roles of High Representative of the Council and Vice-President of the Commission. This would involve a consequential integration of the staff resource of the Council and Commission in a European diplomatic service. At the time of writing, Javier Solana has already been designated for the post of Foreign Minister and various schemes are under consideration for the common diplomatic service.³ This fusion of resources and partial institutional merger in themselves raise itself interesting issues regarding principals and agents. Certainly there will be a greater single power centre over EU foreign and security policy. But it is ambiguous at this point, and much discussed, whether this will be a reverse takeover by the principals in the Council over the Commission as an agent that was seen as becoming too powerful; or whether the new Foreign Minister will embody the EU as an increasingly powerful actor in its own right.

The outcome should in principle see enhanced synergies and credibility from the integrated use of the EU's many instruments of action. An enhanced credibility should become manifest in the words or speeches of the EU Foreign Minister being taken very seriously by partner states in the neighbourhood. But there are risks that the complexities of the EU's

³ The failure of the Constitution to be ratified does not necessarily mean an end to these proposals, since it is considered legally possible to introduce these particular innovations by inter-institutional agreement without requiring treaty ratification.

inter-institutional power struggles will for years crowd out efficient focus on the substantive objectives of these systemic developments.

Europeanisation

Democracy and Europeanisation are overlapping categories but not the same thing. Both have both been the subject of many definitions.⁴

⁴ Thomas Risse, Maria Green Cowles and James Caporaso define Europeanisation as the emergence and development of distinct structures of governance at the European level [Thomas Risse, Maria Green Cowles and James Caporaso (eds), *Europeanization and Domestic Change*, Ithaca, NY: Cornell University Press, 2001, p. 1]. Robert Ladrech understands Europeanisation as an “incremental process reorienting the direction and shape of politics to the degree that EC political and economic dynamics become part of the organizational logic of national politics and policy-making” [Robert Ladrech, “Europeanization of Democratic Politics and Institutions: The Case of France”, *Journal of Common Market Studies*, Vol. 32, No. 1, 1994, p. 70]. Johan P. Olsen differentiates between five possible meanings of Europeanisation. According to him, Europeanisation may refer to changes in the external territorial boundaries of the EU, to the development of institutions of governance at EU level, to central penetration of national and sub-national systems of governance, to the export of forms of distinctively European political organisation and governance beyond the territory of the EU, and to a political project aiming at a unified and politically stronger EU [Johan P. Olsen, “The Many Faces of Europeanization”, *ARENA Working Papers*, 2002, WP 01/2, http://www.arena.uio.no/publications/wp02_2.htm]. Claudio M. Radaelli defines Europeanisation as a process of “(a) construction (b) diffusion and (c) institutionalisation of formal and informal rules, procedures, policy paradigms, styles, ‘ways of doing things’ and shared beliefs and norms which are first defined and consolidated in the EU policy process and then incorporated into the logic of domestic discourse, identities, political structures and public policies” [Claudio M. Radaelli, “The Europeanization of Public Policy”, in K. Featherstone and C. Radaelli (eds), *The Politics of Europeanization*, Oxford: Oxford University Press, 2003, p. 30]. Most studies of Europeanisation have an explicit emphasis on the EU policy process and limit Europeanisation effects to the EU member states. Olsen suggests a possible transfer of EU rules, procedures and paradigms to third countries, but it is Heather Grabbe who offers a systematic analysis of the EU’s impact on the applicant countries from Central and Eastern Europe in the context of the EU accession process [Heather Grabbe, “Europeanization Goes East: Power and Uncertainty in the EU Accession Process”, in K. Featherstone and C. Radaelli

Europeanisation embraces democracy for sure, but is a wider concept. For the EU, the Copenhagen criteria adopted in the conclusions of the European Council meeting in Copenhagen in June 1993, provide an official reference on democracy:

Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities.

Europeanisation on the other hand may be understood as a process of convergence on modern European norms and values through the interaction of three dynamics:

- first the legally binding norms of the EU (and of the Council of Europe) for democracy and human rights,
- secondly the transformation of objective interests of enterprises and individuals as a result of increasing integration and
- third the transformation of subjective values and identities at the societal level.

The mechanisms for setting into motion these complex processes are summarily divided into two categories: conditionality and socialisation.

Under the conditionality model, the EU offers advantages to the neighbour, ranging from full membership to graduated economic, political and institutional incentives under neighbourhood policy, on the condition that economic and/or political conditions are met. Sanctions may be undertaken in very negative cases.

Under the socialisation model, the proximity and attractiveness of the EU model of democracy, governance and the rule of law are of the essence. The EU does not pursue a forceful policy, but stands as an example, engaging the neighbours with multiple personal and institutional contacts and joint activities.

The conditionality model requires that the EU institutions really act, whereas the socialisation model relies more on demonstration effects and endogenous processes at the level of society. In both cases, however, Europeanisation relies upon the neighbours perceiving the EU to be a strong role model.

(eds), *The Politics of Europeanization*, Oxford: Oxford University Press, 2003, pp. 309-310].

The EU has now constructed a set of policies for its neighbourhood as a well-defined geo-political space. This consists of the whole of Europe and the Mediterranean basin. The states in this area come in three categories for the EU policy-maker: first the acknowledged accession candidates, second the Western Balkan states for whom accession is acknowledged as a long-term goal (grouped in the Stabilisation and Association Agreement Process – SAP), and third the official ‘neighbours’ of the former Soviet Union and the Mediterranean (now grouped under the European Neighbourhood Policy – ENP).

All three policies – accession, SAP and ENP – have the same normative foundations, with only differences in the intensity of pressures and incentives for compliance with EU values, norms and standards. In all cases the policy documents give first place to the objective of convergence on democratic values and the rule of law. For accession full compliance is mandatory. The SAP states are set on a course that makes full compliance necessary in due course, but with much more flexibility on the time sequence. For the ENP states the same broad objectives are endorsed, but compliance can be still more flexible, or selective. Nonetheless the Commission has followed the same comprehensive normative framework for all three categories. The SAP process is a first derivative of the accession process, and the ENP a second derivative, even if accession prospects are not acknowledged in this case.

The EU’s democracy promotion policies have emerged through a process of path-dependency. The Commission learned first how to fashion a negotiation and monitoring model to bring the accession candidates into full compliance with EU norms. In so doing it built on its unique expertise in the complex field of EU law and developed very important mechanisms of economic and technical aid to help the candidates. When the Commission was mandated to devise the SAP policy, it adapted the accession process. When it had next to design the ENP, the task was given to the Enlargement Directorate General, which produced something that was again based on the accession model with the same comprehensive list of chapters covering all EU policy concerns. This extension of the accession methodology into the SAP and ENP also represented an important institutional ‘mission creep’. The Commission’s strengths are its executive powers based on EU internal laws and policies, whereas it has very limited room for manoeuvre in traditional foreign policy, which the member states and Council jealously keep out of the Commission’s hands. A comment

that can be heard in the Brussels institutions is that the member states have been worried about the way the ENP was developing, because the Commission was taking too much into its own hands.

The EU's new neighbourhood policy is a somewhat ambiguous attempt to set in motion the Europeanisation of its partner states. The idea of Europeanisation fits well the current political objectives of Ukraine. For the Arab states of the Mediterranean, one may aim at notions of a Euro-Mediterranean identity, which already has some resonance in countries such as Morocco or Tunisia. The EU's power to influence its neighbours is clearly strongest for those European states that have membership aspirations, even when this is not reciprocated for the time being by the EU. It is less obvious whether the same logic can work in the much weaker setting of close neighbourly relations, and this lies at the heart of the case studies below.

Syndromes among the member states

The individual member states of the EU are naturally inclined to give priority to neighbours that they are closest to geographically. This will also relate often to historical experiences that resonate in the foreign policy reflexes of national capitals. Thus France, Spain and Italy always put the Mediterranean high on the agenda; Germany, the Baltic and Central European states are most interested in their northern neighbours, while the UK still looks across the Atlantic.

Nevertheless, these obvious interests implied by geographical, historical and cultural proximities provide no simple indicator of whether the member states in question will be harder or softer, or more or less vigorous in democracy promotion in various areas of the neighbourhood. The historical colour of these close relationships has to be brought into play. Former colonial powers have tended to be hesitant to intervene politically in their former colonies, as perhaps in the case of France and Spain in the Maghreb. The legacy of World War II makes Germany very reluctant to see the EU take strong positions towards Israel over issues of international law, and also this may partly explain a rather soft line towards Putin's de-democratising Russia. On the other hand, the Baltic and Central European states, after their occupation by the Soviet Union, show the same logic turned around, with a much greater inclination to make points of political principle towards Russia. Different world views of the

EU's two permanent UN Security Council members may also come into play at times. Certainly it was in evidence over Iraq, with some collateral impact on relations with Russia, when France and Germany made common cause with Russia against the US-UK.

Some syndromes and cleavages among the EU's member states

Preferences from geography:

- North prefers north
- South prefers south

Sensitivities of former colonial powers:

- France and Spain towards the Maghreb
- Austria towards the Balkans

Sensitivities of the formerly colonised or occupied:

- Baltic and Central European states towards Russia

Sensitivities from World War II:

- Germany towards Israel and Russia

Alternative European visions:

- A united, democratic Europe
- A powerful, controllable core Europe

Alternative world views:

- New Europe Atlanticism
- Old Europe Gaullism

These cleavages may on occasion undercut the EU's declared democracy promotion objectives, but not necessarily so. Some rather subtle blends of national and EU roles are possible. There have been repeated examples of member states promoting deeper EU relations with their favourite neighbours, using their comparative advantages in relations with these states to the EU's advantage. Another type of situation is where the member state may be politically inhibited from championing a strong democracy promotion policy in a former colony, but sees an advantage in the EU exploiting its historical innocence to pursue such policies more freely. There can even be subtle examples in the complementarity of EU

and member state actions in the ‘good cop, bad cop’ category, where the intimately friendly national leader may persuade the partner state’s leader to understand better the case for the EU’s harsher conditionality. We shall see examples in practice below.

Case studies

Balkans

The EU has advanced its relations with the Balkan countries within the framework of two separate policies – the enlargement process and the stabilisation and association process (SAP). Both policies aim at domestic political and economic transformation of the target countries in preparation for full integration in the EU. Bulgaria and Romania are part of the Central and Eastern European group for which the enlargement strategy was devised shortly after the fall of the Berlin Wall. The five Western Balkan countries received the conditional offer of EU membership in 2000 shortly after peace had been restored in the region and the member states had decided to secure the long-term stability in the former Yugoslav republics by bringing them into the European mainstream.

The EU policy vis-à-vis the Balkan candidates and potential candidates can be described as conditional support for reforms in the direction of Europeanisation. The recipe is encoded in the Copenhagen accession criteria demanding a prospective member to endorse the community values of democracy and rule of law in order to be admitted as an equal member of the club. The EU membership conditionality touches on the core of the political systems of would-be members and affects a wide spectrum of policy domains through legal harmonisation with the *acquis communautaire*. The ultimate objective is diffusion of the European norms and governance practices prior to a country’s accession to the EU. Democracy-building features high on the enlargement agenda.

In the Western Balkans, however, the democracy goal is coupled with and complicated by the process of state-building and state consolidation. The EU conditionality in the Western Balkan context has a double objective of building viable states and steering the transition to democratic governance and rule of law. The former Yugoslav republics of the Western Balkans have an extra layer of problems to address as a consequence of the wars of secession in former Yugoslavia in the 1990s and the fragile state

structures that emerged as a result of the peace settlements. The EU conditions vis-à-vis these former war adversaries intervene in these highly sensitive political matters, suggesting a vision for the map of the region and the internal state structures against the promise of EU membership.

In the Western Balkan region, therefore, the driving forces behind the EU policy are the security concerns of the member states, and the goal of maintaining peace and building viable states comes first. The democracy objective is not less important but it becomes a matter of highest priority only after a stable security environment is put in place and the outstanding statehood questions are resolved. The Stabilisation and Association process is especially designed to stabilise and strengthen the Western Balkan states in order to make them credible accession candidates to which the full range of democracy requirements will then be applied.

The EU's involvement in the Western Balkans has an important security dimension which is absent as an emphasis in the enlargement context. The EU has taken over various security tasks in the Western Balkans through both military and civilian means. The EU military operation 'Concordia' in Macedonia and the replacement of NATO's SFOR in Bosnia-Herzegovina (BiH) with an EU military mission at the end of 2004 are both examples of the EU's interest in maintaining peace in the region as a first step toward creating the necessary conditions for good governance. The EU police missions in Macedonia and BiH constitute further attempts to strengthen the capacity of the Balkan states and help them enforce law and order in their societies.

Both interests and values converge in the Balkans context to produce a strong consensus in the EU on the goals and methods of the EU policy. While coherent in principle, the EU can still appear inconsistent in the execution of its policy. In the enlargement cases of the Eastern Balkans, this tendency is less pronounced. There, the European Commission is the sole agent of democracy conditionality. As a manager of the enlargement process, the Commission is the institutional player evaluating the state of democracy in each candidate and enjoys large discretion in demanding aspiring governments to improve democratic practices and human rights provisions in their countries. In the Western Balkans, the EU security missions have required the involvement of the High Representative for the CFSP and/or his special envoys representing directly the member states. The split of the EU mandate between the European Commission and the Council has, however, not always played out well in practice and at times

the two institutional agents have been perceived as speaking with two different voices instead of complementing each other to achieve the EU policy goals.

Bulgaria is a country where the EU classical enlargement recipe is applied. The European Commission has been the main EU actor executing conditionality in the pre-enlargement period, with the member states acting in agreement with the Commission and in support of the common values of democracy and rule of law.

The concrete political conditionality vis-à-vis Bulgaria evolved in the context of the European Commission's monitoring of the reform process in the country and reporting to the Council of inadequate practices registered by it. The first assessment of the state of democracy in Bulgaria measured against the broadly defined Copenhagen political criteria was made in the Commission's opinion on Bulgaria's application for membership in the EU in July 1997. The Commission concluded in this evaluation that Bulgaria "was on the way to meeting the political conditions".⁵ Formal institutions of democratic governance were not in question but the quality of governance and the rule of law was judged unsatisfactory. More seriously, the country lagged behind in economic reform and was deemed economically unprepared to fully integrate in the single market. As a result, Bulgaria was not invited to start accession negotiations at the Luxembourg European Council in December 1997 together with the first five front-runners from Central and Eastern Europe.⁶

The overall positive assessment of Bulgaria's democratic practice was gradually followed by sharp criticism of various institutional shortcomings and practices by the European Commission. The more the Commission learned about the institutional structure and the legal basis of Bulgaria, the more deficiencies it saw in them. Among the Commission's concerns, the weak capacity of the Bulgarian judiciary featured high and Bulgaria's progress in the accession process became dependent on reform in this area. The Commission saw deep structural problems, ranging from excessive immunity from criminal prosecution to the responsibility of judges for pre-trial investigation. The member states fully supported the Commission's

⁵ See Commission Opinion on Bulgaria's Application for Membership in the EU, DOC/97/11, Brussels, 15 July 1997.

⁶ The Luxembourg European Council invited Poland, Hungary, the Czech Republic, Slovenia and Estonia to start accession negotiations with the EU.

criticism of the inefficiency of the Bulgarian judicial system and joined forces with the Brussels bureaucracy in putting pressure on the political establishment in Sofia to reform the judiciary.

The delayed accession timetable for Bulgaria, considered not ready to join the EU with the first wave of 10 countries in May 2004, sent a strong signal to Sofia to step up its efforts. As a result, important constitutional amendments and legislative changes were made in Bulgaria, facilitating substantial reform of the judicial system. In order to ensure full implementation of the commitments the Bulgarian authorities undertook during the closing phase of the accession negotiations, the EU included a special safeguard clause in the accession treaty with Bulgaria explicitly linking the completion of judiciary reform with the accession date of 2007 and envisaging a delay of one year in case of failure to reform.

Croatia is officially part of the Stabilisation and Association Process, although an EU candidacy status was conferred upon it in 2004 after the Commission judged that the country has substantially fulfilled the Copenhagen political and economic criteria. Yet, Croatia has been subject to some specific conditionality, a consequence of the Yugoslav wars of 1990s. A core element of the international community's strategy in the Western Balkans has been ensuring that those indicted as war criminals are transferred to the International Criminal Tribunal for former Yugoslavia (ICTY) and that domestic authorities cooperate fully with The Hague. There is a strong agreement in the EU and the international community at large that cooperation with the ICTY constitutes a key element in building a state based on the rule of law where crime, including war crime, is prosecuted and punished. There is also a strong consensus that dealing with the issue of war crimes in war-divided societies is part of the societal process of coming to terms with the past and reconciliation. The EU has insisted on ICTY cooperation since 1997, when the General Affairs Council identified it as a specific requirement for all countries from the Western Balkans.⁷ Progressively, the EU has tightened the conditionality in this area.

Yet, regardless of the agreement in principle on the importance of ensuring full cooperation with the ICTY, the member states were sharply divided on how strict the EU should be in evaluating Croatia's compliance with this condition. The dividing line proved geographical with Croatia's direct neighbours Austria, Slovenia and Hungary taking a more lenient line

⁷ See General Affairs Council Conclusions, April 1997, Brussels.

on the issue whereas the rest of the member states insisted on firm application of the conditionality principle, not least to send a signal to the other countries in the region that the EU is serious about cooperation with The Hague. In March 2005, however, the EU decided to postpone the opening of accession negotiations with Croatia because of Croatia's failure to hand over General Gotovina to the war crimes tribunal in The Hague. The member states that were arguing for immediate start of accession talks could not block this punitive EU position, since the decision to open negotiations required unanimity. This case is illustrative of the EU unanimity rule resulting in the highest standards of political conditionality being effectively applied, rather than the reverse. It also illustrates divergences among the member states at the operational level, despite the overall agreement and support for Croatia's bid to join the EU ahead of the rest of the Western Balkans group.

In *Bosnia and Herzegovina* (BiH), the EU has demanded a long-term transformation process in a number of areas that form an intrinsic part of the democratisation agenda, including the building of democratic institutions, securing guarantees for the rule of law, encouraging the creation of a professional public administration, stimulating the reform of the judiciary, etc. Yet, in the Bosnian context, the goal of state-building and state consolidation is paramount in all spheres of reform.

More importantly, the protectorate status of BiH and the presence of external actors in its domestic authority structures have important consequences for the democratic process in the country. Since the end of the war in 1995, international military troops have been stationed in BiH to maintain peace and prevent further eruption of ethnic conflict. The civilian aspects of peace implementation have been formally supervised by a High Representative of the international community (HR) who enjoys large discretion in dismissing elected politicians and imposing legislation where and when he considers it appropriate. While these extraordinary powers have been justified in the immediate aftermath of the conflict to get the reconstruction and transformation processes going, they have progressively become a brake on autonomous decision-making and domestic political bargaining and coalition-building. BiH political leaders have used the HR's mandate as a cover or an excuse to avoid taking responsibility for unpopular but necessary measures. The advances in many reform areas have happened so far due to external interventions and local actors have had limited ownership over the process. The more the HR

issues decrees, the less the domestic space for self-governance which is at the heart of a democratically-functioning system.

From the point of view of coordination of external action, the EU-demanded institutional and legislative changes have been in line with the policy of the rest of the international community present in the country. There are numerous international organisations in BiH with different priorities, but they are all united in their objective to build a functioning multi-ethnic state in BiH where minority protection and government efficiency co-exist. The EU conditionality in this sense enjoys the consensual support of all other external actors.

The EU institutional actors themselves coordinate their activities on the ground in an effective manner. The EU and its member states are partly represented by the HR after his appointment to also serve as an EU Special Representative in 2002. The HR can be viewed therefore as an EU foreign policy player too, and he can use the instruments of the CFSP to the extent that all Solana's special envoys can. He is linked institutionally to the Council's foreign policy establishment and can mobilise the political support of the EU member states when he needs their political weight to push through specific reforms. And even though his tasks go beyond the strictly-defined EU mandate, he has fully supported the EU conditionality and has actively pursued the reforms prescribed by Brussels.

The European Commission is the other EU actor in the Bosnian context that has a special mandate to manage the SAP conditionality policy on behalf of the EU. Its specific demands have intervened in a critical moment of the post-conflict transformation to steer BiH's transition from a protectorate to an EU member candidate. Regardless of the many other external actors in BiH, the EU has managed to speak with one voice, and to deliver a consistent message compatible with the one of the rest of the international community.

The EU institutional coherence in the Bosnian context is not the norm in the conduct of the EU policy towards *Serbia and Montenegro* even though the objectives are similar – state-building as a matter of most urgent priority and democratisation as an equally important but long-term goal. All EU efforts have been oriented towards preventing further state disintegration and fragmentation of the region into micro-states. Not only does the EU fear recurrence of violence and further conflict, but it also has a structural problem of institutionally integrating many smaller entities from a region to which it has promised membership. The State Union of Serbia

and Montenegro came into existence as a result of these profound security concerns of the EU member states and naturally the emphasis in the EU early conditionality vis-à-vis Serbia and Montenegro has been on setting up the common state institutions and making them function.

Solana's mediation in the constitutional impasse between the two republics in 2002 was a solo act of the EU but an act fully supported by the rest of the international community. Above all, it was the consensus among the EU member states that empowered Solana to use the levers of power assigned to him as High Representative for the CFSP and to compel the two sides to stick to a common state constitutional formula. Widespread agreement that the EU interest in the stability of the Balkans was at stake backed Solana's active search for a political deal. The technical details of the settlement did not matter that much as long as the geopolitical objective of keeping the common state together was fulfilled.

The technicalities, however, matter a great deal to the European Commission since it is the EU institution that has to assess the capacity of the State Union to conclude a Stabilisation and Association Agreement (SAA) and to take up the obligations under a contractual relationship with the EU. As a manager of the SAP, the Commission is interested in having a credible partner at the State Union level sufficiently empowered for efficient decision-making concerning the EU accession process. Because the Commission is driven by a different set of objectives, its view on the workability and even desirability of the thin common state structure does not necessarily coincide with that of the member states.

Indeed, the member states have set the EU foreign policy line in Serbia and Montenegro, and the European Commission is in no position to reverse the EU policy orientation. The Commission, however, finds itself in a difficult position to combine its technocratic responsibility to measure objectively the compliance of potential candidates with the objectives of EU foreign policy, retaining its own levers of power in the SAP process while remaining junior partner to Solana politically. On the one hand, it has to deliver on Solana's promise for faster European integration of the State Union and, on the other hand, it has to deal on a daily basis with what it sees as a weak and non-functional common state which is incapable of being integrated into the EU structures in its present shape.

The EU is therefore not a unitary actor in the Serbia-Montenegro political context, notwithstanding the fact that it is the only external actor deploying influence on the statehood disagreements between the two

republics. The voice of Solana has focused on the security interests of the EU member states, while the voice of the European Commission has focused on technical aspects of compliance with pre-accession conditionality and ultimately progress towards EU membership. Domestic actors are well aware of this division in the foreign policy portfolio in the Serbia-Montenegro case, and it affects how they respond to EU conditionality. The EU's incoherent message has hampered the effectiveness of its conditionality policy.

Turkey

Despite the fact that the issue of Turkish accession has always been on and off the table of EU policy-makers since 1963, a serious debate on the subject only took off recently with the granting of candidacy status to Turkey and the possibility of the start of accession negotiations. The late 1980s were the years after the coup d'état in which the Turkish application for membership was rejected outright unanimously. The rejection was justified on the grounds that Turkey lacked a functioning democratic political system.

In the 1990s, there was almost a tacit alliance between the member states on the Turkey question. The dominance of Christian Democrat parties in Europe also helped the emergence of an almost unanimous rejection of any prospects for accession. The CDU/CSU-led German government at the time had the most unequivocal position against Turkish membership, as often demonstrated in the speeches of Helmut Kohl, the Chancellor and Klaus Kinkel, the Foreign Minister. Meanwhile the Commission viewed Turkey as a valuable 'partner' or a 'neighbour' rather than a future member. Relations with Turkey were often discussed together with relations with Israel and Morocco while the emphasis was on countries of Eastern Europe that had priority, belonging to the 'European family of nations'. The President of the Commission, Jacques Santer, openly stated in July 1997 that Turkey did not have a serious chance of joining the European Union.

A similar attitude could also be observed at the European Parliament. Here, the discussion never even reached the point of membership but focused mainly on the human rights problems which were quite severe in the 1990s amidst the ongoing armed conflict of the Turkish military with the Kurdish terrorist organisation, the PKK. Turkey was harshly criticised

for its human rights violations and even the customs union agreement barely managed to obtain the approval of the European Parliament.

As discourse and action are inseparable variables, it did not come as a surprise to many when Turkey was excluded from the enlargement lists at the Luxembourg Summit of 1997. However, the strong reactions of the Turkish government, the changing international climate after the Kosovo War and the rapprochement with Greece started leading to shifts in European positions in the following two years. Turkey was eventually granted candidacy status at the Helsinki Summit of 1999, with the new Social Democrat government in Germany playing a leading role. Turkey was now subject to the same formal mechanisms used for the Central and Eastern European countries to guide and measure progress on the Copenhagen criteria. This implied that Annual Progress Reports would be prepared by the EU to monitor progress on EU criteria. After the Summit, the European Commission published the first Accession Partnership document in March 2000, which was followed by the preparation of the Turkish 'National Programme for the Adoption of the Acquis' by the Turkish authorities in March 2001.

These first signs of EU conditionality provided the initial trigger for change. Immediately following the approval of the National Programme, the silence on political reform was broken with a record number of 34 constitutional amendments in October 2001, a new Civil Code in January 2002 and three 'harmonisation packages'⁸ adopted in the follow-up to the Copenhagen summit of 2002. The legislative changes introduced significant reforms, particularly in the fields of human rights/protection of minorities, freedom of expression and freedom of association. These reforms were the first crucial responses to EU conditionality, passed under a fragile three-party coalition government that included the highly Eurosceptic right-wing nationalist party in Turkey.

As Turkey began to reform itself internally, the objective factors that stood in the way between Turkey and the EU, such as human rights, the protection of minorities and the excessive role of the military in political life, began to dissipate. The Copenhagen Summit of 2002, at which the EU decided to open accession negotiations with Turkey as and when it fulfilled

⁸ A term of reference for a draft law consisting of a collection of amendments to different laws designed to amend more than one code or law at a time, which was approved or rejected in a single voting session in the parliament.

the Copenhagen political criteria reinforced the EU's commitments. The Copenhagen summit fostered a 'sense of certainty' in EU-Turkish relations by giving a specific date for the beginning of accession negotiations.⁹ Even though 2004 was a conditional date, it was nevertheless a significant step forward, as "it has provided Turkey with the prospect that full EU membership is a real possibility".¹⁰ Meanwhile, the EU also decided to significantly increase the amount of financial assistance to Turkey. Hence, EU impact was not only confined to pure conditionality but extended to cover technical and financial assistance. Pre-accession financial assistance would reach €250 million in 2004, €300 million in 2005 and €500 million in 2006 to "help Turkey prepare to join the EU as quickly as possible".¹¹ Similarly, administrative and judicial capacity-building mechanisms, the most prominent of which is the Twinning instrument, was now employed to make EU member states' expertise available to Turkey through the long-term secondment of civil servants as well as short-term expert measures and training. The strengthening of the credibility of conditionality was immediately reflected in the four subsequent reform packages adopted by the Turkish government (AKP) and two sets of constitutional amendments, leading up to the decision to open accession negotiations at the Brussels Summit of 2004.

The single-party rule of AKP, following their electoral victory in November 2002 elections, was very effective in translating the strengthening of conditionality into real change in the domestic sphere by deepening the reform process initiated by the previous coalition government. In fact, the advocates of a previously religious-based anti-establishment party played a significant role behind political reforms due to a combination of interests and ideological concerns. First and foremost, the AKP viewed EU accession and the necessary reform process as a tool to

⁹ See Ziya Öniş and E. Fuat Keyman, "Turkey at the Polls: A New Path Emerges", *Journal of Democracy*, Vol. 14, No. 2, 2003, pp. 95-107.

¹⁰ See E. Fuat Keyman and Ziya Öniş, "Helsinki, Copenhagen and Beyond: Challenges to the New Europe and the Turkish State", in Mehmet Uğur and Nergis Canefe (eds), *Turkey and European Integration: Accession Prospects and Issues*, London: Routledge, 2004.

¹¹ European Commission Representation to Turkey, *EU-Funded Programmes in Turkey: 2003-2004*, December 2003 (retrievable from <http://www.deltur.cec.eu.int/english/eufunded2004/01eufp04.pdf>).

increase its legitimacy and guarantee its political survival vis-à-vis the secular establishment in Turkey. In a similar sense, the EU also provided increasing legitimacy for the AKP's heavy emphasis on democracy and the protection of individual rights and freedoms in its political ideology. Hence, democracy as advocated by the EU became the "catchword and the strategy through which the former Islamists seek to change the system at the same time as they change themselves".¹² In fact, the reforms were often justified to the public on the grounds that the reforms themselves were more important for the country than eventual EU accession. Questioned on the possibility of a negative outcome at the December 2004 European Council Summit, Prime Minister Erdoğan frequently stated that in such a case, Turkey would continue pursuing the path of reform regardless of accession perspectives, arguing that the Copenhagen criteria would then be named the 'Ankara criteria'.¹³

Civil society also had a prominent role in promoting political reform in the country. The profound political and economic transformation initiated in the 1980s, especially de-ruralisation coupled with the failed policies of the strong state and the increasingly corrupt parties of the centre, had already paved the way for the emergence of a stronger civil society and identity-related politics in Turkey, most notably regarding political Islam and the Kurdish identity. By helping to create a strong language of rights in the country, the EU started to play an important role in furthering the change in state-societal relations and provided legitimacy for a vast amount of civil society organisations calling for a more democratic Turkey and demanding recognition of cultural/civil rights and freedoms.¹⁴ For example, while civil society organisations have for long years demanded a reform of the Law on Associations, change on this front

¹² See Duygu Bazoğlu Sezer, "The Electoral Victory of Reformist Islamists in Secular Turkey", *International Spectator*, Vol. 37, No. 4, 2002, pp. 7-21.

¹³ "Ankara Kriterleri der, Devam Ederiz" (We Would Continue along the Ankara Criteria), *Milliyet*, 8 November 2004.

¹⁴ See E. Fuat Keyman and Ahmet İçduygu, "Globalization, Civil Society and Citizenship in Turkey: Actors, Boundaries and Discourses", *Citizenship Studies*, Vol. 7, No. 2, 2003, pp. 219-33.

has been brought by the momentum of EU accession on the previous groundwork prepared by the domestic actors.¹⁵

Reforms were also made possible by the decrease in adoption costs for traditional veto players such as the Turkish military and security establishment after the defeat of the terrorist organisation, the PKK, by the Turkish military. This significantly helped create a more conducive environment for political reform, particularly in the area of human rights and minority rights as well as freedom of expression and association.

While domestic change in Turkey was made possible through the interaction between domestic actors and the European Union, in the post-1999 period, EU actors did not have a coherent view on how EU relations with Turkey should develop. The scope of debate on the future of Europe was being widened by the European Convention, which raised issues on the future of Europe and European identity, and in this context the case of Turkey provoked widely divergent positions. Amidst these debates, the actors of EU policy-making started taking their positions. The biggest divisions occurred within and between the member states themselves.

Germany under SPD/Greens supported the Turkish bid on the grounds of Turkey's strategic importance in the post-9/11 world and its role model for the harmony between Islam and the West as well as the compatibility between Islam and democracy. The high number of Turks in Germany, traditionally supportive of the SPD and the Greens, was another important factor behind this support. This position, however, was strongly attacked by the CDU/CSU opposition that rejected Turkish accession on mainly cultural-religious grounds and argued instead for a 'privileged partnership' with Turkey.

Britain was firmly supportive of Turkish membership. Tony Blair put forward similar arguments to Schroeder and Fischer on the strategic importance of Turkey in general and its potential as a role model for the Middle East in particular. The Conservatives also argued along the same lines, although expectedly more explicit in their emphasis on the possible reinforcing effects of Turkish accession upon the intergovernmentalist structure of the EU.

¹⁵ See Nathalie Tocci, "Europeanization in Turkey: Trigger or Anchor for Reform?", *South European Society and Politics*, Vol. 10, No. 1, April 2005, p. 81.

France on the other hand was the most negative, among the core three. Despite his rhetorical support for Turkish membership, President Chirac repeatedly asserted that the accession negotiations might fail and that alternative scenarios for such a case have to be devised. He insisted on a referendum to be held in France on Turkish membership upon the completion of negotiations, which was subsequently entrenched as an amendment to the French Constitution. His party, UMP, was more open in their rejection of Turkey in the EU, particularly through the speeches of its new leader, Nicolas Sarkozy who is seen by many as the major challenger to Chirac's post. His arguments focused on the identity issue as well as certain threat perceptions. According to Sarkozy and the centre-right in France, an EU with Turkey would not resemble anything more than a free trade area. This widespread perception was triggered by two major concerns. One was the fear of a decrease in French influence in the EU after Turkish accession, and the other was the fear of a 'no' vote on the Constitution. Hence Chirac strived to play the middle ground between the strong 'no' camp in his own party and the pro-Turkey camp of the other decision-makers in the core of Europe, namely Britain and Germany.

Other countries in the EU were also divided on the issue. While Spain, Belgium and Greece sided with the 'yes' camp, Austria remained strongly opposed. The Netherlands was ambivalent whereas the Scandinavian countries were generally in favour, despite strong opposition particularly by the extreme right that is strong in some member states such as Denmark.

The Commission, on the other hand, has in general been cautiously supportive of Turkish accession. The former enlargement Commissioner Verheugen often emphasised that there is no alternative to full membership for Turkey so long as the country fulfils the Copenhagen political criteria. Responding to questions regarding a 'privileged partnership' with Turkey, he stated that "Turkey is eligible for membership. It does not matter that Turkey is so big, that Turkey is so far, that Turkey is so poor and that Turkey is a country with a Muslim population".¹⁶ As the reform process gained momentum after the strengthening of conditionality by the Copenhagen Summit of 2002, the Commission's role as a monitoring body of reform has increased and its support became more than a mere rhetorical

¹⁶ Interview with Gunther Verheugen, 16 April 2004 (see www.edition.cnn.com/2004/world/europe/04/16/eu.verheugen).

entrapment. The changeover at the Commission does not seem to be reversing this trend. Olli Rehn, speaking before the Brussels Summit 2004 where the decision to start accession negotiations with Turkey was taken, stated that “there is no Plan B for Turkey...we have the responsibility to accept the country as a member if it fulfils the criteria”.¹⁷

The position of the European Parliament was more mixed than that of the Commission. Although some party groups in the EP had a more or less coherent and united position on the issue, many continued to voice discordant views due to the differences in the opinions of national party delegations. The debates over Turkey intensified prior to the EP elections in June 2004¹⁸ and the general position of the EP became clearer with the reactions to the Oostlander Report which was adopted in April 2004. With 211 votes in favour, 84 against and 46 abstentions, the Parliament rejected a ‘privileged partnership’ with Turkey, but stated that the political reform process in legislation and in practice is the absolutely necessary condition for membership. In a similar fashion, in the wake of the crucial Brussels Summit, the Parliament adopted the Eurlings Report in December 2004. With 50 votes in favour, 18 against and 6 abstentions, the EP recommended the opening of accession negotiations with Turkey, so long as in the first phase of negotiations, priority is given to the full implementation of the political criteria.

Hence the positions of the major policy-makers in Europe were hardly coherent on the issue of Turkish membership. The Commission was by far the most positive, followed by the Parliament who put the most emphasis, as expected, on the political criteria. The member states on the other hand were deeply divided on the issue between those who argued for a ‘privileged partnership’ and others who emphasised the virtues of the Turkish accession which would come after a long time. Such divisions were overcome in the long-awaited December Brussels European Council summit of 2004 that gave concessions to all parties concerned. Pressure particularly from the German and the British governments, Turkey’s progress along the political criteria and the prevalent fears of radical Islam were highly influential in the decision taken in the Summit to start

¹⁷ “Rehn: No ‘Plan B’ for Turkey”, 7 December 2004 (see www.euractiv.com).

¹⁸ For an in-depth analysis of the debates among the parliamentary groups prior to EP elections, see *Turkey in Europe Monitor*, April 2004 (CEPS EU-Turkey Working Paper No. 14, downloadable at www.ceps.be).

accession negotiations with Turkey. Provisions were also there to satisfy those who were against full membership. The conclusions of the Brussels summit referred to “The Union’s capacity to absorb new members” as an important consideration was emphasised alongside those measures that are perceived as running contrary to the EU spirit, such as “permanent safeguard clauses in areas such as the freedom of movement of persons, structural policies or agriculture”. The term ‘privileged partnership’, as used by German CDU leaders was not used in the European Council conclusions, but the text said as much in other words: “negotiations are an open-ended process, the outcome of which can not be guaranteed beforehand...if it (the candidate state) cannot assume the full obligations of membership, it must be ensured that the candidate state concerned is fully anchored in the European structures through the strongest possible bond”.

The prospects of Turkish accession seem to be less bright in 2005, the year in which accession negotiations are scheduled to start. The widely-predicted negative outcome of the long-scheduled 29 May referendum on the European Constitution in France as well as the largely unexpected election defeat of the ruling Social Democrats in North Rhine-Westphalia on 22 May appear to have cast shadows over the prospect of Turkey’s accession to the EU. Such developments are not expected to prevent the formation of a superficial unity to open accession negotiations in October 2005. The Commission has recently confirmed that accession talks with Turkey will begin as scheduled.¹⁹ However, these developments signal that the negotiation process will indeed prove to be difficult with the possibility of resulting in a privileged partnership, as accommodated in the Brussels Summit conclusions.

Any outcome that falls short of full membership would be a deep disappointment to Turkey. Yet it seems that the dramatic wave of political reform achieved in 1999 to 2005 pushed by strong EU conditionality has become essentially irreversible. Domestic factors, both at political levels and in society as a whole, seem to be ratifying this ratcheting up of Turkey’s democracy to an impressively high qualitative level. The EU’s intervention, very strong during a very specific period of a few years in Turkey’s political history, was instrumental in this ratchet effect, which surely enters into the category of an unanticipated consequence of the EU’s

¹⁹ “Turkey Reiterates Bid for Full EU Membership, Names Chief Negotiator”, 25 May 2005 (see www.euractiv.com).

own complex political dynamics coinciding with a particular stage of Turkey's own development. On the other hand, further change without the EU anchor is expected to occur at a slower pace than witnessed between 1999 and 2005.

Russia and Ukraine

During the early post-Soviet period, EU policy towards the former Soviet Union was rather coherent. The 'Russia first' policy was at first quite uncontroversial and justified on grounds both of interests (Russia as geo-political and energy power) and political values, since Yeltsin's Russia had led the way towards both democracy at home and the peaceful dismemberment of the Soviet Union. During the 1990s, EU policy towards the Commonwealth of Independent States (CIS) was otherwise graduated on the basis of size and proximity. Relations with Russia came first, followed by relations with Ukraine, then the other Western CIS states and lastly Central Asia. Also Putin was much appreciated in his first term for reversing the chaotic unpredictability of Russian politics.

Political transition towards democracy, the rule of law and human rights has been a central feature of EU policy towards all the former Soviet Union in the early post-Soviet period. Yet by the early 2000s, and with the important exception of the situation in Chechnya, there was hardly a categorical difference in the apparent quality of democracy, the rule of law and human rights between Russia and Ukraine. The South Caucasus states were regarded as small dysfunctional democracies, whereas the Central Asians revealed early on that they were not inclined at all towards democracy.

There were some differences in priorities among EU member states, but this was more often a question of geography than debate over 'values' versus 'interests', with the usual north-south differences in emphasis.²⁰ Those in favour of a stronger policy towards the Northern European neighbours were able to placate Southern member states by simultaneously agreeing to strengthen EU policy with the Southern neighbours. The

²⁰ See Gianni Bonvicini and Tapani Vaahtoranta, "Conclusions: The Northern Security Dimension", in Gianni Bonvicini, Tapani Vaahtoranta and Wolfgang Wessels (eds), *The Northern EU – National Views on the Emerging Security Dimension*, UPI and FIIA No. 9, 2000, p. 259.

decision to enlarge to Central and Eastern Europe in the early to mid-1990s was thus followed by the creation of the Barcelona process. The geographic factor was also evident in the Finnish 'Northern Dimension' initiative in the late 1990s. However the expansion of the scope of the European Neighbourhood Policy in late 2002 to include the Southern Mediterranean partners as well as the new European neighbours (Ukraine, Moldova and Belarus) was another example of how these mild north-south tensions could be reconciled.

It has taken the de-democratising trends in Russia under Putin's second term in office, followed by the renewal of Ukraine's democratic transition with the Orange Revolution in late 2004, for more serious divergences within the EU to emerge. It is tempting to regard this as a result of the May 2004 enlargement, which brought in new members from Central and Eastern Europe with strong views on EU policy towards all the European CIS states.²¹ Many of the new member states, with Poland and Lithuania in the lead, have actively supported a greater EU engagement with Ukraine, including acknowledging Ukraine as a potential member of the EU, as well as calling for a tougher line vis-à-vis an increasingly authoritarian Russia.

However, growing internal disagreements on policy towards the European CIS states, and Russia and Ukraine especially, predate the May 2004 enlargement. There developed considerable support in 2003 among the 15 member states, as well as in the Commission, Council Secretariat and European Parliament, for a more critical line towards Russia on matters of political values. During the review of policy towards Russia in early 2004, there was broad agreement in the Council on a tougher approach proposed by the Commission and the Council Secretariat with regard to Putin's de-democratising tendencies. This immediately followed and had been provoked by Berlusconi's astonishing (and generally considered shameful) performance as President of the European Council, when he concluded the

²¹ Heather Grabbe, *The Constellations of Europe – How enlargement will transform the EU*, CER pamphlet, Centre for European Reform, London, April 2004; Grzegorz Gromadzki and Olaf Osica, *Pro-European Atlanticist: Poland and Other Countries of Central and Eastern Europe after Accession to the European Union*, Stefan Batory Policy Paper No. 3, June 2001, and Alexander Duleba et al., *Eastern Policy of the EU: The Visegrad Countries' Perspective*, Center for Eastern Studies Policy Brief, February 2003.

December 2003 EU-Russia summit with remarks at a press conference about volunteering to be Putin's advocate over Chechnya. In autumn 2004, the Nordic member states and Austria joined with seven new Central and Eastern European member states calling for a greater engagement with Ukraine and a growing reluctance to support enhanced cooperation with Russia.²²

Several big 'old' member states were, however, soon critical of this call for a tougher line towards Russia. France and Italy had already earlier found themselves opposing a common EU position during tensions over Kaliningrad in 2002, with both favouring a more conciliatory approach towards Russia.²³ Both President Chirac and Chancellor Schroeder criticised the 'new' position on Russia agreed by the Council in early 2004. Most recently, in 2005, France and Italy supported the Russian position that the four 'road maps' developing 'common spaces' with Russia should be adopted separately, rather than the common EU position of adopting them as one package.²⁴ A large majority of member states were, however, against the proposal to implement the common economic space while leaving other common spaces, such as the one on freedom, security and justice, to be agreed upon at some later date. It was only in this latter document that adherence to common values such as democracy, the rule of law and human rights featured, and even so only in a token manner.

The idea of a more active EU policy towards 'new neighbours' other than Russia, such as Ukraine and Moldova, was first proposed by the British and Swedish foreign ministers in early 2002, and this eventually led

²² In October 2004, Lithuania initiated informal discussions among 11 EU foreign ministers ahead of Council meetings aimed at closer relations with Ukraine and a more 'uniform' EU policy towards Russia. This 'caucus' was dissolved in early 2005 following criticism by the Commission and the Luxembourg EU Presidency.

²³ Chirac stated during a visit to Moscow in July 2002 that visas would be unacceptable.

²⁴ Ahto Lobjakas, "EU: Foreign Ministers to Discuss Iraq, Iran, Russia, Belarus", 2 November 2004, Radio Free Europe (RFE) newswire. France and Italy wanted to move ahead with the spaces on economics and education, and defer the ones on internal and external security. Disagreement on the space on internal security revolves around the question of human rights, and treating the four spaces as a package thus becomes an example of conditionality.

to the European Neighbourhood Policy.²⁵ Net contributors to the EU budget, such as Germany and the Netherlands, were cautious, however, being loathe to undertake costly new commitments towards Ukraine. On the other hand, there later emerged increasing cooperation between Germany and the pro-Ukrainian camp in the Council, with joint policy papers with Poland in October 2004, and with Poland and Lithuania in January 2005, calling for stronger engagement with Ukraine.

It should also be noted that the positions of several EU member states concerning EU policy towards Russia and the role of 'common values' in this policy appear to have changed considerably over the last few years. Finland, France and Britain provide three examples of such changes. Upon its accession to the EU in 1995, Finland soon became a leading advocate of a stronger and more pro-active EU policy towards Russia, seen most notably with its Northern Dimension initiative from 1997 onwards. During the Putin presidency, Finland has become increasingly sceptical of developments in Russia, and is now calling for a tougher EU policy line vis-à-vis Russia, for instance concerning the issue of visas. British Prime Minister Blair was also in the forefront in courting Putin early in his first term. Since then, however, Blair has gradually distanced himself from Putin, and bilateral British-Russian relations have become strained due to Britain's granting of asylum to oligarchs and Chechen leaders and the refusal by British courts to extradite these individuals to Russia.²⁶ The story seems to be one of Britain and Finland tilting towards values, versus France tilting towards geo-strategic and diplomatic interests.

Indeed, President Chirac has changed his position radically since the beginning of Putin's presidency. France was among the hardest critics of the second Russian military campaign in Chechnya from late 1999.²⁷ A variety of arguments are used in favour of rapprochement with a non-

²⁵ Ahto Lobjakas, RFE/RL, April 2003.

²⁶ The EU-Russian summit during the Danish presidency in November 2002 had to move due to the Chechen World Congress taking place in Copenhagen and the refusal of Danish courts to extradite Chechen leader Zakaev to Russia. Denmark has for a long time been more critical of Russia than most member states; see *I Spidsen for Europa* (Leading Europe).

²⁷ Indeed, Putin emphasised that he went to Paris for the EU-Russia summit solely for the purpose of the EU-Russia summit, and not for a bilateral Russia-France summit.

democratic Russia. A geopolitical argument, used mainly by Chirac, calls for an EU-Russian strategic partnership as a key building block towards the creation of a global multi-polar order. The geopolitical argument has a lighter version, where Russia's unique role as the only direct EU neighbour that is also a global power is emphasised. This is supported to a greater or lesser extent by most EU actors. A 'geo-economic' argument focuses on the EU's growing reliance on external sources of energy and the crucial role of Russia as a supplier of oil and natural gas. This argument is emphasised by Germany under Chancellor Schroeder, although it must be noted that the new member states calling for a tougher line on Russia are even more dependent on Russian energy supplies than Germany.²⁸ Other economic issues related to trade, investment and debt can also partially explain the position of some of the bigger EU member states, with Germany and Italy being Russia's two largest creditors.

A recurrent argument of those in favour of a more conciliatory line vis-à-vis Moscow are varieties of 'better the devil you know'. In spite of the partial failure of the transition process under Yeltsin and the first war in Chechnya, the EU, led by the big member states, provided support for Yeltsin ahead of the 1996 presidential campaign. Leaders of big EU member states such as France, UK, Germany and Italy, have spent considerable time and energy in courting President Putin. The most prominent example is perhaps Italy's policy towards Russia under Prime Minister Berlusconi. The Italian premier has forged a close relationship with Putin, and has become one of his and Russia's greatest supporters within the EU. While Italy had little interest in Kaliningrad, Berlusconi was highly critical of EU proposals (which were eventually adopted in Berlusconi's absence). The most egregious example came during the Italian presidency in November 2003 over Chechnya (as already noted) and similarly with Berlusconi support to Putin over the Yukos affair. Russia also made common cause with France and Germany against the US-led invasion of Iraq.

While EU actors can broadly agree in their analysis of the growing authoritarianism in Russia and the importance of putting democratisation at the top of the EU's agenda vis-à-vis the Eastern neighbours, current divisions could be interpreted as disagreement over means. The announced

²⁸ Carl B. Hamilton, *Russia's European Economic Integration. Escapism and Realities*, CEPR Discussion Paper No. 3840, Centre for Economic Policy Research, London, March 2003.

purpose of the March 2005 Paris Quartet summit (of France, Germany, Spain and Russia) was to encourage democratisation of Russia, based on the argument that this can be better achieved through high-level dialogue. Similar arguments have been voiced regarding Schroeder's bilateral dialogue with Putin.

The stance of EU member states is often coloured by their bilateral relations with Russia. In the cases of the UK, Denmark and to a lesser extent Greece, tensions with Moscow have emerged due to asylum granted to Russian oligarchs and/or Chechen leaders whom Russia wanted extradited. The EU-Russia summit in November 2002 had to be moved from Copenhagen to Brussels, following the holding of a conference on Chechnya in autumn 2002.

As between the institutions, the Ukrainian Orange Revolution saw initially Solana and the Commission taking cautious positions. However as the crisis developed and the heads of state of Poland and Lithuania headed for Kiev to mediate a peaceful solution, Solana was brought to accompany them and ultimately played an active role in persuading Leonid Kuchman to abstain from the use of force. But still the Council and Commission were loathe to encourage Ukraine's EU aspirations. The European Parliament could find allies in only a minority of member states in support of acknowledging Ukraine as a potential member of the EU. The European Parliament has also been quite consistent in its calls for a greater emphasis on 'common values' vis-à-vis Russia and the other Eastern neighbours, with further cooperation conditional on progress towards democracy, the rule of law and respect for human and minority rights in Russia. This can be seen in its numerous recommendations, statements and reports on Russia, for instance the 1998 Lalumiere report, the 2000 Oostlander report and the 2004 Bender report.²⁹ On Ukraine, the evolution in the position of the European Parliament on Ukraine has been dramatic following the Orange Revolution. Their support spans across the political spectrum. However with Yuschenko's affiliation with the centre-right EPP, this party

²⁹ The Lalumiere report: *The Future of Relations between the EU and Russia*, A4-0060/98, 12 February 1998; the Oostlander report: *Report on the Implementation of the Common Strategy of the EU on Russia*, A5-0363/2000), 29 November 2000; and the Bender report: *European Parliament Recommendation to the Council on EU-Russia Relations*, A5-0053/2004, 26 February 2004.

group took the initiative on the Ukrainian declaration, while the Socialists were less outspoken.

To summarise, the evolution of EU policies towards Russia and Ukraine has seen a distinct 'democracy twist' in recent years compared to the early post-Soviet period. In the first period in the 1990s, a 'Russia first' policy was justified both on geo-strategic and democracy arguments. As a result the Partnership and Cooperation Agreement with Ukraine was a paler version of that for Russia. In the last year, as Russia's de-democratising trends contrasted with the dramatic Orange Revolution in Ukraine, this state of relations with the two large neighbours was reversed. The Action Plan for Ukraine is the most developed example of the European Neighbourhood Policy, and contains a strong emphasis on democracy. Meanwhile the four common spaces agreed with Russia a few months later in May 2005 can be viewed as a weaker derivative of the Neighbourhood Action Plans, notably lacking any substantial commitments on democracy, rule of law and human rights. The EU institutions and its member states have taken a somewhat fractious and bumpy route in the course of moulding this 'democracy twist', but the outcome is fairly clear. Democratic political criteria have been heavily influencing the policy evolution.

Maghreb

Arguably to a greater extent than in some other regions, European democracy and human rights policy in the Maghreb has exhibited some degree of convergence between different EU member states and institutions. While the traditional differences between European governments persist in this region, these look less overwhelming today than ten years ago when the Barcelona Process was established.

The Euro-Mediterranean Partnership (EMP) represents one of the most strongly institutionalised of the EU's foreign policy partnerships. During the decade since the EMP's creation, a network of cooperation has developed with state and non-state actors in the Maghreb across a notably comprehensive range of policy areas. This cooperation has included a focus on democracy and human rights. The attention given to democracy and human rights under the EMP has slowly become less timid and subject to a greater degree of agreement amongst EU member states, the Commission and the European Parliament.

In 1995, the Barcelona Declaration enshrined a formal commitment to encouraging human rights improvements and democratic values. While this appeared to represent an early agreement between member states on the linkage between human rights and 'soft security' challenges, strong consensus remained elusive on any significant implementation of this commitment. However, in the intervening years, some genuine convergence has taken place. Against an historical context of major European rivalries and differences in the Maghreb, the absence of fundamental substantive disagreement on general strategic goals now appears significant.

On the one hand, the engagement of northern EU member states in southern Mediterranean challenges has undoubtedly intensified. This evolution has represented both cause and effect of the Europeanisation of policy under the EMP. On the other hand, southern member states previously drawn almost exclusively to policies of 'pro-regime stability' have gradually adopted a focus on democracy and human rights. This change was initially unashamedly tactical: something of a quid pro quo for northern member states' acquiescence to increased EU funding for the Maghreb. A decade on from the creation of the Barcelona Process, southern member states' recognition of the desirability of encouraging political 'modernisation' appears slightly more deeply rooted. In this sense, the EMP represents a clear example of 'socialisation' dynamics being generated through incrementally ratcheted-up commitments to institutionalised cooperation.

The very 'thickness' of formalised EU cooperation with the Maghreb has produced an identifiable community of EMP experts in both Brussels and national capitals. The plethora of committees and dialogue forums responsible for managing the EMP does appear to have helped generate a greater degree of shared understanding around human rights and democratic reform concerns. If an 'epistemic community' can be said to exist anywhere within the EU's own internal procedures of foreign policy cooperation, this must be one of the most convincing candidates for such a label. The routinely asserted problem of poor linkage between different elements of the EU machinery looks less marked under the EMP than in most other areas of European foreign policy.

In part as a response to the 9/11 attacks, in 2003 the EU established new guidelines designed to enhance support for democracy and human rights in the Southern Mediterranean. It was acknowledged that agreement

on this strengthened commitment would not have been possible some years previously. The new guidelines reflected notable activism on the part of the European Commission, and particularly of the then-external relations Commissioner, Chris Patten. Initial support came from the Dutch, Danes, Swedes and British governments, but it was agreed that real significance could be attached to the assent of the French and Spanish governments.

France has increasingly seen merit in the pursuit of political reform initiatives in Algeria through the EU dimension; and even Paris has become increasingly exasperated with Tunisian president Bin Ali for resisting any degree of political opening. Notable similarities have become apparent in the human rights and good governance projects funded by different national donors and the European Commission in the Maghreb. There is a shared agreement on exploring ways of increasing the operationalisation of human rights and democracy strictures through the new Neighbourhood Action Plans, which includes broad agreement on the need to focus efforts more on a country-specific basis in the future. There also appears to be a degree of convergence around the notion of 'positive conditionality', through which additional rewards would be offered to states willing to cooperate on political reform. It is still the case that southern member states remain more cautious on the firm benchmarking of aid and trade benefits against specific reforms, but recent debates over the ENP have revealed a broad willingness on their part to support the basic principle of rewards-based conditionality – certainly to a greater extent than in the past. Spain sees the provision of such 'rewards' as a means of ensuring that reformist Morocco – an increasing strategic focus for Madrid since the 11 March 2004 bombings – receives additional funding.

While elements of a more unified focus on democracy and human rights have developed in policy towards the Maghreb, there is also a commonality in the advocacy of very gradual political change. European speeches, from different national sources and from the Brussels institutions, are littered with similar references to the need for incremental 'modernisation'; the need not to 'impose' democratic change; the need to respect differences; and the need for change to 'come from within', to be 'home grown'. On this point, there has been little to distinguish the discourse of one member state from another, or Commissioners Patten and Ferrero-Waldner from Javier Solana, in the last three or four years. There has been a shared hesitancy on the part of all EU member states and the

Commission to engage with Islamist organisations not formally sanctioned by incumbent regimes. In light of the sensitivities of democracy and human rights promotion in this region, member states have shared a desire to encourage the Commission to take lead role, to a greater degree than in most other areas of EU foreign policy.

This seems to be reflected in a recent proposal sketched by the Commission in its assessment for the 10th anniversary of the Barcelona Process to introduce:

... a Democracy Facility that will serve to promote, support and reward those partners that also show a clear commitment to common values and to agreed political reform priorities. This facility, within the European Neighbourhood and Partnership Instrument (ENPI), would go beyond the specific support that may be mobilised under regional or national action plan.³⁰

Consonant with this, convergence between member states also applies to the post-9/11 prioritisation of counter-terrorist cooperation and increased controls on migrants. In 2002, joint UK-Spanish proposals were forthcoming on these issues. In 2003, the UK joined forces with France, Spain, Portugal and Italy in a project aimed at enhancing the capacity and effectiveness of border guards and patrol vessels in the Mediterranean.

During the 1990s, intra-European differences over Libya were one of the most commonly-cited cases of EU strategic disarray. Since the 1999 agreement on trial conditions for the Lockerbie suspects, a broad commonality of approach to Colonel Q'addafi's regime has taken shape. This appears for the moment to have involved all member states accepting that the prize of progress on non-proliferation with Libya justifies an absence of pressure on internal democratic reform and human rights concerns.

Notwithstanding such convergence, differences naturally remain. These can be said to divide along a number of cleavages.

Firstly, geography still plays a causal role. If variation between northern and southern EU member states is not quite as marked as previously, significant differences remain over the tactics advocated to advance human rights and democracy in the Maghreb. While all member

³⁰ European Commission, "Tenth Anniversary of the Euro-Mediterranean Partnership: A Work Programme to Meet the Challenges of the Next Five Years", 14 April 2005 (available at http://europa.eu.int/comm/external_relations/euromed/publication.htm).

states espouse a philosophy of gradual political change, northern states – in particular, Sweden, Denmark, the Netherlands and the UK – advocate more ‘forward-leaning’ policy options in this field.

This is seen in debates over the critical language used in EU responses to human rights abuses and democratic shortfalls. Southern member states have fought to dilute the critical tone of EU reaction to human rights abuses in the Maghreb. Their argument is that EU statements should refer to concerns of southern Mediterranean governments’ hindering the EU’s own cooperation, rather than broadening criticism to more general concerns over democratic reversals. The first is seen by them as offering the potential for positive EU leverage, the latter as counter-productive. While supporting the policy of positive engagement with Colonel Q’adafi, Denmark, Sweden and the Netherlands have pushed for more critical language in response to human rights concerns in Libya. These differences are probably less marked in the case of Morocco, where there remains a desire common across all EU actors to work with King Mohammed VI in deepening reforms – this despite signs that the King’s commitment to political liberalisation in some areas is accompanied by a firm unwillingness to allow reform in other areas.

Arguably the main ‘tactical’ difference between member states still relates to economic liberalisation, with southern EU member states more reluctant to open their markets to, particularly agricultural competition from the Maghreb. These states often complain that northern member states disingenuously present themselves as paragons of economic virtue on this issue, in the comfortable position of simply not competing in the same sectors as Maghreb producers. Northern member states refer most commonly to this issue when lamenting southern member states’ preference for grand rhetoric rather than concrete substantive improvements that would really offer concrete benefit to the Maghreb. This economic variation is of relevance to the issue of democracy and human rights in so far as it reflects one difference in philosophy: the northern liberal states often place more stress on the value of economic reform as a tool for engendering political liberalisation; southern member states, and in particular France adhere rather more to a notion of cultural cooperation being more important in breeding consensual support for democratic norms. This difference should not be overstated; all member states would commonly espouse an element of both logics. The variation is rather one of onus: northern member states would often qualify market reforms as the

most potent area of EU political leverage; southern states would qualify EMP cultural dialogue as the EU's really valuable tool in efforts to remould political values in the Maghreb.

More recently, tactical differences can be seen in a north/east vs. south split over the essential aim of the European Neighbourhood Policy (ENP). Northern and the new Eastern European member states conceived the ENP primarily as a framework for boosting cooperation and political reform work in the eastern European states left out of the accession process. While southern member states pushed successfully to ensure the inclusion of the southern Mediterranean, differences remain over the allocation of resources between the eastern and southern dimensions of the Neighbourhood. Indeed, since May 2004, an east-south cleavage has been added to the longstanding north-south division within the EU – even if most observers judge the new Eastern European members to have adopted relatively low profile positions within the CFSP so far. Under the ENP action plans, the issue of benchmarking has become a source of difference. A number of northern member states, in particular the UK, have more firmly pushed for commitments to benchmark political reform; Spain and other more cautious states have sought to retain more discretion in decisions over the allocation of future resources to – and crucially, between – Maghrebi states.

These debates also relate to the general level of commitment shown towards the Maghreb. The '5+5' dialogue – grouping France, Spain, Italy, Portugal and Malta with Algeria, Libya, Morocco, Tunisia and Mauritania – has been relaunched, indicating a determination on the part of southern EU member states to push forward with deeper cooperation on controlling migration outside the scope of the European Union and the EMP. Northern member states may be engaged partners in the EMP now, but it is France, Spain and Italy who channel the significant shares of their bilateral development aid to the Maghreb. French aid remains oriented towards the francophone states of the EMP. Within debates over the EU's 2007-13 financial perspectives, the UK, Denmark and the Netherlands have so far resisted the prospect of significant increases to middle-income Maghreb states and have pressed instead for a larger share of resources to be directed at the poorest developing states. In this sense, despite their 'softer' approaches, southern EU member states argue their quantitative commitment to supporting political modernisation in the Maghreb is

greater than that of northern member states, and hindered by the latter's insistence on prioritising EU funding elsewhere.

Significantly, in the case of the Maghreb, the differences explained by geography compound those of ideological choice. In most places of the world, southern member states are more cautious on human rights issues by ideological inclination; in the Maghreb, they cite geographical proximity as a factor that compounds this standard difference. Thus, if Denmark were situated where Italy is, its policies in the Maghreb might be slightly more Italian, but not entirely so. An official view positing the opposite logic, namely that geography should give southern member states a more urgent interest in Maghreb political reform, has not been heard.

A second cleavage relates to *institutional function*, and often cuts across national differences. A number of policy communities can be detected – functional groupings incorporating the respective *responsables* from different member states and the Commission – with common perspectives on EU approaches to the Maghreb. The trade policy community has been wary of political pressure and conditionality. The development policy community in a majority of member states has been wary of funding industrial restructuring work in middle-income states. Geographical desk officers remain more wary of undercutting diplomatic ties through ‘horizontal’ democracy and human rights initiatives that they judge to be insensitive to national specificities. The Middle East peace process policy community has been wary of the political dimensions of the EMP cutting across the primacy of peace process initiatives and negotiations. In all these cases, a balance of nationally- and functionally-rooted perspectives co-exist.

A third cleavage is structured around the contrasting ways in which different actors have interpreted the relationship between EU democracy and human rights policies in the Maghreb, on the one hand, and a number of exogenous *contextual influences*, on the other. Differences have deepened over the nature of the link between the EMP and the Arab-Israeli conflict; the impact of the Iraqi conflict on the rightful approach to human rights and democracy elsewhere in the Middle East; and the implications for European policies in the Maghreb of new US initiatives, from the Middle East Partnership Initiative, through the ill-fated (and apparently, European-scuppered) Greater Middle East Initiative, to the Broader Middle East and North Africa Initiative now developing under the auspices of the G8. Significantly, differing perspectives on relations with the US have

sometimes cut across the north-south division within the EU. This is perhaps most notably the case in respect of Spanish policy under the 1996-2004 Aznar government – which most dramatically conditioned the French decision even to support Mohammed VI rather than Aznar in response to Morocco's occupation of Spain's El Perejil island! The significant point here is that internal socialisation in the field of democracy and human rights has to some extent been offset by the way that differences over other issues have woven themselves into this area of policy.

To summarise, a trend can be observed towards a somewhat greater harmonisation of EU policy objectives in the Maghreb. The significance of well-known and historically-rooted intra-European differences should not be understated. However, after a decade of gradual socialisation within the EMP, the underlying direction is towards a greater willingness to accept mutual compromise between the EU and its Maghreb partners with a view to gradually extending and deepening the application of EU economic and political norms in the Maghreb.

Israel and Palestine

EU aims and objectives vis-à-vis Israel and Palestine have been defined progressively over the decades. By the turn of the century, EU positions crystallised into a well-defined position in support of a two-state solution in the Middle East. Yet the Union has also articulated in detail its aims and preferences with respect to the internal and external conduct of both Israel and the Palestinians.

A fundamental pillar of EU goals has been the importance of respecting human rights, democracy and international humanitarian law. Most EU declarations on the Middle East conflict since the 1970s have condemned Palestinian violence and terrorism, pointing to the violations of rights and law that such acts entailed. The member states have also condemned Israeli settlements in the occupied territories (OTs), whose construction contravenes the Fourth Geneva Convention governing the laws of occupation. With the collapse of the Oslo Process, the Union intensified its calls to halt and reverse the construction of settlements and the wall in the West Bank. The Union has also denounced the whole array of human rights and humanitarian law violations, ranging from Palestinian suicide bombings, to Israeli incursions, extra-judicial killings and forms of collective punishment. It repeatedly affirmed that Israeli security and

Palestinian self-determination should be pursued only within the confines of international law. Since the late 1990s and increasingly over the course of the intifada, the Union has made frequent declarations on Palestinian reform in the areas of democracy, good governance and the rule of the law.

In principle, a two-state solution on the one hand, and the respect for democracy, human rights and international law on the other are fully compatible. The respect for rights and law could and should be the necessary means to achieve a viable two-state solution. But has the EU's pursuit of these goals been complementary or competing? If these goals have been competing, what are the Union's priorities? Have short-term diplomatic victories on the conflict settlement front trumped democracy, human rights and international law objectives, hindering also the long-term goal of conflict resolution?

The means by which the Union has pursued its goals in Israel-Palestine have not relied on historical processes. European history has left a highly complex legacy in the region. It has created a degree of affinity amongst former European Israelis. Yet it has left deep scars and traumas in the region, ranging from memories of European anti-Semitism and the holocaust in Israel to the British colonial betrayal in Palestine.

Relative to Eastern Europe and the Balkans, the EU cannot rely on its magnetic presence and power of attraction either. Neither Israel nor Palestine has ever seriously engaged with the idea of entering the EU. In the case of the Palestinians, the question is clear-cut. Neither have Palestinian elites nor the public ever expressed the desire to join the Union. The Palestinians would welcome a more active EU role in the region. But this role is viewed exclusively within the domain of foreign policy and is linked to their prime objective of securing viable statehood. As far as Israel is concerned, the picture is far more nuanced. At first glance it appears that the prospect of EU accession could have a strong hold amongst Israelis. A recent poll revealed that 85% of Israelis would back an application for EU membership.³¹ In recent years, prominent Israeli politicians, including Likud members such as Binyamin Netanyahu have aired the possibility of Israel's inclusion in the Union. Yet scratching beneath the surface, these statements appear to stem more from a general desire to exit the turbulent Middle East and enter a European security community, than from a

³¹ Poll conducted by the Dahaf Institute of the EC Delegation in Tel Aviv, February 2004, p. 8.

thorough realisation of what membership would entail. Most Israeli analysts are well aware that full EU accession would not be in Israel's political interests, in so far as it would require a radical transformation of the Zionist project (through the adoption of the Copenhagen political criteria). Hence, even in the hypothetical situation in which EU membership were on offer, it seems unlikely that Israel could be mobilized to pursue actively this goal.

Other forms of passive EU influence have also had limited impact on the parties. The Union can only have a limited socialisation effect on the parties. Due to its aid-dependent relation with the Palestinians and the Palestinians' restricted movement in view of their status, the likelihood of Palestine being socialised into EU structures, processes and norms is low. The potential for socialisation vis-à-vis Israel is much higher. Israel's inclusion in a wide array of EU activities and programmes, its developed trade links with Europe, its visa-free travel to Europe and the high proportion of Israelis holding EU citizenship could have cumulative effects on Israeli society. However, these social processes remain too thin to have a strong discernible effect on Israeli politics.

EU influence has instead relied primarily on its foreign policy instruments in the fields of aid, trade and cooperation, articulated through the EU's contractual ties with the parties. Most recently, the Union has held out the promise of enhanced relations through the European Neighbourhood Policy (ENP).

A close look at the EU's relations with Israel and Palestine highlights an increasing divergence between rhetorical goals and conduct in practice. The spiralling violence on the ground during the second intifada could neither have been halted nor substantially ameliorated by the EU alone. However, while being unable to halt the violence, EU policy instruments at times deviated from the fulfilment of the Union's stated goals. More specifically, alleged conflict settlement goals have trumped long-term goals aimed at democracy, human rights and conflict resolution.

What explains these results? One hypothesis concerns the possible divisions within the Commission itself, coupled with the institutional immaturity of the Commission, as illustrated in the dispute with Israel over the preferential export of Israeli goods produced in settlements. The preferential export of settlement products and the Union's failure to rectify the ensuing breach of Israel's association agreement has put the Commission in contravention with its obligations under EC Law. Former

External Relations Commissioner Chris Patten and DG External Relations have been well aware of this fact, clarifying that the preferential treatment of settlement products is illegal. However, in an attempt to settle the matter expediently and in a non-adversarial matter, former Internal Market Commissioner Fritz Bolkenstein agreed in early 2004 with Israeli Trade Minister Ehud Olmert that the matter could be resolved through a 'technical arrangement'. Under the arrangement (that came into force in February 2005) Israel would name the locality of final substantial or partial transformation on the origin certificates of Israeli exports. In principle, this would allow member state customs to detect fraudulent exports and deny preferences. Yet unknowingly, the arrangement and its possible consequences could irreparably compromise the EU's position towards Israel. Under the arrangement, the EU would entitle Israel to represent all localities as situated within the State of Israel. If the Community considered the arrangement as legally binding (or acted to that effect) the meaning of the association agreement would be reversed. If Israel can legally issue proof of origin for settlement products, then the EU would have recognised that these territories legally fall within Israel's territorial scope. No EU political declaration to the contrary would alter this fact. Indeed, Israel's occupation would have become enshrined in Community Law, which in turn, would have become inconsistent with the member states' duties under international law.

Other important causes of EU ineffectiveness vis-à-vis Israel and Palestine concern the differences between the Commission, the Council and the Parliament. The EP has typically called for extreme remedies against the violations of democracy, human rights and the rule of law by the parties. These have included the suspension of aid to the PA in view of the corruption within the Authority and the fear that EU money was being channelled to terrorist groups. It has also called for the imposition of sanctions and arms embargoes on Israel in 2002. Yet its calls have gone largely unheard. Particularly in its appeals for sanctions on Israel, the EP has contributed to obfuscating the fundamental EU dilemma, which concerns less the use of sticks and carrots and more the respect for international law in its bilateral relations with Israel.

The Council has instead focused on the primary importance of the peace process over and above the prerogatives of human rights and international law, as if these two goals were not compatible. Over the Oslo years, this entailed refraining from excessive criticism of the parties, fearing

that these could upset the process. Hence, despite the growing internal complaints within the Palestinian territories, the Council (unlike the Commission) only began paying attention to Palestinian reform after the outbreak of the intifada. Since the end of the peace process, the Union can certainly report important successes in promoting Palestinian reform. However, its effective impact remains below potential. This is in part due to the *sui generis* context in Palestine. However, it is also linked to the inadequate or incomplete specification of EU conditions. In particular, while some areas have received disproportionate EU attention (such as the security sector, or the creation and empowerment of a prime minister), others have received none at all. The questions that arguably lie at the fore of Palestinian democracy have been largely neglected by EU actors. Two key issues are at stake: the relationship between the PLO and the PA and the persistent exclusion of Islamic parties from both organisations, despite the fact that they represent the only credible opposition forces in Palestine. This (deliberate) neglect opens issues of fundamental importance concerning the extent to which the Union genuinely prioritises democracy promotion in Palestine. Likewise, Israel's ongoing expansion of settlements received only rare and soft-worded criticisms by the Council up until 2000. Yet both the inattention to Palestinian governance as well as to Israel's conduct in the occupied territories ultimately hindered the very peace process that the EU attempted to foster.

Since the eruption of the intifada, the Council and the EU Special Representative on the Middle East Peace Process have instead been preoccupied with day-to-day crisis management, and have prioritised efforts aimed at resuming the peace process. This has meant a primary focus on the reform of the security sector in Palestine. While security sector reform is certainly welcome, other areas of reform could have benefited from the same levels of attention by the Council. The EU's reluctance to engage and support Islamic civil society, as well as non-violent groups and activities which however do not correspond to their concept of the peace process also demonstrates how the peace process has trumped democracy and human rights goals in Palestine. Also vis-à-vis Israel, the Council's ambiguous attitude towards the disengagement plan may be hindering effective action. Viewing disengagement as an opportunity to re-launch the moribund peace process, the Council's support for Sharon's plan has diminished its criticisms of Israel's expansion of settlements in the West Bank and its re-routing of the wall to encompass these.

Instead, the Commission has focused on its bilateral relations with Israel and the PA. Compared to other EU institutions, the Commission has borne the brunt of the deterioration of relations with Israel since 2000, and has therefore been adamant to use the opportunity of the ENP to expand and deepen bilateral ties with Israel. However, its pursuit of (and ultimate agreement on) an Israel Action Plan occurred alongside the Council's criticisms of Israel's raids in the Gaza Strip in the autumn of 2004, casting a cloud over the EU's overall political message to Israel. As put by a German diplomat: "imagine if disproportionate use of force is being condemned by everyone, and at the same time the EU offers this magic plan to move Israel and the EU closer to each other - a plan which benefits the Israelis... at the bottom of this is how we can use for the best our leverage with Israel. After all, they will get everything but institutions".³²

Likewise the Commission agreed on the 'technical arrangement' on the origin rules dispute, wishing to shelve the headache that has poisoned its ties with the Israeli government. In December 2004, the Commission called upon the Council to endorse the arrangement and expressed the intent to proceed with Israel's inclusion in the system of pan-Euro-Mediterranean cumulation of origin rules. Proceeding with these measures prior to an effective legal solution to the rules of origin dispute would not only magnify exponentially the problem in practice, but would also poison the EU's rights to take legal remedies to halt Israel's malpractice. Ultimately the Commission's moves were halted by several member states in the Council. It remains to be seen how this ongoing saga will resolve itself.

A third explanation of EU ineffectiveness, often flagged in the literature on EU foreign policy, is the division between the member states. It is a well known and oft-mentioned fact that member states such as Germany, Holland, Denmark and the UK have typically taken more pro-Israeli positions, whereas member states such as France Italy, Spain and Greece have been more sympathetic towards the Palestinians. The accession of the eastern members also triggered a debate in Israel, raising the expectation that the eastern enlargement would tilt internal EU balances towards Israel. Indeed, there are some important differences between member states. Members such as Germany and Austria have been

³² Quoted in Sebastian Alison, "EU Faces Row over Neighbourhood Pact with Israel", 7 October 2004, Reuters.

particularly sensitive to Israeli accusations of anti-Semitism in view of their historical legacies. Members such as the UK, Holland and Denmark have instead tended to view the Middle East through transatlantic lenses, and have thus been reluctant to excessively criticise Israel (as well as moderate actors in the PA) and harm, in their view, the peace process. Members such as France, Italy and Spain have instead been associated more closely with the Arab world, rendering the states more sympathetic to the Palestinian cause.

But without underestimating the importance of these differences, which have hindered effective EU action on several key occasions, member states have ultimately converged on their vision in the Middle East as well as on the policy instruments to pursue their objectives. All however, have been constrained politically in their pursuit of these objectives. To different degrees, all member states have been sensitive to criticisms of anti-Semitism, all have valued political as well as economic ties with Israel and no member state has been willing to withhold financial, let alone humanitarian assistance to the Palestinians. With respect to the Palestinians, the priority to be 'seen as doing something' and to support the peace process at any price has often induced an outpouring of funds without prioritised attention to the goals of furthering democracy and good governance as ends in themselves.

In conclusion, the nature of the EU's credibility problem in the Middle East has principally stemmed neither from its inadequate instruments nor from its internal divisions. Rather, it has derived from the manner in which EU actors collectively have chosen to deploy the policy resources at their disposal.

Findings

Can this mass of detail be distilled into some structured conclusions? Has the EU become a real driver of democracy promotion in the last decade, through building up its instruments of action and extending the reach of Europeanisation into its wider neighbourhood? Or have the cleavages among its member states and between its institutions remained so important that its performance as promoter of democracy has been substantially curtailed? We structure our findings in the following order:

- Is the doctrine and discourse of the EU for democracy promotion as a common purpose clear and coherent at least in theory?

- How does practice vary in function of the relationship between the EU and the partner?
- How damaging to the common purpose are the cleavages between member states?
- How are the traits of the different EU institutions to be characterised, and what are the consequences of the complex and immature inter-institutional relationships?

Doctrine and discourse

Here there is no problem. The EU puts the values and norms of democracy and the rule of law at the top of its agenda for speeches and official documents. As a result of the accession process, it has had to work out how to apply these ideas in practice. The Copenhagen political criteria have been given pride of place, and the very detailed conditionality and monitoring of the accession process have meant that the institutions have learned how to establish effective norms judgementally even where the mechanisms of democracy are notoriously varied. The Copenhagen political criteria are carried over at the normative level from the accession process into the relationships with the non-candidate states of the wider European neighbourhood with varying degrees of intensity.

By category of partner state

In the wider neighbourhood, there is a hierarchy of categories, qualified by the nature of the relationship with the EU: the accession candidates, the future candidates of the Balkans that are nevertheless still engaged in post-conflict state-building, the European neighbours that have membership aspirations, the Mediterranean neighbours and finally Russia with its geo-strategic and inter-continental dimensions.

For the accession candidates, the Copenhagen political criteria are clearly dominating the game. The role of the Commission is also pre-eminent once the negotiation process has begun. The great conditionality machine is switched on. It becomes difficult for member states then to intervene in the process, given that the legal basis or other objective foundations for the Commission's work are very solid (but we return to the ratification process with a qualification later).

For the post-conflict cases in the Balkans, the game becomes less straightforward, even though the Copenhagen criteria still apply and the Commission has an important role as tutor in EU norms and executor of the conditionality machine. In this region, the post-conflict task of state-building, as in Bosnia, Serbia and Montenegro and Kosovo, brings the Council, the High Representative Javier Solana and his special representatives into play. This sees roles ranging from heavy mediation in creating the State Union of Serbia and Montenegro to governing a protectorate with Paddy Ashdown exercising his position's Dayton powers in Bosnia. These two functions - of Commission-led conditionality and Solana/Ashdown-led state-building - have led to unintended contradictions with respect to democracy promotion, or at the very least serious sequencing issues. The picture that emerges is that the security-driven state-building processes may either stultify the development of democratic institutions in Bosnia, or unfortunately empower the 'wrong' domestic political actors, as in Serbia and Montenegro, where the State Union is most liked by the old-guard Yugoslav nationalists. Security trumps democracy for an interim period at least.

For the European neighbours with unrecognised accession aspirations (Ukraine, Georgia, etc.), the EU has not been in the forefront of the recent democratic revolutions as actor. If anything, the EU has tended to be a little behind the game, welcoming the results but being studiously cautious in not promoting them. Of course the various official documents all laud democratic principles, but hints of deference to Moscow on the part of the Council and various member states have coloured the atmosphere. Even if this deference to Moscow seems now somewhat muted, another restraining factor rises in importance, namely the reluctance to the EU to contemplate continuing enlargement. The vital synergy between the goals of democracy and joining the EU risks being undermined by the unencouraging declarations of the Commissioner for external relations such as to Ukraine ("the door is neither open nor shut"). It may be that the drive for democracy in these states will be sustained because the cause is itself so strongly desired, and because the EU remains there as a presence and a model. But the Commission's neighbourhood policy is weak in the specificity of the Action Plans so far, and especially so in the nature of the incentives on offer (with membership clearly not on offer). Enlargement fatigue risks trumping democracy.

For the Mediterranean states, the neighbourhood policy brings the possibility that democracy promotion will achieve a higher standing than under the last decade's Barcelona Process, when regime stability clearly trumped democracy as the priority. The discourse in the official documents has already tilted towards a more leading place for democracy, human rights and the rule of law. There are timid indications that some positive conditionality with respect to political criteria may be introduced in practice in the workings of the neighbourhood policy.³³ The most reluctant member states seem to have become more open to the idea. This recalibration of EU policy comes of course at a time of other more dramatic changes in the region, partly driven by increasing disappointment of the lack of economic and social progress in the Arab world, and partly the response of the United States to 9/11. EU policy may therefore be moving with the tide. The EU is not demanding democracy with a strident voice, armed with massive sticks and carrots. Instead its most important and unique contribution may be in the very subjective quest for some kind of Euro-Mediterranean identity, and for a modern place for Islamic culture inside the democratic EU, which in turn may feed back through diaspora connections to the domestic politics of the Arab world.

Finally comes the case of Russia in a class of its own, with the de-democratising leadership of President Putin. The EU would like to see an ordered renaissance of democratic tendencies in Russia, and tends to believe that it is only a matter of time before this will happen. Russian democracy is seen as Europe's security. But in the meantime Russia is still the big neighbour with strategic capabilities. These range from being the key to Europe's energy supply security, through to its role as permanent member of the UN Security Council, and more broadly still as a strategic actor on the world scene, albeit a diminished one. EU criticisms of Russia's non-democratic behaviour are muffled and mixed, so the conclusion has to be that strategic considerations trump democracy for the EU in its policies, as now evidenced by the May 10th agreement on four common spaces, with democracy receiving no more than a token mention. Yet the role of the EU as civilisational model and reference for Russian elites and civil society has

³³ Michael Emerson and Gergana Noutcheva, *From the Barcelona Process to Neighbourhood Policy: Assessments and Open Issues*, CEPS Working Document No. 220, March 2005.

considerable resonance, and perhaps this may become sharper as they watch what is happening in Ukraine.

Cleavage damage

Not all the traditional cleavages between member states are so damaging. The cleavage between north and south over their natural priorities based on geography seems to be fading away. More precisely the EU is repeatedly seeing the north and south taking leading positions in favour of their respective geographic neighbours, but succeeding also in persuading the EU as a whole to embrace their concerns in extensions to prior EU external policies. For example, Finland led the Nordic member states in persuading the EU as a whole to embrace its idea of a northern dimension policy. When the idea of a neighbourhood policy was first advanced by some northern member states for some northern neighbours, the south easily sustained the case for the Mediterranean to be similarly included. In addition, the post 9/11 situation has meant that the security threats emanating from the Arab neighbourhood now transcend their regional origins.

The syndrome of post-colonial sensitivities translating into reluctance to impose political conditionality towards the neighbours seems also to be fading away. France and Spain seem to be ready for the EU to be more assertive in the Med, after a decade of disappointing experience with the Barcelona Process. The case of Austria taking a softer line over its Croatian neighbour and former Hapsburg territory has been noted, although this has not been a constraint on EU conditionality because of the unanimity rule as explained below. In the Balkans, special representatives in the protectorates such as Paddy Ashdown in Bosnia have not been inhibited from exercising neo-colonial gubernatorial powers with gusto, which nevertheless has meant prioritising security over the fostering of Bosnian democracy.

The reverse syndrome of the former occupied states taking a harder line over the democratic shortcomings of the former hegemon is more sharply in evidence in the Baltic states and the former Comecon states now in the EU. All these states attach the highest importance to sound relations with Russia, but they also take a much less benign attitude to Russian political behaviour that is deemed to be out of line with European norms. These states are typically saying words to the effect: "we know Russia, and the only language it understands is that of power". Their representatives in

the European Parliament are notably vocal in criticising Russia, compared to France and Germany who are at the other extreme in stressing their understanding for President Putin over Russia's internal difficulties. This has resulted in manifest confusion of messages from the EU to Russia over whether the development of cooperation between the two parties will be harmed by Putin's de-democratising tendencies.

The cleavages left still by World War II may also enter the picture here, with Germany taking an exceptionally friendly line towards Russia, and personally so at the level of Chancellor Schroeder towards President Putin. The shadow of World War II is perhaps now only in the background, whereas strategic energy security is in the foreground, with current plans for a further major gas pipeline to go directly from Russia to Germany under the Baltic Sea. The gas pipelines become an umbilical cord between Russia and Germany, but this links significantly to the entire EU gas network. Gas seems to trump democracy. Germany has consistently taken the line in the EU foreign ministers meetings of softening or avoiding criticisms of Putin. It may be speculated that Schroeder's special relationship with Putin translates into a unique political influence. Certainly they can socialise together in the German language and because Putin knows Germany from his DDR/KGB days. Could this mean Putin turning to adopt political positions at home and abroad more in line with democratic norms? The evidence is not there so far.

The legacy of World War II is more clear cut in the case of EU policy towards Israel over its infringements of international law in the expansion of settlements. As noted above, the EU has a strong legal obligation to hold Israel accountable for its illegal trade practices, claiming preferences for products originating in settlements. Yet most member states, first and foremost Germany and Austria (as well as the UK and Denmark), have rejected any measure that is remotely perceived as being confrontational. Concern for a propaganda barrage from Jerusalem over alleged anti-Semitism has trumped concern for international law and human rights.

The deepest cleavages affecting the foreign policies of the EU come from divergent visions for the EU itself as well as divergent world views. The ongoing drama of the ratification of the Constitution, alongside the issue of Turkey's candidacy, has brought to the surface a semi-dormant issue of fundamental importance. Is the EU to remain open to any European democracy, and thus go on enlarging to 35 or even 40 member states? Or is the whistle going to be blown, to say stop at some much earlier

point, for example after the Bulgarian and Romanian accessions in 2007. The arguments favouring a stop are basically twofold. The first is about the possible institutional ungovernability of an over-enlarged EU. The second is about Europe's cultural identity (even if God and Christianity were left out of the Constitution, there are still those who would veto Turkey's accession on grounds of religious culture). These arguments have a special flavour in France, where they combine with a concern that France has less and less influence and control over the European construction. The French position is further special in that these various considerations have led the government to pass an amendment to the French Constitution, requiring that all further enlargements of the EU (beyond Bulgaria and Romania) be ratified by popular referendum. What is going to be the staying power of the EU's political conditionality in negotiations with Turkey, if at the end there would probably be a simple 'non' from France? How will this affect also the European motivation of Ukraine? The credibility of the EU's conditionality becomes dependent on the non-credibility of the opposition to further enlargement. As pointed out above, Commissioner Ferrero-Waldner has explicitly discouraged the accession aspirations of Ukraine, Moldova and Georgia. The alternative vision of the EU is that it should strive for a united and democratic Europe. The UK, for example, supports Turkish candidacy with the supplementary argument about Turkey's role model as a secular democracy of Muslim culture. Poland supports Ukraine's aspirations similarly as a factor to consolidate democracy in the whole of Eastern Europe. The jury is still out in the contest between these two visions of Europe, to prioritise Europe's power and identity or the extension of European democracy.

The cleavage in world views was dramatically highlighted by the Iraq war. While the argument of principle was about whether this was a just war or not, there were collateral impacts on the EU's relations with Russia. Of course the divide over Iraq was such that the EU had no position at all. However the collateral diplomacy saw France enjoining first Germany and then Russia in its opposition to the war. For France strategic diplomacy trumped concern over Putin's de-democratising tendencies.

Institutions and decision-making rules

The member states have remained the principals. The Commission and the Council's High representative for foreign and security policy, Javier Solana,

have been the agents. Of the two, Solana has remained the most closely controlled of the agents, since he has few institutional powers of his own. He belongs to the world of foreign ministers and diplomats, which gives first priority to immediate matters of strategic security. Democracy and values always feature in the discourse, and in the long-run security and democracy are viewed as being almost synonymous. Yet in terms of how day-to-day energies are expended, democracy promotion is often in the background.

The Commission, on the other hand, is an agent that has been acquiring such extensive mandates and instruments of action that it partly turns into a principal in its own right. This is certainly relevant to democracy promotion where the huge conditionality machine of the *acquis* and related incentives is seriously deployed, as in the accession process, or wherever in the neighbourhood where the partner states have serious accession aspirations. In the latter case, even though the Commission may be discouraging future membership candidates from applying, it has still designed a neighbourhood policy as a derivative of the accession process. This results in the whole package of EU political norms being placed at the top of the agenda in the Action Plans of the neighbourhood policy. The determined neighbour, for example Ukraine, that wants indeed to be more than a 'neighbour', has therefore a system to work with, which facilitates its voluntary compliance with the Copenhagen political criteria.

This leads on to the question whether Ukraine's Orange revolution stands to influence political developments in either Russia, or Belarus, or both. For Belarus this question is indeed being asked.³⁴ Conversations with some Russian politicians today reveal cautionary sentiments, such as the following: if Ukraine's new experiment with democracy succeeds, this will indeed have an impact on Russia in due course; if it fails this will also have an impact in consolidating non-democratic practice.³⁵ Civil society in Russia and Belarus will surely be encouraged. The political elites who think in more geo-strategic terms will be reflecting on the loneliness of their last remaining non-democratic regimes. A recent report by the Russian Council of Foreign and Security Policy concluded that most if not all of the Western

³⁴ Uladzimir Rouda, "Belarus: Analyzing Chances for Democratic Revolution", paper presented at the CEPS-Stanford workshop on Democracy and the Rule of Law - American and European Strategies and Instruments, 20-21 June 2005.

³⁵ Conversation with Boris Nemtsov, a leading liberal Russian politician.

CIS space (Ukraine, Moldova, Belarus, South Caucasus states) would aspire to membership of the EU in the foreseeable future.³⁶ It went on to conclude that it was not a viable option for Russia to go it alone, and let its Western frontier become the border of European civilisation, and that if Russia was therefore to aim at some kind of more integrationist model with the EU, it would have to converge on the EU model of democracy. At this level of thinking, it is of little consequence whether EU leaders get their speeches towards Russia precisely in line. Russian society and elites are thinking about deeper and longer trends in the mapping of European society and politics. For this exercise, the EU is an inescapable reference, whether or not it is an 'actor'.

Does the unanimity rule in important matters of foreign policy, which severely constrains the actions of the institutions, have the effect of limiting or strengthening the objective of democracy promotion in the neighbourhood? Interestingly the case studies show that it can work both ways, either to impose a lowest common denominator, or a highest common factor. It depends essentially on who is the *demandeur*, the EU itself or the partner state, or more concretely, whether it is the EU wanting to impose punitive measures or the partner state seeking to gain accession or a breakthrough in negotiations.

Where the EU or a group of member states wants to impose punitive sanctions, but with some member states resisting such action, then the unanimity requirement yields a lowest common denominator result (i.e. the actions of the partner states will have to be uncontroversially and gravely reprehensible to achieve unanimous support for sanctions, as for Libya in the days when it was supporting terrorist acts). Where however the partner state regimes are less strongly criticised, it will be difficult to achieve unanimity to impose sanctions. This has been the case with the Barcelona Process in general, where the southern member states were unwilling to try to play the political conditionality card, although this position may begin to change now. It has been specifically visible over Israel's settlement policy, which led to discussion of sanctions in the Council of foreign ministers through possible suspension of the Association

³⁶ Sergei Karaganov (ed.), "Otnoshenia Rossii y Evropeiskovo Soyuzu: Sovremennaya Situatsia in Perspektivi" [Russia-EU Relations: The Present Situation and Prospects], forthcoming CEPS Working Document.

Agreement. This was blocked by a group of member states, especially Germany.

In the contrary case of accession aspirations of states such as Turkey and Croatia, where these states are the demandeur, the negotiations only proceed beyond vital checkpoints (opening of negotiations, or actual accession) if the highest demands from among the member states are met. This was seen in 2004 as Turkey was obliged to deliver on sufficiently impressive conditions to overcome the reluctance of the least enthusiastic member states. More recently this model was clearly at work over Croatia, where the arrest and surrender to The Hague of an indicted war criminal was the condition imposed by some member states. Croatia's best friends and neighbours, Austria and Slovenia, were prepared to be more lenient on this condition, but they could not prevail because of the unanimity rule.

However, strong conditionality policies can overreach themselves and turn counterproductive. In the Croatian case, public opinion is seriously divided over whether the indicted war criminal is a hero or a villain, and the tough EU line may re-empower the very same nationalist politicians that the Europeanisation process is supposed to disempower. In the Turkish case the decision by the French president to subject the final ratification of accession to approval by referendum may cast doubt in Turkish minds as to whether any reasonable conditions could satisfy the French. In this way the credibility of EU conditionality bargaining may be undermined.

Dysfunctional instruments

One of the unintended consequences – and indeed casualties – of the EU's institutional tensions and immaturity is the emergence of serious bureaucratic constraints on the effectiveness of the technical instruments of democracy promotion. The Commission has since the early 1990s been endowed with huge increases in programmes of technical assistance to all the neighbours – the accession candidates, association agreement partners of the CIS or Balkans or the Mediterranean partner states of the Barcelona process. These instruments have suffered from a combination of high and low politics between the institutions. In line with their concern to restrain the entry of the Commission into the domain of high politics, the Council has typically responded to new needs for the EU to act with big budgetary allocations for technical assistance grants. Yet at the same time it has been

very reticent in granting the Commission staff resources at the level of these programmes, while also imposing on the Commission onerous tendering and management committee procedures.³⁷ The motives here have been a mix of concern to restrain the growth of the Commission's institutional role, and commercial concerns over the award of contracts between member states. At the same time the European Parliament, anxious to enter the foreign policy field from which it was initially totally excluded, had to build on its partial powers in the budgetary domain, where it has made common cause with the Court of Auditors over matters of financial control. The European Parliament 'succeeded' in sacking the entire Commission of President Santer in 2000 over allegations of financial irregularity. The findings were in the event of trivial proportions,³⁸ yet this led to ever-increasing severity of financial procedures, and highly risk-adverse management behaviour on the part of Commission civil servants, with the overall result of severely hampering operational effectiveness of democracy promotion actions. By contrast, comparable programmes of the US and bilateral EU programmes such as those of Denmark, Sweden and the UK are seen as positive models of their kind.

The problems that have arisen are multiple: slow disbursement, high costs of administration for the EU institutions and even more serious problems of imposing burdens for project preparation and reporting that deter applicants. It is common knowledge within the EU and the partner states that many potential project managers (consulting companies, research institutes, NGOs) will look to the EU programmes as a last resort, after trying more user-friendly sources of funding first after European or US bilateral programmes. Whereas the rationale of EU action is to exploit

³⁷ For example, to help Gorbachev, the European Council decided in December 1990 to commit €500 million for technical assistance to aid reform of the USSR. This was to be the biggest technical assistance package in the world, for which the Commission had to try and start with zero management resources, and it took years after the collapse of the Soviet Union for the Tacis programme to reach a low cruising speed.

³⁸ The most celebrated and only hard piece of evidence was the case of the Commissioner for scientific research, Mme Cresson, who was found not to have followed routine procedures in appointing her dentist to a part-time advisory position. Should Mme Cresson's dentist stand between the EU and the historic advance of democracy in the wider European neighbourhood?

synergies and economies of scale, the EU's financial regulations go in the opposite direction, leading to diseconomies of scale.

These issues involve much technical detail and so should not be pursued here. Other sources have documented the problems thoroughly.³⁹ Yet there is an issue of systemic importance. The EU has been emerging as foreign policy actor quite rapidly over the last decade. It might be supposed that this evolutionary process was a benign one with regard to the efficiency of the instruments of action gradually accruing to the EU. Closer inspection shows the process to be more problematic. Partial or heavily constrained transfers of competences from member states to new and immaturely formed institutions can turn out to be seriously dysfunctional. The rational solution might be a maturing of the institutions in the sense of giving the executive wider room for manoeuvre, but this would mean that the member state principals would lose even more control over their agent. When the choice is between loss of power by the member states and enhanced efficiency of an EU programme, such as for democracy promotion, or the winning of power by the European Parliament through imposing overwhelming burdens of financial control procedures, the priority seems to be power.

Conclusions

This paper began with a review of some paradigms and syndromes that seem to characterise the roles currently being played by the EU institutions and member states. This provided the setting for a series of case studies of current EU policies from Russia round Europe's eastern and southern periphery to Morocco. In a final section we attempt to draw together general findings from this detailed material. Our conclusions are:

1. The EU has undoubtedly become important as a presence, integration model and democratic reference in the wider European neighbourhood. This flows from the fact that the EU is now an integrated space for almost 500 million people encompassing

³⁹ *Striking a Balance – Efficiency, Effectiveness and Accountability: The Impact of the EU Financial Regulation on the Relationship between the European Commission and NGOs*, report of F.M. Partners Limited on behalf of a group of NGOs: Open Society Institute (Brussels), Concord, The Platform of European Social NGOs and the European Women's Lobby, April 2005.

virtually the whole of Western and Central Europe, with high standards of democracy as the priority criterion for membership. At this level the EU does not need to try actively to shape its neighbourhood. It simply exists, and is an object of gravitational attraction for its neighbours.⁴⁰ However when neighbouring states seek accession, then the EU sets democracy as the *sine qua non* test, and a hugely powerful political conditionality machine is deployed. The relative coherence with which EU actors have pursued political conditionality in the case of its would-be members follows from the objective of transforming these countries from outsiders to insiders. Here democracy is number 1.

2. By comparison with this enlargement game, the EU's performance as a foreign policy actor aiming at the promotion of democracy is very mixed. The distinction between enlargement and foreign policy, or between the internal and the external is thus crucial. The enlargement process sees the EU play to its legal and institutional strengths, whereas its foreign policy activity sees the EU and its member states reveal a whole set of divergent preferences, ambiguities and institutional cleavages. Clarity and strength of purpose with respect to democracy promotion in the neighbourhood suffer as a result. The case studies illustrate how the objective of democracy promotion can be trumped by several other priorities, such as strategic security, energy supply security, strategic diplomacy, conflicting visions for the future of Europe and world views. Here democracy is not so often, or so clearly number 1. Several of these competing priorities are similar to those found in the case of the US.⁴¹
3. However the distinction between internal and external, while categorical in principle, is in practice a fuzzy affair, since the EU's neighbourhood policy is inviting convergence on EU norms and

⁴⁰ As set out in Michael Emerson and Gergana Noutcheva, "Europeanisation as a Gravity Model of Democratisation", paper presented at the CEPS-Stanford Conference on Democracy and the Rule of Law, 4-5 October 2004, and published as CEPS Working Document No. 214, November 2004.

⁴¹ Mathew Spence, "Policy Coherence and Incoherence: The Domestic Politics of Democracy Promotion", paper presented at CEPS-Stanford Conference on Democracy and the Rule of Law, 4-5 October 2004, Stanford University, 4-5 October 2004.

standards, and using ambiguous phrases, such as deeper integration, without quite specifying what they mean. Quite a number of neighbouring states are declaring their long-term accession ambitions, without this being acknowledged by the EU. Indeed there is mounting evidence of resistance to continuing enlargement, which the very recent French and Dutch referenda results now dramatically confirm, and which should in principle weaken the credibility of the EU's political conditionality at least for states with long-run aspirations for membership. On the other hand, this weakening of enlargement prospects could induce the EU to invest more heavily in its neighbourhood policy, precisely because the automatic gravity model may otherwise run out of steam.

4. As executor of technical assistance for democracy promotion, the EU's performance is seriously hampered by cumbersome management procedures, which nevertheless amount to more than a merely technical matter, and more fundamentally reflect awkward and immature inter-institutional relationships. The fact that the EU is only an emerging foreign policy actor, with seriously constrained mandates accorded to the executive Commission, turns out to be far from a benign state of affairs, but one that impedes executive effectiveness.

Summary Features of the Case Studies

Balkans. Bulgaria – Standard accession case. The Commission was mandated to negotiate tough and credible political conditions, which after awhile became effective. The EU institutions and member states were coherent, keeping to unified positions.

Croatia – Alternative accession case. The Commission is mandated to negotiate tough political conditions, but the closest neighbours (Austria, Slovenia, Hungary) are willing to settle for softer conditions (concerning an indicted war criminal). The rest of the member states stick to a principled line, and the unanimity rule for accession procedures means that the highest standard prevails.

Bosnia – Protectorate case. There has been a strongly unified position of all the external actors – Special Representative, Commission, EU member states and the US. However the protectorate regime still gives precedence to security and state-building over democracy. The gubernatorial powers of the Special Representative crowd out domestic democracy.

Serbia & Montenegro – State-building case. Solana was mandated to exercise a strong mediation role to prevent state disintegration, but at the cost of imposing a dysfunctional state union. Strategic security has been the priority. The Commission was then confronted with the uphill task of trying to make the Union work.

Turkey. Once candidate status was granted in 1999, the Commission was empowered to play a strong and effective political conditionality role. But underlying divergences persist among member states (over religion and the desirability of continuing the enlargement process), which casts a shadow over the credibility of the forthcoming accession negotiations. However the recent years of EU political conditionality seem to have the effect of ratcheting up the quality of Turkish democracy, to the point of leaving now little chance of reversal.

Russia. Unified EU positions during the Yeltsin period give way to divergences under a de-democratising Putin. The egregious case of Berlusconi standing as Putin’s advocate over Chechnya led the Commission and Parliament to push for a more principled position. But this was undermined by Chirac’s priority for having Putin as a diplomatic ally. The four ‘common spaces’ documents agreed in May 2005 are almost silent on matters of democratic principles.

Ukraine. New member states pushed the EU (Solana) into a mediating role during the Ukrainian orange revolution. Parliament warmly endorses Ukraine’s EU aspirations, but the Commission and Solana do not go beyond minor revision of ‘neighbourhood policy’ Action Plan, and so the EU’s political conditionality may not develop strongly.

Maghreb. Southern member states initially favoured aid on politically soft terms, but over time there has been some convergence of positions among member states and with the Commission in favour of a cautiously more assertive line on democracy. Disappointment over lack of progress in many Arab partner states has led to some rising interest in ‘positive conditionality’.

Israel-Palestine. A principled doctrine about human rights and international law has been reasonably coherent as between the EU institutions and member states, and the instruments of action have been considerable. But institutional immaturity, the inhibitions of several member states, and the collective tendency in practice to view higher-order priorities (the peace process) as incompatible with genuine democracy and international law have often undermined the EU’s own objectives.

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