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**Governance,
Civil Society
and Security
in the Euro-
Mediterranean
Partnership:
Lessons for a
More Effective
Partnership**

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I. Introduction

In the aftermath of the Iraq war civil society has received increasing attention in the wider debate about political reform in the Southern Mediterranean region. This coincides with an intense debate triggered by the UNDP Arab Human Development Report 2002, identifying lack of freedom as a key obstacle to development in the region. In early 2004 Arab governments used civil society events to legitimate the claim that political reform should evolve from within countries rather than being imposed from outside.¹ It is therefore an appropriate moment to look at the role of civil society in the Euro-Mediterranean Partnership (EMP).

The EMP can be seen as an outcome of the realisation that regional concerns can only be dealt with regionally. The joint goals defined of this post-Cold War security arrangement are broad: the creation of a Euro-Mediterranean area of peace, stability and dialogue. This led to the establishment of a partnership in three main fields (the so-called baskets): political and security issues, economic issues, and social, cultural and human affairs. Considering the increasing practical and scholarly attention non-state actors attracted in the 1990s, it is no surprise that it was envisioned in the founding Barcelona Declaration that civil society would make an essential contribution to that process.² The Declaration is unique in the role it gives to civil society in forging the partnership, as policy-makers attempted to engage civil societies in the EMP soft security endeavour. This innovative approach to international relations is inspired by Europe's own integration experience that has been built on encouraging exchange between societies. In the context of Euro-Mediterranean integration this aim is visible in a variety of cultural and youth exchange programmes.

There is more to civil society in the EMP, however. The fact that the term civil society rather than society was chosen hints at the role the former is supposed to play within the EMP. As states in the Barcelona Declaration, civil society is a key actor for the promotion of democracy and development. Despite the primary goal of promoting democracy and development in the region, this civil society role received less attention in third basket cooperation after September 11, 2001. The Presidency conclusions of the Foreign Minister meeting of the member countries of the Barcelona Process in Naples of 2-3 December 2003 reiterated the need to bring the EMP closer to the people, but cooperation between civil societies has been reduced to the cultural dimension even further. This, however, diverts attention from the root political, economic and social threat to Euro-Mediterranean stability.

Critics of the EMP say that it has failed to bring about peace, stability and dialogue. This paper is not as pessimistic, and attempts to shed more light on why civil society cooperation has not produced more visible macro-level results. It begins with a short introduction of the concept of civil society, an overview of civil society goals in the EMP, and over civil society programmes in the EMP. It is argued that despite myriad Euro-Mediterranean projects there has been a widening of economic, social and political gaps between and within societies on both shores of the Mediterranean.³ In order to counter this dynamic, policy-makers must consider more seriously the need for a legal and administrative framework to promote civil society engagement, pluralism and participation. At present, EMP policy-makers economise on political support for greater civil society engagement. Human rights and democracy issues have been tackled only timidly in the political dialogue, partly because of security (mis) perceptions. As a result, neither the legal framework nor the civic values necessary to back it have been promoted in the region. This has also prevented civil society from playing an effective developmental role. Furthermore, the general governance setting strongly impacts on civil society governance and the ability of civil society organisations to promote the values of pluralism and participation.

This paper makes a twofold contribution: it lists arguments favouring greater political determination and resolute reform action on both sides of the Mediterranean. In this way, it aims to contribute to the EMP's constructive approach towards economic, social and political change, which relies on generating the political will rather than imposing reform. Second, it reflects on how existing strategies and instruments can be made more effective. The paper is based mainly on EMP documents, evaluations, secondary literature, press articles, the author's field experiences and discussions with civil society activists, policy makers and policy analysts.⁴ Rather than providing comprehensive data and analyses, anecdotal examples are given in a spirit of creating incentives for further research.

1. See for example the Conference in the Bibliotheca Alexandrina on 12-14 March 2004 promoted by President Hosni Mubarak and which gathered intellectuals, civil society activists and opinion-makers to discuss a home-grown reform agenda. "Reform: From Rhetoric to Reality", *Al-Ahram Weekly*, 19-24 February 2004.

2. The UN Charter (Art. 71) recognises the role of non-state actors and accords non-state organisations consultation and participation rights with the Economic and Social Council (ECOSOC).

3. The paper does not cover EMP countries that acceded to the EU in May 2004 (Malta, Cyprus) and focuses mainly on Arab partners countries.

4. I am especially grateful for exchanges with civil society activists from Lebanon, Syria, Palestine, Israel, Egypt, Jordan, Germany, Denmark, the Netherlands, Italy, Spain, Morocco, Algeria and Tunisia. Special thanks are due to Volker Perthes and Muriel Asseburg from the Stiftung Wissenschaft und Politik for their various and important support.

II. Mind the Gap: Visions and Realities of Civil Society in the EMP

Defining Civil Society

Civil society is a minefield when it comes to questions of definition. Here, the term civil society refers to the public associational realm between the state, the market and the private sphere, including any association formed to pursue public collective purposes, from non-governmental organisations (NGOs), community-based organisations (CBOs), youth groups, women's organisations to trade unions, professional and business associations. Even this definition is contestable. In EMP documents media, universities and even municipalities are included in the concept. The most contentious issues arise from the relation of civil society associations (CSAs) to the state and their values and functions, which have been defined differently by various actors depending on their interests and ideological backgrounds. Sceptics have pointed out that since it means many different things to many different people, it often appears to mean very little at all.⁵

This paper differentiates civil society as an analytically descriptive and as a normative concept. On an analytical level, it includes all associations irrespective of their values, goals, origin, and relations with the state or specific function. Thus, associations based on Islamic, Christian or Jewish values are as much part of civil society as secular associations. In the same way, an association defending the interests of quarry workers in Lebanon is part of civil society as much as an environmental group fighting for the closure of those quarries. A small local association campaigning against the use of child labour by a subcontractor of a multinational enterprise belongs to civil society, as does the employer association of the company in question. A charity-based welfare organisation received by a parliamentarian is part of civil society as much as a grassroots community association promoting its rights before state authorities. Equally, the "Israeli citizen movement for the security fence" headed by an Army General, or an association resisting the Middle East peace process like the Jordanian Anti-Normalisation Popular Committees are as much part of civil society as Taayush, a Jewish-Arab grassroots initiative to resist the occupation of the Palestinian Territories and the wall being built beyond the 1967-border.⁶ This illustrates the diversity of civil society groups as much as it reveals the potential for conflict and power imbalances inherent in civil society as a pluralist space. This is not very surprising; rather, what is surprising is how often the decisively conflictive character of civil society is ignored for comfort in normative visions of the concept.⁷

The normative concept of civil society used in this paper assumes that a pluralist and inclusive civil society is essential to manage conflicts within and between societies. Since it represents a realm of society where diverging interests are organised and expressed, civil society actors can decisively contribute to prevent social, economic and political marginalisation and the security risks these entail – although power inequalities lead to uneven opportunities for interest representation.⁸ Thus, the paper adopts a normative vision of civil society that takes the goals of security, development and understanding promoted by the EMP into account.

What Role for Civil Society within the EMP?

The Barcelona Declaration placed civil society in the chapter on the cultural, human and social dimension. The so-called third basket is a conglomeration of issues as diverse as the need for intercultural dialogue and human exchanges, the development of human resources and education, the role of health sectors in sustainable development, the importance of social rights, including the right to development, as well as migration and the prevention of terrorism. Within this mixed bag of social development, cultural and security cooperation issues, civil society has three functions: bringing the partnership close to the people, promoting development and deepening democracy. The Declaration therefore recognises "the essential contribution civil society can make in the process of development of the EuroMediterranean Partnership and as an essential factor for greater understanding and closeness between peoples."⁹ The signatory parties call for decentralised cooperation and exchanges among actors involved in development, such as "leaders of political and civil society, trade unions, cultural and religious world, universities, the research community, media, organisations, and public and private enterprises". The importance of civil society for social development is only indirectly mentioned and limited to a call for the effective participation of the community in action to promote health and well-being. The parties also commit themselves to strengthen civil society along with support for democratic institutions and rule of law. This can be understood as indicating that there is a perceived role for civil society as a feature of a democratic system.

5. Schwedler, Jillian (2004), 'Beyond Civil Society?' in: Looking ahead: Challenges for Middle East Politics and Research, EuroMeSCo Paper 29. For a concise overview over conceptual strands of civil society see van Rooy, Alison (1998) 'Civil Society as an Analytical Hatstand?', in van Rooy, Alison (ed.): Civil Society and the Aid Industry, Earthscan Publications London, pp. 6-30. Van Rooy also differentiates between a normative and an analytical dimension of the concept.

6. For the Jordanian case, see Al-Khatib, Jamal (2001), Role of Civil Society Institutions in Resisting Normalisation with Israel, Al-Urdun Al-Jadid Research Center, www.ids.ac.uk/ids/civsoc/final/jordan/jor8.doc (www.taayush.org).

It is interesting to note that civil society as a democratic notion is only dealt with in one line of a one-page presentation of the third basket. That civil society in its political notion is only cautiously dealt with in the Barcelona Declaration reflects the contradictory attitudes north and south of the Mediterranean towards civil society. In the declaration this is manifest in a clause specifying the inclusion of only civil society actors that act within the framework of national law. On the face of it, this is so obvious as to warrant no mention, but its meaning is ambiguous when the laws in question curtail civil society activities to an extent that makes it impossible to speak of a pluralist civil society able to participate actively in public affairs.

Political notions of civil society in the EMP are part and parcel of the normative understanding that a democratic participatory polity is suitable to diminish security risks and promote stability in the region in the long run. Exchanges between civil society actors serve to give the partnership a societal base and to create a sense of ownership, and they receive the most attention in the EMP. However, the benefits of a pluralist, participatory civil society – be it in security, participation or developmental terms – are at least as crucial in bringing the partnership close to people as this involves structural changes that enable exchange, substantive dialogue and development to take place in the first place.

The EU promotes a number of civil society programmes and support measures in the framework of the Barcelona Declaration guidelines for cooperation. Some have focused on cultural cooperation, others on democracy and development. The first category comprises the various programmes the EU has launched within the framework of the third basket to encourage regional exchange between civil societies in the Euro-Mediterranean region, such as Euro-Med Audiovisual, Euro-Med Youth and Euro-Med Heritage. Since 1995, regional meetings of civil society actors in the *Civil Fora* have accompanied the Foreign Minister conferences, which are held regularly to determine key directions of cooperation in the Barcelona Process. The EU TEMPUS programme for university exchange was opened to the Euro-Mediterranean region in 2003.¹⁰ A new pilot initiative of decentralised cooperation between local authorities, MED'ACT, was launched in 2003, following on from similar programmes in the 1990s.¹¹ The second category is part of EU external relations and development policy strategies, and follows mainstream international development thinking, which assumes participatory governance systems are the most effective way to promote human development and equitable and inclusive growth. The link between social development, democracy and civil society is therefore more easily detectable in EC documents relating to civil society than in the Barcelona Declaration.¹² MEDA regulation guidelines on support measures for the reform of economic and social structures within the EMP include sustainable social development, strengthening democracy and the defence of human rights, particularly through NGOs. The need for participation of civil society to plan and implement all development measures is emphasised. In addition, civil society organisations are considered key actors in the promotion of good governance.

Country strategy papers also promote the participation of civil society indirectly, noting that civil society organisations should be consulted to implement MED assistance, while overall development cooperation policy includes support for decentralised NGO co-financing (as in the fields of education, vocational training and health). Support measures in the second basket have included regional networks of business and environment associations. Support for civil society has also been channelled through the EU MEDA Democracy programme, the European Initiative for Democracy and Human Rights (EIDHR), and bilateral allocations through MEDA. European Parliament pressure led to the introduction of the EU MEDA Democracy Programme as part of the EIDHR in 1995, which channels funds to civil society organisations without consultation with SMPC governments, although this was not extended beyond 2003. The EIDHR is one of the EU instruments for the global promotion of human rights and democracy. Its global programmes cannot fully replace MEDA Democracy since only a few countries are eligible for EIDHR funds (in the Euro-Med region, the countries for 2002-2004 were Turkey, Tunisia, Algeria, Israel and the West Bank and Gaza in 2002-2004). Only regional project funds for selected human rights issues are open to all SMPC countries.¹³

Bilateral allocations through MEDA are part of an attempt to mainstream democracy promotion into EU foreign relations policy towards SMPC countries. Thus far, however,

EMP Civil Society Support in Practice

7. An allegory on Edwards, Michael and Hulme, David (1997), NGOs, States, Donors: Too close for Comfort?, Save the Children Fund, London.

8. See for example UNDP (2002): Human Development Report 2002. Deepening Democracy in a Fragmented World. New York, Oxford, p.1.

9. Barcelona Declaration adopted at the Euro-Mediterranean Conference 27-28/11/1995 at http://europa.eu.int/comm/external_relations/euromed/bd.htm.

10. The impact and optimisation of programmes such as Euro-Med Youth or TEMPUS on promoting pluralist civil societies needs further research. Euro-Med Youth has involved many local youth organisations, but focal points in most SMPCs are located in ministries rather than civil society organisations.

11. For an overview of other earlier civil society cooperation programmes see Reinhardt, Ulrike J. (2002), Civil Society Cooperation in the Euro-Mediterranean Partnership: From Declarations to Practice, EuroMeSCo Paper 15.

12. Commission of the European Communities (2000), Council Regulation (EC) No 2698/2000 of 27 November 2000, amending the Regulation (EC) No 1488/96 on financial and technical measures to accompany (MEDA) the reform of economic and social structures in the framework of the Euro-Mediterranean Partnership. For the development model, see UNDP (2002), p. 51.

13. Regional EIDHR programmes tackle crucial issues with a strong impact on participation, such as combating torture. The risk of torture obstructs civic action for obvious reasons.

Symptoms and Causes of Euro-Mediterranean Gaps

this has meant that civil society support to promote democracy has been irregular. No specific allocation for civil society organisations was foreseen in the 2002-2004 MEDA budget for Morocco, for example. Given that it is not an EIDHR priority country, Moroccan associations working in the field of human rights and democracy have received only 0.5 million Euro from regional EIDHR programmes.¹⁴ But, the MEDA 2002-2004 budget for Jordan included 2 million EURO for civil society, human rights and democracy out of a total of 192 million EURO.¹⁵ This is minimal but at least maintains EU MEDA Democracy standards, which also amounted to only 1% out of overall MEDA budget. The biggest difference is that partner governments must approve MEDA funds allocations so that programmes are less independent than MEDA Democracy or the EIDHR projects. While mainstreaming democracy support in MEDA is an important trust-building measure, a close look at the actors that receive support is necessary to assess the impact of these projects on governance.¹⁶

Looking at the macro-level, EMP civil society programmes do not appear to have a significant impact on the creation of a dialogue space, bringing the partnership close to the people and on promoting democratic development. There persist political, economic and social gaps between and within Euro-Med societies, and between government policies and societies, which widened after September 11, 2001 and the Iraq war. There has been much talk of reform in the region but very little actual reform. Non-democratic practices are pervasive, which does not facilitate dialogue within or between societies.

The Euro-Mediterranean Partnership between societies is not a happy marriage. Xenophobia is on the rise in the North as are extremist Islamic movements in the South, and they play into each other's hands. One result is one-way restriction of movement. Rigid migration and visa policies contain South-North movements. Travel restrictions have become especially tight since September 11, 2001. They have even covered civil society groups that have been active in Euro-Med cooperation for a while and pursue a democratic, secular agenda. Civil society activists that were meant to attend the Euro-Med civil forum in Naples in November 2003 were thus unable to receive visas in time. Arab participants who got their visas were subjected to humiliating late-night security checks by the local police, which was on the alert for the Euro-Mediterranean Foreign Minister Meeting held three days later. They had obviously not been informed that a Euro-Med civil forum was to take place ahead of that meeting.

Regional exchange programmes have been restricted to very limited segments of societies, such as heritage workers, film makers who want to consume non-Hollywood fare, top university students and teachers. Euro-Med Youth has a broader reach, but its budget has been smaller than that of other Euro-Med programmes.¹⁷ As the European Commission states, it has not been more than a drop in the ocean. Out of 96 million young people living in the Euro-Mediterranean region, Euro-Med Youth has reached only a couple of thousand.¹⁸

Movement between the North and the South is thus restricted to the elite from both shores, a few migrants who made it to the North and some more tourists to the South. It is therefore important focus on measures with a potentially wider reach. Civil society as expression of a developmental and pluralist project has the potential to reach a broad range of people because it can contribute to the management of economic, social and political conflicts in a public dialogue process. It therefore has the potentially widest reach and, what is more, can contribute to tackle a key cause of conflict between and within societies in the EMP.

The current focus on Euro-Med exchange programmes at the expense of support for pluralist and developmental notions of civil society result in dynamics that bear striking resemblances to those that led to the failure of the EMP People-to-People Programmes launched in 1995 to support the Middle East Peace Process. These failed because they were not accompanied by sufficient political action to address the root causes of the conflict and basic power asymmetries. People's daily life did not visibly improve. Thus, although People-to-People Programmes tackle an important dimension of the conflict – lack of mutual knowledge – these confidence-building measures were doomed from the outset.¹⁹

14. Partenariat Euro-Med Maroc : Document de Stratégie 2002-2006 & Programme Indicatif National 2002-2004, 6 December 2001 (europa.eu.int/comm/external_relations/morocco/csp/02-06_fr.pdf). It remains to be seen how funds are allocated with the National Indicative Programmes (NIPs) 2005-2006 under discussion as of March 2004.

15. Euro-Med Partnership Jordan: Country Strategy Paper 2002-2006 & National Indicative Programme 2002-2004 (www.europa.eu.int/comm/external_relations/jordan/csp/02-06_en.pdf).

16. The effectiveness of the partnership approach has been observed by Grünert, Angela (2004), 'Loss of Guiding Values and Support: September 11 and the Isolation of Human Rights Organisations in Egypt', in Jünemann, Annette (ed.), Euro-Mediterranean Relations After September 11. International, Regional and Domestic Dynamics, Frank Cass London, pp. 133-152, p. 150.

17. EuroMed Youth I (1999-2001) 9.7 million Euro; EuroMed Youth II (2002-2004) 14 million Euro, as compared, for example, with 17 million for EuroMed Heritage I (1998-2002) and 30 million Euro for EuroMed Heritage II (since 2001). See European Commission (2002): Dialogue between Cultures and Civilisations in the Barcelona Process, Luxembourg 2002.

18. European Commission (2002): Dialogue between Cultures and Civilisations in the Barcelona Process, Luxembourg 2002.

19. For a critique of the People-to-People Programmes, see Andoni, Ghassan (2003): The People-to-People Programmes. Peacemaking or Normalisation? EuroMeSCo Brief 1.

Although associational life has a long history in the Southern Mediterranean, the concept of civil society has been rather contested. Because of its origins in Western liberal democratic history, critics perceive indirect intervention in sovereign legal and value systems. Nonetheless, the concept slowly but surely made its way into the discourse of most SMPC governments in the 1990s. This was catalysed by the arrival of civil society in mainstream development thinking promoted by international agencies such as the World Bank. Because of its – legally speaking – non-political mandate, early World Bank concepts presented civil society as an essentially non-political realm of society void of interest and power conflicts. On this view, civil society fulfils welfare functions and promotes economic development because of the social capital produced by a rich associational life. Even sceptics that were uneasy with the notions of democracy implicit in the concept were able to subscribe to this interpretation.

Civil societies in SMPC countries are quite diverse, however. In accordance with the international trend to diminish the role of the state in development, CSAs blossomed in SMPC countries in the 1990s. Some openings occurred and the sheer number of CSAs seems promising, even if it is still small compared to the EU. A closer look, however, reveals an uneven reality. Despite the varying historical, political, social and economic trajectory of each SMPC, there are some common patterns. First, state authorities have made use of legal instruments and administrative practices to keep a tight grip on civil society organisations. These include restrictive association laws, restricted freedom of expression, opinion and information, restrictions on access to foreign funding, physical attacks on activists and negative propaganda. Second, while social welfare provisions have been tolerated by state authorities and enjoy legitimacy in societies, advocacy for change that challenges political, economic and cultural balances of power have had a harder time. Finally, it should be noted that the mere existence of associations revolving around the notion of civil society does not necessarily lead to more pluralism or participation.

NGOs in all SMPC countries must be authorised by the relevant ministry to operate. Laws often differentiate between associations benefiting from limited legal status and cannot receive donations and those that serve the “public interest” and thus enjoy full legal status.²⁰ In Tunisia, Syria and Egypt emergency laws are used to control the public sphere. In Egypt NGO licenses are only granted after review by state security institutions. Even where licenses are given, independent activity may not be possible because administrative controls are pervasive. The Jordanian association law widens the definition of non-profit to prohibit “political gains”, which greatly restricts the scope for activities of registered associations.²¹ It is also common for ministries to be able to suspend board members discretionally. Access to foreign funding is subject to strict controls. In Tunisia thugs have attacked independent civil society human rights activists, who have been charged with absurd criminal offences, and female activists have been tarnished, by being called prostitutes. Professional associations and labour unions are usually subject to different legislation but have faced similar constraints in terms of freedom of association, information and expression.

Independent advocacy groups that SMPC governments consider to be a challenge to their authority have their work obstructed or outlawed altogether. This has been the case with NGOs defending civil and political rights and professional associations, trade unions and advocacy groups that focus on economic, social and women rights or single-issue advocacy groups, such as those working on disappeared persons. In Egypt a women’s rights organisation was recently unable to register with the Ministry of Social Affairs under Association Law 84 of 2002 for unspecified security reasons. The organisation appealed and the courts ruled in its favour on 28 October 2003, but it took the Centre another six months to finally receive its registration permit.²² While this illustrates the pioneering role of the judiciary in promoting civil society freedoms in Egypt, it also reveals how advocacy NGOs face time-consuming administrative obstacles.

Civil society organisations engaged in social welfare activities are better off. SMPC governments and societies generally welcome such organisations as they respond to vital needs of large parts of the population. SMPC governments have used welfare associations to outsource a social contract previously based on state welfare, which can no longer be sustained in a context of economic structural adjustment, resulting in public expenditure cuts. Thus, after the structural adjustment programme in Morocco in the 1980s, CSAs developed most in the health sector. Many welfare

The State of Civil Society in the SMPCs

Legal and Administrative Constraints: Advocacy vs. Welfare

20. FIDH (International Federation for Human Rights) (2003): *The Defence of Human Rights in the Euro-Mediterranean Region and the Issue of Funding Human Rights NGOs*, Report Regional Seminar 19-22 May 2001, Beirut, p.18.

21. For Jordan see Wiktorowitz, Quintan (2000), ‘The Political Limits to Non-Governmental Organisations in Jordan’, *World Development* 30(1), pp. 77-93, p. 83.

22. “NGOs banned”, *Al-Ahram Weekly*, 12-18 June 2003; “Long Way to Go”, *Al-Ahram Weekly*, 18-24 December 2003.

associations have been used to construct clientelist legitimacy patterns rather than to encourage citizen participation and action. Politicians and businessmen now have welfare associations in their constituency, thus maintaining privatised arrangements for service provision that translate into political support during elections.²³ In light of these realities, the impact of welfare organisations on pluralism and development needs to be critically assessed.

SMPC governments generally tolerate Islamic welfare organisations, as long as their activities are not overtly political, because they are usually efficient welfare and development services providers. However, these associations combine welfare activities with strong value-laden messages, constituting a powerful alternative to clientelist loyalties. Since SMPC governments have realised this, they also use pro-government social welfare associations to counter pervasive networks of Islamic grassroots associations.²⁴ It is unclear whether Islamic associations are more pluralistic, participatory and inclusive than their competitors, and this probably depends largely on the larger organisations they belong to. One of the outstanding strengths of Islamic associations is certainly their strong grassroots links and volunteer base, which unfortunately distinguishes them from many of their secular counterparts. Where possible, associations linked to Islamic movements have also engaged in advocacy for causes such as the environment or community development. Associations linked to Hizbullah in Lebanon are a case in point.²⁵

The role and state of civil societies in Lebanon, Palestine and Algeria are unique due to their distinct trajectories within the process of the rebuilding of the state or the weakening of state structures due to conflict. Although the causes of crisis differ, their symptoms are similar.²⁶ In Lebanon civil society organisations filled gaps in social service provision during the civil war and now serve clientelist arrangements along confessional or patronage lines. Associations with a developmental, democratic, rights-based agenda face immense systemic constraints.²⁷ In Palestine, civil society organisations are not only forced to cover public service functions, but are also immensely restricted in their freedom of movement, which makes proper functioning virtually impossible. Palestinian Israelis also face constraints. A Knesset bill of 2002, which is strangely similar to association laws in Arab countries, proposed that NGO be obliged to gain permits from the Israeli Register to solicit funds from foreign governments or government-funded foundations. Even after approval, the Registrar would retain the right to supervise NGO work. Organisations advocating the rights of Palestinian citizens of Israel have been increasingly supervised.²⁸

23. For the Moroccan case Denoeux, Guilain (2002) 'Le mouvement associatif marocain face à l'État : autonomie, partenariat, ou instrumentalisation ?', in Ben Nafissa, Sarah (ed.), *Pouvoirs et Associations dans le Monde Arabe*, CNRS, Paris, pp. 52-53, p. 36. For Egypt see Singerman, Diane (1995), *Avenues of Participation. Family, Politics, and Networks in Urban Quarters of Cairo*, Princeton University Press: Princeton New Jersey, p.248ff; Youssef, Abdelmaseeh Felly & Longuenesse, Elisabeth (1999), 'Business and Politics in Cairo: The Example of Sayyeda Zaynab District', *Monde Arabe/Maghreb Mashrek* 166, Oct.-Dec. 1999, pp. 53-108. For general trend Ben Nafissa, Sarah (2001), *NGOs, Governance and Development in the Arab World*, UNESCO Management of Social Transformation (MOST) Discussion Paper 46 (www.unesco.org/most/nefissae.htm), p. 26.

24. Authors have argued that greater freedom for Berber activities in the 1980s in Morocco was informed by a desire to counter religiously-based visions promoted by Islamist groups. Denoeux (2002), p. 33; For case studies on Egypt and Jordan see for example Bayat, Asef (2002), 'Activism and Social Development in the Middle East', *International Journal of Middle East Studies* 34, pp. 1-28; Wiktorowitz, Quintan & Taji Farouki, Suha (2000), 'Islamic NGOs and Muslim Politics: A Case from Jordan', *Third World Quarterly* 21(4), pp. 685-699.

25. For the Lebanese Hizbullah see Harb El-Kak, Mona (1996), *Politiques Urbaines dans la banlieue-sud de Beyrouth*, CERMOOC Beyrouth; Fawaz, Mona M. (2000), *Agency and Ideology in the Service Provision of Islamic Organisations in the Southern Suburb of Beirut*, presented during the conference on "NGOs and governance in the Arab Countries" on 29-31 March 2000 in Cairo (www.unesco.org/most/mfawaz.doc).

26. Ben Nafissa (2001), p. 22.

27. Lebanese Center for Policy Studies (1999) *Civil Society and Governance in Lebanon: A preliminary mapping of Civil Society in Lebanon and its connection with governance*, Beirut (www.ids.ac.uk/ids/civsoc/docs/leb.doc); Kingston, Paul (2001), 'Patrons, Clients and Civil Society: A Case Study of Environmental Politics in Post-War Lebanon', *Arab Studies Quarterly* 23(1), pp. 55-72.

28. EuroMediterranean Human Rights Network (2004): *Tightened Spaces for Human Rights: A Discussion Paper on Palestinian NGO Work. A Discussion Paper from a mission to Israel and the Occupied Palestinian Territories*, March 2004 (www.euromedrights.net/english/emhrn-documents/country-reports/Palestine_NGOs_March%202004.htm).

29. FIDH (2003), p. 14.

30. "Acquittal of Dr. Saad Eddin Ibrahim March 18th, 2003" (www.fidh.org/article.php3?id_article=394); "Justice Finally Prevailed", *Al-Ahram Weekly*, 20-26 March 2004 (www.ahram.org.eg/2003/630/eg8.htm).

31. USAID Certification Regarding Terrorist Financing Implementing E.O. 13224. One problem in Palestine is that member organisations of the Palestinian Liberation Organisation (PLO), such as the Popular Front for the Liberation of Palestine (PFLP), are listed, which means that an organisation with links to the PLO theoretically cannot sign it. Interestingly, some organisations in Gaza with Islamist affiliations such as the Islamic University appear to have signed the waiver, which raises questions with regard to the implementation of USAID policies.

Secular NGOs challenging government monopoly over the public sphere usually have to resort to foreign donors because of a lack of local funding. They have become vulnerable to the claim that they are promoting foreign agendas. Human rights and women's rights groups are particularly vulnerable. SMPC authorities have accused advocacy organisations with Western support of being inauthentic at best and treasonous at worst. Hafez Abu Saadeh, General Secretary of the Egyptian Organisation for Human Rights, was put on trial in 1998 for receiving foreign funds without prior official permission.²⁹ Two years later, Saad Eddin Ibrahim was accused of spreading false information and of tarnishing Egypt's image abroad in relation with a EU grant. He was sentenced to seven years imprisonment and was only acquitted in 2003.³⁰

The vulnerability of CSAs to such charges has been exacerbated by the kind of conditions attached to USAID after September 11, 2001. Organisations wishing to receive funds are required to sign a two-page declaration that promises that no individual or entity that is directly or indirectly involved in terrorist acts may benefit from the activities. More specifically, organisations have to agree to the US list of terrorist organisations and individuals.³¹ Since US classifications of terrorism are highly disputed in the region, many organisations have refused to sign this annex and have therefore lost funds. This has limited the room to manoeuvre of organisations that share democratic values but do not want to alienate their social base. This also helps to strengthen organisations that do not depend on Western funding, but can rely on local funding and global religious charity networks. Given these trends, it is worrying that Canada is considering the USAID model.

Most alarming is that it is not only states that level charges of lack of authenticity and treason, but also that southern Mediterranean societies echo such claims. NGOs funded by western donors are perceived as an elite group that serves the interests of donors rather than the wider population – an opinion readily adhered to by some SMPC government officials and other nationalist, traditional or religious elites.³² Aside from the issue that the democratising impact of projects detached from any constituency needs to be questioned, these perceptions certainly do not help to bring the partnership close to the people. Donors should therefore reflect thoroughly how donor-driven action by local NGOs can be minimised, a problem widely recognised in other parts of the world.

Governmental NGOs, or so-called GO-NGOs or national coordination structures, have adopted some causes supported by civil society actors. GO-NGOs refer to a phenomenon that is very common in SMPCs, namely CSAs that are actually offshoots of government officials.³³ GO-NGOs have preferential access to state resources, and compete with independent organisations for international funding. They are quite successful in the latter, given their privileged networks. The phenomenon raises questions about the development of independent and pluralist civil societies. GO-NGOs agendas are sometimes progressive: the Jordanian National Committee for Women headed by Princess Basma has been at the forefront of promoting women's rights in Jordan. However, the downside is that the organisation has not created more space for independent women groups. Rather, independent activity has been contained.³⁴ Egypt created a National Committee for Human Rights in the aftermath of the Iraq war, aiming to show a commitment to political reform, but at the same time, anti-war activists (mostly from the left) were imprisoned, reportedly tortured by the police and tried for taking part in demonstrations against the war.³⁵ The Moroccan *makhzen* (the Monarchy and the governing institutions under its control) have successfully pursued a divide-and-rule strategy: while civil society pluralism is encouraged no single overly powerful social force is allowed to emerge. The King's role as arbitrator is thus preserved. Single issues lobbied for by civil society activists that concur with the monarchy's reform agenda have been taken up by the *makhzen*, as illustrated by the creation of the Consultative Council on Human Rights in 1990 by late King Hassan II.³⁶ More recent examples are the family law reform enacted in October 2003 and the truth commission installed in January 2004. Simultaneously, cases of torture, secret detentions and restrictions on press freedom have been reported.³⁷ These cases from Jordan, Egypt and Morocco illustrate why seemingly positive developments may not translate in to increased space for civil society.

A newly emerging category is the NGOs promoted by businessmen, although there is a thin line between social corporate responsibility and governance structures that curtail the activities and independence of such organisations. Businessmen in Alexandria in Egypt have developed community development programmes with the

Donors, Conditionality and Civil Society

Duplicate, Divide and Rule: More Government-Civil Society Dynamics

32. FIDH (2003), pp. 7-8; For a respective statement by a Palestinian government official see Wiktorowitz (2000), p. 81.

33. Ben Nafissa (2001), p. 24.

34. Wiktorowitz (2000), p. 87.

35. "Security Alert" Al-Ahram Weekly, 27 March–2 April 2003, (ahram.org.eg/2003/631/eg9.htm); Human Rights Watch, 'Egypt: Crackdown on Antiwar Protests' (www.hrw.org/press/2003/03/egypt032403.htm).

36. Denoëux (2002). For an analysis of Moroccan political system see Zerhouni, Saloua (2004), 'Morocco. Reconciling Continuity and Change', in: Perthes, Volker (ed.), Arab Elites. Negotiating Politics of Change, Boulder Colorado.

37. See for example the imprisonment of journalist Ali Mrabet (www.humanrightswatch.org/doc?t=mideast&c=morocco); On torture reports see: www.web.amnesty.org/library/Index/ENGME290042004.

38. For projects of the Alexandria Businessmen Organisation see www.aba.org.eg.

local business association, for example.³⁸ Such ventures are more doubtful, however, when business magnates involved in a large power station in Turkey that violate international environmental standards are on the board of an environmental civil society association.

In sum, civil society has entered mainstream discourse in SMPCs over a short period of time, although it has been harder to forge pluralist and inclusive civil societies. Legal frameworks and administrative practices impose clear limits on civil society action. The space granted to CSAs in SMPC countries depends first and foremost on their vocation. Activities that do not challenge the monopoly of government authorities as sole decision-makers of public interest are favoured. Civil society organisations have been used to control and manage the public sphere rather than as instruments to promote participation and pluralism.³⁹

III. The Joint Stability Trap

The Council of the EU, the European Commission, and Euro-Mediterranean and Arab civil society forums alike have recognised the essential importance of the rule of law and legal guarantees for human rights – particularly freedom of association and opinion – for civil society to function.⁴⁰ Only such guarantees enable civil society to manage economic, social and political conflicts in a public dialogue and debate. SMPCs have been slow to change respective administrative and legal practices. The hesitation of northern partner countries in adopting a clear stance on civil society restrictions suggests that there is not as much disagreement between southern and northern governments as one might expect.

The EMP has been haunted by the dilemma of how to achieve democracy and stability from the outset. While the EMP is built on the assumption that democracy and stability go hand in hand, the EU has been reluctant to support democratisation when this has put security interests at risk. After September 11, 2001 in particular the balance has shifted in favour of stability at the expense of soft security concerns such as democracy and human rights. Only in the aftermath of the Iraq war did democratic reform return to US and EU foreign policy agendas. However, given the war in Iraq, reform initiatives were coolly received in the region, although a local reform discourse has picked up pace since the war.

The two key EU security concerns are shared by governing elites in SMPCs. First there is the fear of violent Islamist groups and of Islamic movements seizing power in parliament and state institutions. These anxieties are related to regional stability, the state of human rights and the future of democracy in the countries concerned. The fact that political reform projects based on an alternative Islamic discourse appeal to the impoverished middle classes in the SMPCs more than secular democratic projects is no comfort to either side. Second, there is the fear that economic and social crises may lead to social unrest and increased migratory pressures. These two scenarios are the key justifications of SMPC governments for restricting human rights and civil society. By allowing these security apprehensions to put limits on human rights policies, however, EMP partners risk creating an impasse. On the one hand, human rights policies lose credibility if applied inconsistently and erode efforts to promote civic values; on the other hand, civil society cannot deliver the developmental functions expected of it in the Euro-Mediterranean Partnership if there is a legally and politically restrictive context. Non-pluralist and non-inclusive governance patterns in civil societies are thus perpetuated.

39. Wiktorowitz (2000), pp. 82-83.

40. Second Independence: Towards an Initiative for Political Reform in the Arab World. The Recommendations of the First Civil Forum Parallel to the Arab Summit, 19-22 March 2004, Beirut (www.euromedrights.net/english/Download/Report_arab_cf_beirut.doc); 'Building Bridges not Walls', Final Declaration EuroMed Civil Forum Naples, November 28-30, 2003 (www.europa.eu.int/comm/external_relations/euromed/conf/naples/decl03_3011_en.pdf); Final Declaration Conference in Bibliotheca Alexandrina 12-14 March 2004, summary in Al-Hayat 15 March 2004; Commission of the European Communities (2003) Communication from the Commission to the Council and the European Parliament: Reinforcing EU actions on Human Rights and Democratisation with Mediterranean Partners. Strategic Guidelines, COM (2003) 294 final; Council of the European Union (2003), Council Conclusions on the Commission's Communication on Reinforcing EU Actions on Human Rights and Democratisation with Mediterranean Partners, MED 41 COHOM 35 17. November.

41. On twin liberalisation theme see: Brynen, Rex & Korany, Bahgat & Noble, Paul (eds.) (1995), Political Liberalisation and Democratisation in the Arab World, Vol.1 Theoretical Perspectives, Lynne Rienne Publishers: Boulder/London; For a thorough case study Kienle, Eberhardt: A Grand Delusion: Democracy and Economic Reform in Egypt, I.B. Tauris Publishers, London/New York 2000.

42. As of May 2004, all SMPCs had signed association agreements except Syria, although not all are in force as yet. Negotiations with Syria were concluded in December 2003 but political approval is pending after UK, the Netherlands and Germany insisted on a stronger clause on weapons of mass destruction.

43. On the conditionality debate see Schmid, Dorothee (2003): Interlinkages Within the Euro-Mediterranean Partnership. Linking Economic, Institutional and Political Reform: Conditionality Within the Euro-Mediterranean Partnership, EuroMeSCo Paper 27.

44. EC COM (2003) 294 final.

45. See, for example, Törnquist, Olle (1999), Politics and Development. A critical introduction, SAGE Publication: London a.o.; Santiso, Carlos (2001), 'Development Cooperation and the Promotion of Democratic Governance: Promises and Dilemmas', International Politics and Society (online 4/2001, www.fes.de).

EU policy makers are very aware that political will for reform depends on political and economic incentive structures, and have therefore attempted to create them in a spirit of partnership. The policy mix combines economic incentives with political dialogue and support for good governance programmes, as well as marginal support for civil society. An important element in this strategy has been the twin liberalisation scheme, whereby political reform is assumed to follow economic reform naturally. This partly explains why the economic partnership has been at the centre of the EMP in terms of funds and political attention. Thus far, however, economic liberalisation has not led to political reform. Privatisation has promoted a reshuffle of resources among elites rather than broad economic development that could lead to an independent middle class to push for a secular, liberal democratic political system. The fallibility of the twin liberalisation scheme underlines the need to make use of other instruments to achieve political reform.⁴¹

Other instruments at hand are political dialogue and technical assistance. The contractual commitment to human rights and democracy in Article 2 of the Association Agreements the EU has concluded with nearly all SMPCs means issues such as freedom of association can be raised with partner states.⁴² Political dialogue is conducted by the Association Council and at other senior official meetings. The contractual base allows contracting parties to take appropriate measures in case commitments are not met. As a measure of last resort the Association Agreement may be suspended.⁴³ Article 2 of the Association Agreements also provides the legal basis for technical support for European Commission human rights and democracy promotion in programmes. Apart from the civil society programmes outlined above, MEDA funds have also targeted the rule of law, and judicial and administrative reform. However, interventions in this field have focused on sectors that have a direct impact on economic cooperation such as trade ministries. The current state of governance in the SMPCs suggests that they have not influenced patterns of governance in general, not to mention their failure to open spaces for civil society.

The European Commission has taken into account the governance setting when implementing MEDA since 2001. It has begun to undertake political, economic and social country assessments in consultation with the southern partners and EU member states. These assessments are now the backbone of EU operations in SMPCs. This is expected to facilitate mainstreaming human rights and democracy in the long run, while simultaneously keeping country-specificities in mind.⁴⁴ In this context, issues such as the legal framework for CSAs have been raised by with partner governments, albeit rather timidly.

Both the political dialogue and the country assessments provide the EU with instruments to pursue a political approach toward governance reform in partner countries. While this has much potential, it is also tricky. It takes into account criticism voiced against technocratic models of change that ignore country-specific political and societal conditions.⁴⁵ But the nature of the political approach, combined with the institutional structure of the EU has allowed national foreign policies regarding SMPC stability to dominate the agenda. This has resulted in very contradictory signals being sent to governments and civil societies in SMPC countries.

Human rights and democracy policies are a contentious policy field within the EU. Rivalries and divergent interests among EU institutions have impacted negatively on joint action. Human rights matters are originally the competence of the EU Council within the CFSP framework, but the Commission has asserted its responsibilities in this field since the 1990s. The latter has attempted to take on a catalytic role where democracy and human rights policies in the EU system are concerned. Although the European Parliament has pushed the Commission to do so, member states have curtailed the implementation of coherent human rights policies. After September 11, 2001 the Commission pushed for a more coherent approach towards human rights and democracy policies towards the Mediterranean. In a May 2003 Communication, it asked the EU to emphasise these issues in relations with SMPCs, including suggestions for a more coherent approach to democracy and human rights, intensified political dialogue on the bilateral and regional levels and mainstreaming democracy and human rights in MEDA programmes. The EU Council endorsed these suggestions in November 2003.⁴⁶ However, the evidence so far shows that EU member states have not always been consistent with this policy in practise.

EU Support for Civil Society Space: Political Virtues and Vices

The Role of Civil Society and Human Rights in the European Commission, CFSP and National Foreign Policies

At recent Foreign Minister meetings, EU governments have been rather ambiguous about democracy and civil society. At the Foreign Minister conference in Valencia in April 2002, democracy and human rights were largely absent from the Spanish preparatory document. By contrast, the European Commission had emphasised the need to strike a balance between anti-terrorism and more determined action to promote democracy and human rights in the Mediterranean.⁴⁷ Southern European states have also supported a de-politicised vision of civil society in the EMP. At the Valencia Foreign Minister conference this was reflected in the reinvigoration of the third basket through a project for cultural civil society cooperation. Apart from emphasizing the need to encourage dialogue between civilisations and cultures through initiatives relating to youth, education and media programmes, the Valencia Action Programme scheduled the establishment of a Euro-Mediterranean Cultural Foundation. Until now, the foundation has been very much controlled by governments rather than representing a genuine civil society network. The board of governors consists of the Euro-Med Committee made up of governments. Governments have built the networks; they have not grown out of a genuine interest for cooperation.⁴⁸ The creation of the Foundation also reveals the mistaken notion that Euro-Mediterranean misunderstandings are rooted in a vaguely defined realm of culture rather than being the result of concrete political problems such as weak European support for a solution to the Israeli-Palestinian conflict or blatant economic inequalities.

46. EC COM (2003) 294 final; Council of the European Union (2003): MED 41 COHOM 35.

47. Gillespie, Richard (2002), 'The Valencia Conference: Reinvigorating the Barcelona Process?', *Mediterranean Politics* 7(2) Summer 2002, pp.105-114, p. 108.

48. For the statute see: www.europa.eu.

int/comm/external_relations/euromed/publication/2004/euromed_report_80_en.pdf. The Euro-Med Cultural Foundation based in Alexandria will bear the name of the former Swedish Foreign Minister murdered in 2003, Anna Lindh. Sweden was intensely involved in the attempt to revive the third chapter through cultural dialogue initiatives. Gillespie, Richard (2004), 'Reshaping the Agenda? The Internal Politics of the Barcelona Process in the Aftermath of September 11' in Jünemann, Annette (ed.), *Euro-Mediterranean Relations After September 11. International, Regional and Domestic Dynamics*, Frank Cass London, pp. 21-36, pp. 25-26.

49. See Euro-Mediterranean Conference of Ministers of Foreign Affairs, Naples 2-3 December 2003, Presidency Conclusions (http://www.europa.eu.int/comm/external_relations/euromed/conf/naples/conclusion_en.pdf).

50. "Tunisia Lawyer Ends Hunger Strike", BBC News 10.12.2003 (<http://www.news.bbc.co.uk/go/pr/fr/-/2/hi/africa/3307909.stm>). On the need of a protection policy for human rights defenders see FIDH (2003).

51. This led some civil society activists to hold a counter-forum. For a summary of the event see Jünemann, Annette (2003), 'Forum Civil EuroMed: Critical Watchdog and Intercultural Mediator', in Panebianco, Stefania (ed.): *A New EuroMed Partnership Cultural Identity*, Frank Cass London, pp. 84-107, 6-7. On Spain and the EP see Jünemann, Annette (1999), *Europa's Mittelmeerpolitik im regionalen und globalen Wandel: Interessen und Zielkonflikte*, in: Zippel, Wulfdiether (ed.), *Die Mittelmeerpolitik der EU*, Nomos-Verlagsgesellschaft, Baden Baden, pp. 29-64, p. 49.

52. The secretariat of the NGO platform for the Euro-Mediterranean Civil Forum is based at the Euro-Mediterranean Human Rights Network (EMHRN) headquarters in Copenhagen, which also gives regular updates on the initiative at www.euromedrights.net. For Foreign Minister recognition see Euro-Mediterranean Mid-Term Meeting of Ministers of Foreign Affairs, Dublin 5-6 May 2004, Presidency Conclusions (www.europa.eu.int/comm/external_relations/euromed/conf/dublin/concl.pdf).

53. EU government officials regularly attend trials in SMPC countries and did so in this case. Attending trials appears to help ensure greater fairness of proceedings.

The 'cultural shift' also risks weakening support for civil society actors with a pluralist and developmental agenda. The Presidency Conclusions of the Foreign Minister Conference in Naples in December 2003 simply failed to mention political notions of civil society. The contributions that civil society can make to the partnership have been relegated to participation in economic, social and cultural EMP programmes.⁴⁹ While this certainly reflects SMPC preferences, it would have been feasible to stick to the original standards of the Barcelona declaration. An official visit by French President Chirac to Tunisia in December 2003 reflected the same tendency. Chirac declared that Tunisia was much more advanced in human rights questions than other countries when it comes to the social and economic dimensions. The context in which this was said amounted to ridiculing demands for political and civil rights by Tunisian civil society activists who had been on a hunger strike for several weeks. At the same time, the European Commission has supported local human rights organisations and encountered much obstruction by the Tunisian government. It is therefore surprising that human rights defenders are not given political support alongside such grants to ensure that funding is really effective.⁵⁰

Spanish governments have kept a low profile with regard to human rights, too. In the early years of the EMP, Spain sought to limit the role of the European Parliament in Euro-Mediterranean relations because of its strong human rights agenda. It also did not favour human rights being dealt with at the first Euro-Mediterranean civil forum in Barcelona in 1995. Until recently the host of the Foreign Minister meeting, which is the government holding the EU presidency, could name a national civil society representative to organise a civil forum. In the case of the first forum in Barcelona, the Spanish government opted for a cultural profile to avoid political conflict.⁵¹ In order to avoid government domination of civil forums, a reform process was initiated by a platform of Euro-Mediterranean NGOs and networks in 2002 to ensure the participatory, representative and inclusive character of the civil forums. This has been supported by the European Commission and was positively recognised by Euro-Mediterranean Foreign Ministers in their mid-term meeting in May 2004.⁵²

Coordination among EU member states embassies in SMPC countries has a weak record where raising human rights issues with host governments is concerned. The arrest of visitors at a debating intellectuals' salon in Syria before the event had even started in October 2003 – the waiters were also arrested – was not even condemned by the EU locally because one member state opted against doing so.⁵³ At the time the EU was engaged in what was expected to be the final negotiation phase of the EU-Syrian Association Agreement, which may have influenced the decision to keep a low profile. However, the stance indicates a general trend rather than an exceptional decision in an individual case. According to informed sources the negotiations for a stronger clause on weapons of mass destruction demanded by the EU led to a sidelining of human rights and civil society issues.

Political concerns have also had a negative effect on mainstreaming human rights and democracy into MEDA country programmes. The condition put to the Egyptian

authorities regarding association laws in the National Indicative Programme 2002-2004 was very lightly put. The document calls for a “reasonable regulatory and legal framework” for CSAs. Admittedly the EU has manoeuvred itself into a difficult position as economic liberalisation programmes have strained SMPC stability. However, the direct causal link between increased space for civil society and internal stability is not always evident. In the Egyptian case it does not seem very plausible that a loosened grip on CSAs would increase the likeliness of social unrest among young unemployed people, which is mentioned as only major cause for instability in the EU Country Strategy Paper.⁵⁴

These examples illustrate the contradictory signals sent to SMPC governments and civil societies by different EU actors within the EMP framework. Considering that the protection and promotion of human rights constitutes a key objective of EU external relations, the current performance of EU governments in this regard is rather depressing. Foreign policies that put security interests above human rights not only obstruct reform and damage the credibility of human rights policies, but also risk setting off dynamics that increase instability in the EMP.

Concern with the potential political power of Islamic movements has resulted in the tacit acceptance of human rights violations against these and other opposition groups in the name of security and stable partner governments. This has led to absurd support for practices that defy any standards set by international human rights law. Violations of international human rights trigger responses that adversely affect the quest for long-term security in the Mediterranean. While human rights groups in SMPCs have called for international human rights standards to be applied to detainees from Islamic movements, the “securitisation” of Islamism in the aftermath of September 11, 2001 has increased Europe’s willingness to overlook violations.⁵⁵ There is no doubt that violent Islamic movements are a serious national, regional and global security threat. But the dividing line between appropriate security measures and broad repression has often been more than blurred in SMPC countries. A recent Tunisian anti-terrorism law, ironically adopted on the anniversary of the Universal Declaration of Human Rights in December 2003, is a case in point. The law defines terrorism in excessively broad terms as disturbing the public order and does not specify what means qualify as terrorist. In light of Tunisia’s record with limiting any independent civil society activism the law is a source of concern.⁵⁶

A full commitment to human rights regardless of the political convictions of the victims of abuse is wise for two additional reasons: first because of failure to be committed erodes the strongest claim of legitimacy of international public and human rights law, which is its universality. Actors such as the EU that claim human rights promotion as a key element of foreign policy will lose much credibility. It is interesting to note the experience of human rights groups in Egypt, which have been constantly accused of foreign links and which recently have gained greater local legitimacy precisely because they have also defended the human rights of Islamists.⁵⁷ Second, the partial acceptance of violations of international human rights law also risks promoting the radicalisation the EU is trying to avoid. Political marginalisation and indiscriminate state repression targeting militants, moderates and sympathisers alike have led to strategy shifts by opposition groups that include the use of force. This was apparent in Algeria in the 1990s.⁵⁸ The *Front Islamique du Salut* (FIS), a relatively inclusive and diverse melting pot of political activists with an Islamic outlook, were forcefully excluded from the political process with the military coup in 1991. After the coup, the FIS movement was repressed, with extra-judicial killings of FIS activists and thousands of arrests. In response, radical Islamic groups united to establish the militant *Groupe Islamique Armée* (GIA) and given their lack of prospects many former FIS activists joined the GIA.⁵⁹

The Egyptian Gama’a Islamiyah illustrates this flexibility in reverse. The jailed leaders of the movement renounced violence in 2002, and prison writings explain the shift as resulting from changing international circumstances: national autonomy is seen as being under threat and should not be undermined. Egyptian authorities apparently created a positive climate for this change by allowing discussion groups in the prison joined by pro-regime religious scholars. Analysts have also pointed out – confirming theories about political opportunity structures and Islamist violence – that the Gama’a Islamiyah was offered an opt-in strategy by the Egyptian authorities.⁶⁰

Security Limits on Human Rights?

54. Euro-Med Partnership Egypt: Country Strategy Paper 2002-2006 & National Indicative Programme 2002-2004 (www.euroopa.eu.int/comm/external_relations/egypt/csp/02_06_en.pdf). For the condition see Egypt National Indicative Programme 2002-2004, p. 35.

55. More detailed research is needed on new challenges for judiciaries resulting from difficulty in rendering judgement on the basis of publicly available information. The controversial acquittal of a suspected aid to the attackers of September 11, 2001 by a German court on 6 February 2004 due to incomplete evidence has highlighted this problem and the insufficient cooperation by US state security services.

56. Amnesty International, Tunisia: New Draft Anti-Terrorism Law Will Further Undermine Human Rights, Amnesty International briefing note to the European Union EU-Tunisia Association Council 30 September 2003, AI Index: MDE 30/012/2003. The law was adopted on December 10, 2003.

57. Grüner (2004), p.146.

58. Hafez, Mohammad M (2004), ‘From Marginalisations to Massacres. A Political Process Explanation of GIA Violence in Algeria’, in Wiktorowitz, Quintan (ed.), *Islamic Activism. A Social Movement Theory Approach*, Indiana University Press, Bloomington/Indianapolis, pp. 37-60. For similar observations in Egypt see Hafez, Mohammad M. & Wiktorowitz, Quintan (2004), ‘Violence as Contention in the Egyptian Islamic Movement’, in Wiktorowitz, Quintan (ed.), *Islamic Activism. A Social Movement Theory Approach*, Indiana University Press, Bloomington, Indianapolis, pp. 61-88; Toth, James (2003), ‘Islamism in Southern Egypt: A Case Study of a Radical Religious Movement’, *International Journal for Middle East Studies* 35, pp. 547-572, p. 561.

59. Hafez (2004), p. 46f.

60. According to some analysts, the Egyptian authorities follow the divide and rule-strategy by encouraging various moderate Islamist groups to counter the growing strength of the Muslim Brotherhood. Analysts also cite that Gama’a Islamiyah-leaders may have wanted to differentiate themselves from al-Qaeda. See “Rethinking Militancy”, *Al-Ahram Weekly*, 28 August-3 September 2003.

The dynamics of political opportunity structures and movement behaviour is not unique to Islamic opposition movements: there is general theory about opposition movements in politically marginalizing and repressive settings.⁶¹ This is not to say that Islamist ideology does not influence the political behaviour of Islamist groups but rather that such ideologies can change with changing structural conditions. Individual Islamist movements and parties have been willing to accept democratic rules and moderate Islamist movements have participated in political systems in varying patterns all over the region. The government coalition of the Welfare Party in Turkey is one of the more recent prominent examples. In Morocco, an Islamist party has been represented in parliament since 2002. Similarly, intellectuals with Islamic worldviews from the region have long engaged in debates about how democracy, participation and international human rights can be reconciled with Islamic thinking.⁶²

The tacit invalidation of human rights standards for some is just another facet of what is perceived as a double standard with regard to violations of international law in the region. It is not exaggerated to state that this phenomenon is the one that has most angered societies in SMPC countries. More consistent EU member state human rights policies would therefore help to base the EMP on a partnership between civil societies that respect values of human rights.

Limiting Civil Society for Economic Development?

The second reason that has led governments to adopt a stricter stance toward civil society is social tensions induced by economic adjustment and liberalisation. Since governments fear social unrest, CSAs – be they trade unions or other advocacy groups – have been reined in. In the early years of the Barcelona process researchers were already arguing that economic liberalisation has a negative impact on human rights and political liberalisation.⁶³ Since economic reform is a key priority in the EMP, however, the readiness of EU governments to take a clear stance on legal guarantees for civil society space has been rather low. But accepting encroachments on civil society space for the sake of economic development is erroneous: without more participation of socially and economically marginalised people, security risks will increase despite economic reforms.⁶⁴ Civil society constitutes a realm for the organisation of such economic and social interests. Civil society actors can thus contribute to translate economic reforms into sustainable economic development – which is certainly one of the best ways to bring the Euro-Mediterranean Partnership close to the people.

The role that an inclusive civil society can play in promoting economic development is not a new insight and is implicit in EU development policy. Policy-makers in the SMPCs have adopted this discourse, but civil society conditions in these countries show that the prerequisites underlying these development strategies have been ignored. According to these strategies, civil societies are essential for economic growth because as expression of a pluralist society they foster creativity and innovation.⁶⁵ In other words the emphasis is on pluralism. This calls for a legal framework guaranteeing space for pluralism and, concomitantly, innovation.

Restrictive legal frameworks do not allow CSAs to promote pluralism and participation. Associations tend to reflect authoritarian governance patterns in internal organisation structures.⁶⁶ While the concentration of decision-making power and top-down management are also linked to the prevalence of paternalistic social structures, these patterns are strengthened by arbitrary state governance. When every piece of information can be used potentially against associations and their members, the former are driven to adopt exclusive governance structures. Further, a restrictive legal framework does not allow CSAs to effectively promote economic, social and human development. Community development associations are constrained by association laws that do not allow them to cooperate with foreign funders, for example. Equally obstructive is the absence of legal guarantees that demands for legitimate social rights will not have negative repercussions. One observer cites a poor street vendor in Cairo saying if he were to embark on collective action for labour rights with fellow street vendors, this could lead to his arrest, citing the emergency law in place in Egypt since 1982.⁶⁷ Whether this would indeed happen is less significant than the effect a restrictive legal setting has on civic action. Put in direct economic costs, the informal shadow economy inflicts heavy losses of income on regular shop owners and thus on state tax revenues. A collective bargaining counterpart would therefore actually be in the best interest of the Egyptian state.

61. For a concise overview over these debates, see Hafez & Wiktorowitz (2004), pp. 66-70.

62. For in-depth analysis of these trends see, for example, Salvatore, Armando (1997), *Islam and the Political Discourse of Modernity*, Ithaca Press; Krämer, Gudrun (1999), *Gottes Staat als Republik. Reflexionen zeitgenössischer Muslime zu Islam, Menschenrechten und Demokratie*, Nomos Baden-Baden.

63. Kienle (2000).

64. See for example UNDP (2002), p.1; Sen, Amartya (1999), *Development as Freedom*, Oxford University Press, Oxford/New York, pp.150-151.

65. Wurzel, Ulrich (2003), *Why Investment in Civil Society is an Investment in Economic Development: The Case of the Southern Mediterranean*, EuroMeSCo paper 25; Sen (1999), p.148. Sen points out that the conceptualisation of economic needs crucially depends on open public debates.

66. UNDP/ Arab Fund for Economic and Social Development (2002): *Arab Human Development Report 2002: Creating Opportunities for Future Generations*, New York/Amman; Bayat (2000); Ben Nafissa (2001).

67. See Bayat, Asef (2002), 'Activism and Social Development in the Middle East', *International Journal of Middle East Studies* 34, pp. 1-28, p. 10.

Finally, lack of civic activism encourages corruption, which is itself a major obstacle to economic development. As the incentive structure for civic engagement is low due to the unpleasant repercussions this potentially entails, people prefer to turn to state institutions on an individual basis. State institutions have been the major provider of welfare because of the predominant state-led development model in the region. Although turning to state institutions is not a bad thing, researchers have observed how the inability or unwillingness of state bureaucracies to respond to individual demands encourages people to seek informal connections and bribes to achieve their aims.⁶⁸ In this context prospects for narrowing gaps in the Euro-Mediterranean region are limited unless policy makers on both sides support more determined action to promote space for civil society.

In recent years, EMP policy-makers have shifted their attention to the cultural dimensions of civil society cooperation in order to give the partnership a societal base. Promoting developmental and pluralist notions of civil society is at least as important as cultural exchange, however, if the aim is to bring the partnership close to the people. Because civil society can manage economic, social and political conflict in a public dialogue and debate, it is a key feature of a governance system enabling dialogue within and between societies. Recent developments in SMPC civil societies and their impact on pluralism and participation have been ambiguous. While civil society associations have grown in number, legal and administrative tools of SMPC states largely control the space for civil society. Actors that advocate structural change face particularly difficult constraints. EU policy-makers have not supported space for civil society consistently, as illustrated by incoherent human rights policies, and yet the rule of law and human rights are an essential condition for a functioning civil society. Political support for civil society is all the more necessary as MEDA funds to CSAs promoting human rights and democracy have proven – not surprisingly – to be too marginal to achieve large-scale changes.

However, human rights policies have been compromised by concerns about stability and short-term security. EU policy-makers have found common ground with SMPC governments here, but they risk losing societies. Incoherent human rights policies not only risk promoting radicalisation that endangers Euro-Mediterranean security but also prevent civic values from taking root – a prerequisite for vibrant civil societies in the first place. EMP policy-makers should assess these long-term security costs.

V. Implications for EMP action



⁶⁸. Bayat (2000), p. 10. On the negative impact of corruption on economic development see Greene, Niall (2003), Bayat (2000), p. 10. On the negative impact of corruption on economic development see Greene, Niall (2003), Corruption and the Challenge for Civil Society, EuroMeSCo Paper 24.

Recommendations

■ SMPC countries should pursue reform efforts that create space for civil society. Steps taken by some of these countries in that regard over the last decade must be welcomed. However, a framework for participation that accepts advocacy as much as welfare associations is necessary to achieve the long-term stability that the Partnership aspires to. Such a framework should include legal guarantees and the practical implementation of freedom of opinion, expression and association.

■ The EU should support southern partners' in reform efforts with consistent human rights policies. The November 2003 EU Council Declaration reaffirms human rights as an essential element of Euro-Med relations and acknowledges the need for more serious efforts to improve the situation of human rights and democracy in the region. EU member states should now put this into practice and support Commission efforts to ensure consistent human rights policies and to mainstream democracy and human rights into EU-SMPC relations.⁶⁹

■ Political dialogues serve to create positive rather than negative conditionality in EU human rights policies but the effectiveness of the 'soft approach' is debateable, which is why civil society actors have called repeatedly for the EU to make tougher use of the essential elements clause in Association Agreements with regard to human rights. 'Soft' instruments must be used effectively to be meaningful, which means that political dialogue should be more substantive and not shy away from controversial issues.⁷⁰

■ The vision of a pluralist, inclusive civil society should structure political dialogues as suggested by the European Commission in its May 2003 Communication. Association laws and actual administrative practices towards CSAs and freedom of expression could be used as indicators. Obstacles faced by Human Rights Organisations (HROs), urban and rural CBOs and Islamic organisations supporting pluralist values should also be considered. It is telling that most material available on civil society constraints does not look at these organisations in depth. Positive developments such as the creation of the National Human Rights Councils in Egypt or a Truth Commission in Morocco should be closely followed to observe their impact on governance as a whole. They should not serve as fig leaf to distract attention from negative developments.

■ Euro-Med foreign ministers in Naples in December 2003 welcomed human rights promotion with MEDA support on a voluntary country-by-country basis. Some SMPCs have established sub-committees on human rights within the framework of Association Agreements. This translates into the release of additional MEDA funds. However, this positive incentive mechanism should not spare countries less willing to embark on a more substantive human rights dialogue.

■ Policy-makers should consider re-introducing specific Euro-Med budget lines for civil society in support of human rights and democracy. They should also ensure budget allocations for civil society programmes in all NIPs. Euro-Med support through the EIDHR is currently minimal. While European Commission efforts to mainstream are important, consulting with SMPC governments on country strategies and national indicative programmes has given ruling elites in SMPCs a veto on whether and how civil society groups are supported. At present, not all NIPs allocate funds to civil society.

■ As in the case of political dialogue, 'soft' instruments in MEDA programmes that have become available through mainstreaming should be used in a substantive manner. Issues of concern should be clearly addressed in NIPs. The condition regarding association laws included in the NIP for Egypt 2002-2004 demonstrates that there is room to sharpen this tool. Demanding a "reasonable regulatory and legal framework" is too wide a formulation for SMPC governments to be held accountable effectively.

■ Mainstreaming of democracy and good governance should mean that measures to support good governance should also target the administrative bodies that now largely control civil society organisations. Thus far assistance for administrative reform as part of good governance promotion has focused on sectors with direct links to economic cooperation, such as trade ministries and has not had an impact on wider patterns of governance.

■ Consultation with CSAs when implementing MEDA support should be strengthened, activating MEDA regulation provisions. This could be a strong tool, by translating discourse about participation into daily practice. Some NIPs include such provisions at present, but the EU should monitor closely whether participation

69. Council of the European Union (2003): MED 41 COHOM 35.

70. This has also been pointed out in EC Com (2003) 294 final.

extends beyond GO-NGOs, as farcical cooperation discredits civil society and its values, along with democracy and human rights.

- SMPC reforms should be encouraged by European partners by showing political will to make concessions in policy fields that directly affect the economic and social situation in partner countries, such as agriculture, both in EU-SMPC relations and WTO negotiations. EU policy-makers would be sending a positive signal to SMPCs and enhancing their bargaining position with regard to human rights.
- The diverse realities of CSAs require donors to identify actors that can promote the quest for inclusive, participatory societies. Project evaluations should check internal governance structures of applicant organisations and the impact that organisations have on governance settings.
- Donors should encourage CSAs to focus more on their constituencies, which can be achieved by reducing administrative burdens, whilst still ensuring transparency and accountability. In order to avoid donor-driven civil society agencies, programming should be participatory so that programmes reflect the needs of civil society organisations and their constituencies. Small project funds administered by EC delegations are a good tool. Staff in donor organisations should also be aware of local politics, societal structures, discourses and needs. Locally based staff should be able especially to navigate in an environment where foreign language skills are not developed. This will facilitate reaching actors in civil societies that often find it difficult to access funding.

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