



Political Liberalisation and Transition to Democracy: Lessons from the Mediterranean and Beyond Morocco, Turkey, Spain and Portugal

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Executive Summary

This Report was prepared in the context of research programme of the EuroMeSCo network of independent research institutes and university centres dedicated to the analysis of Euro-Mediterranean issues. It is the product of a collaborative project involving the Institute of Strategic and International Studies (IEEI) of Lisbon, Portugal, and the Research and Social Sciences Study Centre (CERSS) of Rabat, Morocco. EuroMeSCo has organized annual research seminars for the last five years on “priority” topics, which aim to bring together various researchers involved in EuroMeSCo projects and external experts, to discuss the project findings and promote cross-fertilisation. In 2006, the EuroMeSCo Secretariat and the CERSS organised a research seminar in Tétouan, in Morocco on Democratization and Human Rights, at which four approved EuroMeSCo research projects were debated. One of these was on *Political Liberalisation and Transition to Democracy. Lessons from the Mediterranean and Beyond: The Case of Morocco, Turkey, Spain and Portugal*. This report is a product of that research project.

The Report reflects on the lessons that might be learned from these experiences with processes of political opening or liberalisation and subsequent transition to democratic rule. It consists of an exercise in comparative political study, one of the major scientific methodologies for the discovery of what is unique and what is shared between countries and cultures. The comparative approach permits a flexibility and breadth of study, without sacrificing rigor, and brings to life the specificities and shared characteristics and dynamics of societies in a way that is not possible with quantitative analyses.

There is often a tendency, when discussing democratisation, to set up already democratic countries as ideal types or models. Sometimes this happens because observers really do consider some democracies to be models worthy of imitation; sometimes “really existing democracies” that have flourished for prolonged periods of time take on the role of « ideal types » by default; when more “established” democracies are compared with a less established one, the stronger of the two can often emerge as a “model.” While some hierarchical notion of performance and quality must exist (some democracies work better than others), the goal here is not to set up the older comparators (Portugal and Spain) as ideal type models, to be “followed” or imitated by the newer, or less deep, democracies (Turkey) or by countries still undergoing a process of liberalisation of authoritarianism (Morocco). Rather, the goal is to illustrate how countries that are historically, socio-culturally, economically and politically diverse share many common challenges; and equally, how, by virtue of their differences, have found different solutions to similar problems. In some cases, the experience of one may serve another (as the post-authoritarian purges in Portugal were found by many in Eastern Europe to provide useful lessons for their post-communist societies); in other cases, the lesson to be learnt from another experience is what not to do (as in the case of Spain, which opted for a hyper-controlled, negotiated transition in good measure because it did not want to be “another Portugal”); and yet in other instances, comparisons will highlight that there are sui generis issues (Western Sahara in Morocco, say, or the specificity of military ties with the state in Turkey) that may find faint echoes elsewhere but that ultimately have to be addressed on their own terms. In short, while some elements of democracy must be exactly the same everywhere to qualify as democratic (regular, competitive elections, say, or a constitution that ensures the division of powers) in many ways there will be and can be a high degree of variability.

A note on theory and the use of terms. Democracy is the “essentially contested concept” par excellence, and so the precise content of the term itself and so the meaning of associated terms such as democratisation, democratic deepening, “consolidation” and others are equally the object of much debate and controversy. This Report does not aim to clarify those debates, as its purpose lies elsewhere. However, readers should be aware that any such terms are not uncontroversial or entirely clear. Very simplistically, democracy can be conceived in minimalist terms as participatory competitive elections and rule of law government with a division of powers and the protection of basic human and political rights), or it can be conceived of more substantively (in which case, social and cultural rights also come into play, and the socio-economic domain becomes enmeshed in the political). The evaluation of the experience of any given country will obviously be coloured by the view that one adopts of democracy and democratisation. This Report does not take a specific “party line” on this issue, although by default, it has eschewed a focus on more socio-economic issues. Suffice it to say that while it makes sense to conceive of democracy and democratisation in “thin” terms, it is equally the case that a democracy based solely on competitive elections where a majority of the population have trouble surviving and reading is one that is less likely to satisfy one’s sense of success than one that is “thick” or can provide socially, culturally and economically for its citizens.

There is a vast literature on the subject of democratisation and innumerable comparative studies of processes of liberalisation and transitions to democracy. This report draws on such studies, but its aim is not to provide extensive and detailed coverage of the theoretical debates. Rather, it is to cover various areas and give readers a flavour of the main issues and points. The report adopts wider than usual thematic breadth, covering areas as diverse and civil-military relations, religion and democracy and the role of the media in democratisation. It therefore draws on a variety of sources beyond those normally used in less wide-ranging comparative studies of democratisation. Because of its breadth, the richness of the literature in each thematic area is not reflected fully in the study: again, the aim is to give a flavour of the debates and issues. The report is intended to cater to a broad audience within the Euro-Mediterranean “community” rather than to specialists; it intends to provide that diverse audience with general information and key points about each thematic area rather than with detailed comparisons, although by providing “boxes” of information, it complements the generalist approach with an attempt at more detailed coverage. Ultimately, the aim of this report is to provide Euro-Mediterranean policy-makers, students, non-governmental agents and other non-specialists with an overview of the many complex issues involved in processes of democratisation, and to show how the experiences of successful democratisation in some countries can provide clues about similar processes elsewhere.

The report is organised thematically, covering 8 basic issue areas, with relevant examples taken from each of the case studies assessed under each thematic heading. The first chapter shows how defining the “rules of the game” is one of the founding moments of any process of transition away from authoritarian rule to democracy. The second chapter shows how political parties are the central vehicle for representation in a democratic system, and so their development and programmatic stance is of crucial importance in any process of liberalisation and future democratisation. The third chapter shows how one of the key elements in any process of transition to democracy is the reform of the forces of law and order. The fourth chapter shows the role that civil society has played in pushing for democracy in the countries under study, and to understand how a “social consensus” was established around the need to push for democratic game rules in a way that did not destabilise that process. The fifth chapter *shows* the role that the media – both printed and other – have played in the politics of liberalization and transition in these countries and how their experiences might provide lessons for other countries. The sixth chapter shows how one of the key issues facing any new government in the wake of a transition away from authoritarian repressive rule is how to deal with the legacy of past human rights violations, and highlights how different countries have pursued both official and social memory making and addressed a past of authoritarian violence. The seventh and final chapter looks at the role that international actors have played in the countries under study, and what lessons can be derived from these experiences for other democratising societies.

The Report was written by Alexandra Barahona de Brito, Senior Associate Researcher with the IEEI, and includes contributions from Abdallah Saaf, Director of the CERSS, and Meliha Benli Altunisik, Professor at the Department of International Relations at the Middle East Technical University in Ankara, Turkey. The comments received from two anonymous reviewers were also extremely helpful to the author of the report. The assistance and support of Bárbara Direito, associate researcher with the IEEI is gratefully acknowledged.

I. The Legal Arena

Constitutional Reform: Framing the Rules of the Game

Defining the “rules of the game” is one of the founding activities of a process of regime change or transition from authoritarian rule to democracy, as non-democratic laws and practises have to be institutionalised, and replaced by new democratic rules. What has been called “constitutional engineering” is central to the politics of transition and democratization. How different countries opt for different rules, institutional frameworks and systems of representation, negotiation and decision-making, and how choices vary according to national historical traditions and the new demands posed by a new democratic dispensation, are crucial issues in the politics of transition. New or reformed constitutions have an impact on fundamental institutional adaptations to democracy, affecting relations between the military and civilian authorities, the nature of the party system, the attributes and powers of the various branches of government, including monarchs, the choice between parliamentary or presidential systems of governance, and the nature of law-making and the place of jurisprudence in the political process. Constitutional engineering is even relevant in areas where democracy has become “consolidated” such as the EU, where there has been an intense constitutional debate only recently.

The Significance of Constitutions

National laws and institutions provide the “skeleton” of the political incentive system. They shape political behaviour and the exercise of power, telling actors where the limits on political action lie, what is allowed and what is not permitted. Constitutions are at the apex of the pyramid of national laws and norms: they are the basis of the “social contract,” the “rules about the rules” or the “meta-rules” that establish hierarchies, competences, and relations between different political actors and institutions, which ensure environmental predictability, consistency. Constitutional game rules are the bedrock of political legitimacy, as the rules contained therein are assumed to be “blind,” or not purposely discriminatory against any specific groups: when governments violate constitutional rules, or manipulate them to their own benefit, this invariably leads to a loss of legitimacy of governing elites.

What Kind of Constitution

There has been much debate about whether constitutions should be skeletal or substantive, whether they should determine not just the form but also the substance of politics (for instance not just sanctifying private property but also determining basic social and economic or welfare rights (rather than just stating a generic commitment to fair pay, specifying the minimum wage, for instance). It has been argued that because constitutions are meant to be binding in inter-generational terms, they cannot be substantive, but only pronounce themselves of those things that are “self-evident.” Thus, many observers have noted that the level of detail and substantive commitments made in the 1988 Brazilian constitution, for instance, has introduced a great rigidity to the system and made it difficult to promote flexible policy-making and create broad room for political negotiations among parties, and between government and opposition.

Constitutional Processes

Not all countries undergoing regime change engage in “constitutional engineering.” Indeed, some democracies, like the British or Israeli, do not even have a written constitution. And constitutional reform processes can take many forms: some are mere exercises in reinstating and moderately revising constitutions that existed before the breakdown of democracy, as was the case of Argentina, Bolivia, Greece and Uruguay, and most of the Eastern European countries, where old communist constitutions have only suffered minor revisions; others are more prolonged and substantive processes that culminate in the creation of entirely new constitutions, often with the establishment of a constituent assembly. The nature of constituent assemblies also varies, but it is generally acknowledged that the best kind of arrangement is one that involves the elections (not selection) of the members of the constituent assembly, that the rules are determined by a broad majority and then ratified by the population.

Other new democracies experience great difficulty with constitutional reform due to inbuilt “knots” established by former authoritarian regimes to raise the bar to make amendments (as in the case of Chile, where the majorities necessary to change the constitution are extremely difficult to obtain, given the broad political-institutional framework).

Morocco is a constitutional hereditary monarchy, and although it has not undergone a constituent process as part of the dynamics of regime liberalisation, various reforms were introduced to the 1972 Constitution in 1980, 1992, and 1996. The most important “democratising” constitutional reform occurred in 1996. Following a referendum on 13 September, 99.56 percent of voters approved reforms to establish a bicameral legislature. This established that a House of Representatives would be elected by universal suffrage, and that a House of Counsellors would be elected by indirect suffrage. Thus far the second chamber has not shown much willingness to confront the first and thereby risk its existence, so that the democratising effect of the reform remains pending and the conflict between the logic of democratic and of associative representation continues. Further, despite the gradual process of reform of the “rules of the game” in the context of a broader process of political liberalisation, underlying undemocratic power structures remain very resilient, as the so-called *makhzen* (the administrative, legal and military structure of the state) continues to operate according to traditional patterns of behaviour that contradict a rule of law based normative values. Under the former king, state officials were seen as “loyal servants” to the throne (*khudama*) rather than as representatives of the “people.” This system of dual authority – constitutional and traditional – continues to exist today, albeit in a mitigated form. The former king used repression to preserve the traditional authority underlying modern state institutions, while his successor has tended more toward consensus-building and cooptation, and many member of the “old guard” have been replaced by new blood, which also now has to operate in the midst of new social and political forces. But the new king still resorts to his unique authority to bypass “game rules” and established procedures. While his intention may be liberal or pro-democratic, this discretionary by-passing of rule of law institutions weakens the notion that citizens and government agents, including heads of state, are all equally subject to the rule of law.

Turkey has had three constitutions since its foundation (1924, 1961, and 1982). In the 1990s, it initiated a series of reforms to broaden fundamental freedoms and rights and liberalise the polity. A package of amendments in 1995 abolished a series of restrictive articles and preamble on the people’s will to accept military rule, and in 2001 a further reform led to the amendments of more than one-fifth of the 177 articles of the Constitution. The section in the preamble stating that “no protection shall be afforded to thoughts or opinions contrary to Turkish national interests” was altered, with the terms “thoughts and opinions” being replaced by the word “actions.” Other amendments were introduced to prevent torture, strengthen civilian authority, increase individual freedom and security, including the right to privacy, the inviolability of the domicile, and freedom of communication and of speech (with an impact on the use of the Kurdish language), and freedom of residence and movement, association, and also to promote gender equality.

The degree of changes that must be incorporated into a new constitution will vary from country to country, depending on the extent to which conditions have changed. Thus, constitutional processes may involve taking new frontiers, ethnic groups with collective right demands, and newly enfranchised citizens into account.

The timing of constitutional reform processes may also vary, but experience suggests that game rules should be established early on, while a Rawlsian “veil of ignorance” is still in place and actors are not yet able to work out which rules would be especially beneficial to themselves, or detrimental to their perceived opponent. Although the process of constitutional engineering or political rule-making varies from place to place, in all instances, the aim is to “found” a regime that is legally and morally different (and supposedly superior) to its non-democratic predecessor.

The case of **Portugal** shows how “constitutional engineering” and the power arrangements enshrined in a constitution during a transitional moment and beyond reflect the shifting balance between political and ideological forces. It also exemplifies a process of consolidation of a stable liberal democracy in the context of European integration and of the decline of socialism, both at home and abroad. Portugal adopted a new constitution in 1976, three years after the rupture with the dictatorial regime. It was drafted by a Constituent Assembly, made up of members of the political parties and the Armed Forces Movement (MFA). Given the power of the radical left parties within the Constituent Assembly (they has a 60 percent representation within it), the ideological battle was intense. Although a liberal democratic, parliamentary system was adopted, headed by a prime minister and president, the new Constitution also proclaimed that the aim of the Republic was to “ensure the transition to socialism,” and Worker Committees were granted the right to supervise businesses and be represented on the boards of state-owned enterprises. The Constitution also created the Council of the Revolution, which made the MFA as an almost co-equal branch of government, able to advise the president, and ensure that new legislation was

harmonious with the “Revolution.” From the outset, there were many objections to the “socialist” and “military” aspects of the Constitution, and in 1982, after the decline in the power of the radical left and the Communist Party, the first amendments were introduced. In 1989, there were a further series of amendments that eliminated the “socialist” references and concomitant economic restrictions, allowing for the privatisation of state assets and nationalised businesses.

In contrast with Portugal, transitional democratic reform in **Spain** involved no radical rupture, but was rather carried out under the legal framework of the dictatorship. Constitutional reform reflected the consensual nature of the transition process. This consensus concluded with the end of the transition, which can be identified either with the overcoming of the coup d'état in 1981 or the first electoral alternation with the victory of the PSOE in 1982. The subcommittee of the Cortes Constitutional Committee, which was selected to draft the new constitution, was made up of members of the three main parties, the UCD, the PSOE, and the PCE, as well as members of regional parties. A long and arduous process, the final draft was a result of a broad consensus between the UCD and the PSOE, and was approved by a large majority of both legislative chambers and then approved by 88 percent of voters in a referendum held in 1978. The nature of the constitution also reflects the desire and need to obtain a broad consensus among previously (and still, in some cases) conflicting parties: it is what has been called a *garantista* constitution that gives all major political actors a share in power, as reflected in opening for a process of regionalisation or federalisation of what Franco established: a unitary state. The nature of the Spanish constitutional process clearly reflects the peculiarities of the Spanish transition: namely the desire to build a consensus after decades of partisan violence and conflict and even Civil War, and the need to address a historically contentious issue that was suppressed under dictatorial rule, the autonomy of the regions.

The Absolute but Relative Importance of Constitutions

Good rules are never going to condition the behaviour of actors entirely. Democracy is not a single regime, but various overlapping regimes, and it is also a social and economic phenomenon, and constitutions – and the broader legal framework – are not of themselves the sum of a democracy. However, constitutions are the meta-rules within which all other regimes are reformulated, and they reflect the rules according to which political power is distributed and the rights and duties of all members of the polity. Because of this, constitutional engineering does not end with liberalisation and transition to democracy. It continues as democratisation progresses.

While the constitutional issues is of the essence there are many institutional factors that will shape the way in which – and the degree to which – these rules will work. The way a future democratic regime is structured institutionally, the level of regulation of political activities, will shape the way the constitutional « actually works. Also regarding the content of constitutions, in addition to the abovementioned debate, other crucial elements that will shape the nature of democracy are the kind of state in question (central, federal, centralised, decentralised, degree of regionalisation, the existence or not of autonomous regions or areas), the nature of the balance between the three power, notably the degree to which the executive is submitted to oversight by the other two, the insertion of social and cultural rights in a constitution's normative framework.

As political, social and economic realities change, so the “game rules” are adapted to take them into account. Since democracy is not an end state, but a process that has no definite end point, the politics of constitutional reform remains a feature of democratic life. Although there has been no ongoing constitutional debate in Spain since 1978, there has been renewed constitutional discussion in the country prompted by peripheral nationalist parties and sectors of the Socialist Party, which favour a “plural Spain” and thereby raising the contentious issue of regionalization or greater autonomy and to give the Basque and Catalan regions greater federal powers. Portugal continues to debate constitutional and legal provisions on workers rights, with many arguing that excessively rigid labour provisions do not allow Portugal to make the leap into full economic modernity and competitiveness. However, it is during the transitional phase and during the early years of democratisation that the fundamental rules of the game are established. Morocco and Turkey are at earlier stages of that process, and they have some way to go before they attain the status of fully consolidated democracies.

Political parties and electoral systems, and the framework within which they must operate, are essential elements of democratic government. There can be no democracy without a pluralistic, competitive, ruled-governed party system through which regular elections are held. Parties provide the primary channels of communication and interest articulation between society and government. Thus, the consolidation of a stable party system has been deemed to be one of the crucial elements in a successful process of transition and democratisation.

There is intense and unresolved debate about which kind of party system is best suited to ensure the stability and quality of democracy. However, as with the debate about constitutions and institutions more generally, the central issue is not that there is an ideal model, but rather that some models may be more suited to some contexts than others. Indeed, the same model in two different contexts may produce different outcomes. What is clear is that a stable, predictable, rule-based party system is necessary to ensure that leaders can be selected, preferences aggregated, issues and policy options aired and debated in an open environment.

Changing Systems in Transition

Transitions do not always involve the reform of party systems, particularly as it may not be the electoral laws themselves that are at the root of any problems manifested by a political system. However, the emergence, reconstitution or reconfiguration of a party system is usually one of the elements that characterises a process of transition. Under dictatorial rule, parties may have been abolished altogether, partially prohibited (with moderate parties allowed to operate and “radical” parties banned), or the party system may have been artificially skewed by the creation of a “regime party,” which either disappears or is dissolved when a transition takes place. The nature of the process of constituting the post-authoritarian party system will differ according to the political structures inherited from the dictatorial past. The cases of Portugal and Spain illustrate two different paths, but with broadly similar long-term outcomes: the emergence of a dominant two party system.

In the case of **Portugal** the road to stability of a multiparty system was not a smooth or obvious one. As in Spain, the party of the dictatorship was dissolved, and all formerly clandestine parties were legalised. Before the political party system stabilised, however, there were ten governments between 1976 and 1987, testifying to an instability that had partly to do with the changing structure of the party system. After the 1987 and 1991 legislative elections, a dominant two party system began to affirm itself, around the Socialist Party (PS), the Social Democratic Party (PPD/PSD), which was originally the Popular Democratic Party), with a tendency for an alternation of power between the two. There are now five major political forces in the country: the PS and the PSD, the Portuguese Communist Party (PCP), the Popular Party (CDS-PP), which was once the Social Democratic Centre Party, and the Left Bloc (BE), which agglomerates a series of left-wing parties (there is also a small Green Party).

In **Spain**, there was a similar process of stabilisation of political party options between 1975 and the early 1980s. The Franco era National Movement was disbanded in 1977, the Communist party legalised, and the new system established in 1976 with the passage of the Political Reform Law. Spain adopted a system of proportional representation, but with various mechanisms to avoid fragmentation, as this was seen as one of the causes of pre-Franco instability and war. It is also a two level system: one national (the *Cortes Generales*) bi-party system moderated by smaller parties, ad hoc alliances and regular left-right alternation since 1978; and the other regional, with distinct party systems in some instances (the Basque Country and Catalonia). Unlike Portugal, there have been no coalition governments since 1977, but rather absolute majority governments or minority governments based on alliances with smaller parties. Until the 1982 elections, the political system was dominated by the Union of the Democratic Centre (UCD), and the Socialist party (PSOE), with the lesser Spanish Communist Party (PCE), the right-wing Popular Alliance (AP, previously the Democratic Coalition), and the regional and nationalist parties completing the picture. In 1982, the PSOE won an overwhelming victory, the AP became the dominant opposition force (the UCD ceased to exist), changing its name and image (now of greater centrist moderation, to Popular Party, PP), and the parties of the left united to form a coalition, the United Left (IU).

II. The Political Arena

Political Systems, Parties and the Problem of Disloyal Oppositions

Liberalisation and Party System Reform

Electoral reforms can be undertaken by new emerging transitional authorities, but they can also occur under authoritarian regimes or under semi-democratic regimes. It is usually only when reforms occur in a setting of a genuine transition to democracy that the political system is opened up for all groups to participate. When reform is initiated by non-democratic or semi-democratic authorities, the intention is usually to shore up the status quo by making some concessions to growing opposition forces, without actually fully democratising the political arena. However, intentions are not equivalent to outcomes, particularly in a context of uncertainty and liberalisation, so that reforms meant more to co-opt and contain can open a “Pandora’s Box” of unintended democratising effects that challenge the position of authoritarian or semi-democratic regimes. The case of Morocco is an example of a liberalising reform under authoritarian rule.

Morocco has held regular, relatively open and competitive local and legislative elections since the 1960s, but they have been criticised as a mechanism to co-opt the elite through a process of reward and exclusion, rather than as a means of political representation. In February 1997 a political charter was signed between eleven political parties and the Interior Minister to “consolidate the democratic regime founded on the monarchy.” The electoral rolls were revised (there were an estimated 4.5 million doubtful entries of a total of 12 million potential voters on the electoral roll), and a National Commission was established to supervise elections and prevent fraud. This was a crucial reform. In the 2002 elections, the List System was used, which allots proportional representation by party over individual candidates. These elections and the communal elections of 2003 seemed to signal a new era of transparency, and a shift from personalities to greater professionalism. The reform also favoured the Islamist Justice and Development Party (PJD) – which tripled its representation in parliament, from 9 to 38 seats, and became the leading opposition party. Women also benefited from the List System, gaining 35 seats in parliament (compared with 2 in the previous elections). A political party law was introduced in October 2005 to improve internal party management, the system for the public funding of parties, to promote party membership diversification (with quotas for women and youth), and ban religious, racial, regional, socio-professional, or linguistic references in party platforms. One of the most contested issues was the percentage of vote that a party should win to qualify for public funding. The new law obliges parties to convene at least every four years on pain of losing their right to the subsidy. It should be said that, despite the reform, party reform of itself has not produced real democratisation and may even have strengthened the status quo. The period of “alternation” government (1998-2002) was characterised by a relationship producing stability and continuity between regime and political parties. However, the party reform is now more pluralistic; it has permitted the emergence of a challenging new political force, the PJD, which is testing the traditional parties and forcing them to attempt to regain lost credibility and social implantation. The Palace and the PJD struck a deal to limit PJD political participation to a controllable degree, however, and the question remains whether the party will seek fully competitive participation in the next elections. Traditionally, the main problem of Moroccan political parties has been their inability to fulfil the function of political representation because of the predominance of patronage politics. The traditional parties will have to make efforts to broaden their social bases of support, and this dynamic may deepen the social implantation and democratisation of the party system. Another problem is the atomization of parties. Apart from the PJD, which has a strong social basis, the more than 20 parties that ran in the 2002 elections were mostly splits from existing parties. This fragmentation is one of the classic characteristics of a party system in transition; as liberalisation turns into democratisation, the tendency will be for parties to agglomerate and for political choices to become more stable and clearer.

The timing and duration of an electoral reform process is very important. Early on in the transition, or during liberalisation under authoritarian rule, the latter have much greater scope for controlling the reform process, while later on they may lose their capacity to direct events, as the political arena opens up. One of the most notable examples of prolonged reform is that of Mexico, which can be said to have undergone a controlled and very gradual regime transition from the late 1970s onwards, with periodic electoral reforms the primary aim of which was to sustain the dominance of the Institutional Revolutionary Party (PRI). The case of Turkey is somewhat reminiscent of the Mexican example: although there is no party in Turkey comparable to the PRI and the issue in Turkey is state reform rather than the demise of a dominant-party system, there has been a prolonged and gradual process of controlled change, in which increasing legally-enshrined pluralism has been combined with regular and selective legal repression of parties that have been seen as constituting a “threat” to the status quo, over two decades of liberalisation.

It should be noted that electoral and political party laws may help to promote rationalisation, but ultimately political life cannot be solely structured “by decree.” As the case of Morocco shows, such reforms may not reach deep enough to allow new social sectors to participate in politics fully, or to allow the political system to reflect deep societal tendencies.

The Problem of Disloyal Opposition

The issue of how has the right to participate in the political arena or not is a crucial aspect of the politics of electoral reform in transition. In most instances, dictatorial parties are not considered legitimate players and are dissolved, and all other previously suppressed parties are allowed to operate freely. However, as in the case of Germany, new democracies may decide that there are some ideologies that should be banned because they are inherently “anti-democratic,” and this may lead to the disbandment or outlawing of new parties with totalitarian ideologies.

This issue is essentially about how a liberalising or democratic polity should deal with “disloyal” political players. If authoritarian regimes are weakened and the most popular parties are not committed to democracy (disloyal) and are yet able to come to power through legitimate democratic elections, how should liberalising regimes and pro-democratic parties relate to that opposition, and how should they frame the constraints on the politics of transition to avoid a reversion to a new kind of authoritarianism. Can positive behaviour be induced among a disloyal opposition? It may not be necessary for all parties to be ‘true believers’ in democracy, as long as they decide that it is more profitable to behave democratically.

The concept of disloyal opposition is a difficult one, as it may clearly be used in an authoritarian sense, differentiating “acceptable” opposition forces from “unacceptable” ones in a non-democratic sense. However, as the classic example of the “disloyal opposition” during the Weimar Republic shows, the dangers of a an opposition or of political parties that are willing to violate the rules of the democratic game once they reach power, or on the way to power, is a real danger, not only to already existing democracies, but also in countries that are undergoing incipient processes of liberalization and transition from authoritarian rule. It can be all too easy to see parties that operate in opposition to authoritarian rule in a heroic light in much the same way as happens with “civil society,” a concept laden with positive connotations ever since de Tocqueville said it was “the only means of preserving freedom,” but particularly since the democratizations of Eastern and Central Europe. Parties in opposition to authoritarian rule, like civil society more generally, can also pose a threat to liberalization and the politics of transition to democracy.

Disloyal Opposition and Islamism

Many countries in the Arab world are facing this dilemma, particularly those that have shown a commitment to liberalisation of electoral politics. In many instances, the party or parties that most stand to benefit from liberalisation are Islamist parties, which many fear intend to use pluralism to establish a new form of dictatorship. In Morocco, for instance, the party system has been very focused around central power and the monarch, and has weak roots within the population – in contrast with, say, Chile, where partisan identities are strongly embedded. Because of the distance established between them and the population under the severe authoritarianism of the former King, the space for Islamist parties to garner support from the neediest populations has been opened, and the traditional secular parties have thus become very aware of the “competition” that local grass roots organisations by Islamic groups poses to them; and the fear is that Islamist parties may become an anti-democratic force. This introduces a vital paradox, namely that the party that is most “democratic” (the one that has the strongest grass roots support and is most embedded in society) may also be the one that is most “undemocratic” (the one with the ideology that is least amenable to democracy).

In **Morocco**, Islamist parties have emerged with political liberalisation as the only ones that appear to have a project for a more equitable and fair society. Many feel that the mass popular support for these parties means that democratisation would, paradoxically, spell the end of the process of democratisation, as it would lead to the election of parties that

are not democracy-friendly. However, it is perhaps more credible that participation in the “political game” of democracy in accordance with its game rules, could place such parties under the classical constraints that all elected groups and leaders are placed under, and that the difficulties of actually governing the country would introduce a higher degree of moderation to such parties. This dilemma needs to be addressed head on: Morocco has experienced many periods of liberalisation and reform, but politics is marked by a sense of fragility, weakness and discontinuity, and liberalisation has not led to actual democratisation. Although the most recent liberalisation has been deeper and longer, including important milestones such as the reform of the *mouddawana*, some would say that Morocco is simply a liberal form of authoritarianism, a country of pluralism guided by the King, controlled elections, and selective repression. Such liberal autarchies – characterised by a more powerful technocratic and modernising impetus – which are common in the Arab world, may be as much of an obstacle for democracy as traditional authoritarian regimes.

Turkey has faced a similar dilemma about how to deal with potentially “disloyal” parties. Liberalisation has broadened the scope for the participation and exercise of power of parties with ideologies that many regard as threatening to the preservation of a secular democracy. This raises the question of how to preserve a balance between the protection of the rights of freedom of association and speech (which are constituent elements of a democracy) and the protection of a democratic state from a “power seizure” by anti-democratic forces through the ballot box. If the balance tilts too much towards “militancy” the democratic nature of the political system comes into question. The Turkish secular state has been balancing this tightrope for many years. Shored up by a nationalist (and often repressive and anti-democratic) military, it has expressed two contradictory tendencies: on the one hand, its practise of co-opting and/or repressing parties that may threaten the secular basis of the republic have been presented as “defence of democracy” actions. But on the other hand, its repression of full pluralism is an expression of the powerfully authoritarian nature of that historically constituted secular republic and its traditional elites.

The evolution of political Islam in secular and democratic **Turkey**, culminating in the establishment and coming of power of the Justice and Development Party (AKP) is a key characteristic of Turkish democratisation. Islamism has grown as a response to social, economic, and political discontent, urbanization, modernization, and secularization. After 1946, with the transition to a multi-party system, Islamic groups began to regain political space. In 1961, with the establishment of constitutional provisions for greater civil liberties they gained further ground, and in 1970 the first Islamist National Order Party (NOP) was established, the first independent Islamist political force. The NOP was dealt with by successive governments either through co-optation or repression, and was finally shut down by the Constitutional Court in 1971 on the grounds that it violated the principles of secularism. In 1972 it was succeeded by the National Salvation Party (NSP), which became a regular member of government coalitions and an example of successful “cooptation.” Following the military coup and the establishment of a new constitution in 1982, the NSP was banned along with all other parties, paving the way for the formation of the Welfare Party (WP) in 1983. The latter did increasingly well in elections: in the general elections of 1995 it gained 21.4 percent of the vote. Growing tensions between the military and the Welfare Party, and growing antagonism between the Islamists and secular public opinion, led to the banning of the party in 1998 by the Constitutional Court on the grounds that the party was violating the principles of secularism. In 1997, the Virtue Party (FP) was founded as a successor to the WP. The FP toned down its rhetoric and emphasised the importance of democracy and human rights. However, it continued to insist on challenging the link between democracy and militant secularism, and therefore challenged the traditional elites that have dominated the Turkish state since the foundation of the republic. The FP was also closed down by the Constitutional Court, and the party’s reformist wing used the opportunity to establish the Justice and Development Party (AKP) in August 2001. In December 2003, the AKP won 34.4 percent of votes and 363 of 550 seats in parliament, enough to form a single party government. Its position was consolidated further with the March 2004 municipal elections, when it gained 41.46 percent of the vote. The AKP gained the backing of secularists because it toned down the Islamist rhetoric and was clearly committed to EU accession. Such is the adaptation that AKP founders have said that the party is not really Islamist but a conservative democratic force like the European Christian Democratic parties. The AKP accepts secularism and considers religion to be a private matter. It remains to be seen how the relationship between the old secular elite and new Islamist forces will evolve, and what kind of “vision of state” emerges as a result of that dynamic. Recent tensions between the AKP and the military (notably over accusations that the army targeted a local AKP notable) show that the evolution of the relationship between new and traditional powers may be a complex process.

There is no single recipe to address this fundamental dilemma. Parties that espouse violence at one historical moment can in another become strong democratic agents, particularly when they are given the opportunity to express their demands through a formal political process. The African National Congress (ANC) in South Africa is a case in point: under Apartheid it was a violent force characterised by many undemocratic facets, but since it represented a mass of disenfranchised people, once the context changed, it was able to become the major political force of a new democratic South Africa. Banning it from the transition on the grounds that it had once espoused violence and violated human rights would have made it impossible for South Africa to undergo a true process of transition to democracy. Britain and Spain have faced a similar dilemma when determining how to deal with the political arm of violent terrorist groups, in the Northern Irish and Basque contexts. In Britain, a process of dialogue allowed Sinn Fein to shift from violence to participation in the political process; in Spain thus far it has not been possible to establish a “permanent truce.” Timing is of the essence, as in some instances negotiation may only serve to strengthen the capacity for terror of armed groups, while in others it may provide the reason for them to abandon violence as a means to participate in political change.

In Europe, Islamist parties are still overwhelmingly viewed as dangerous opposition movements. Such parties are also often labeled as and repressed for being subversive within their countries of origin by regimes that are averse to opening the political arena and long standing nationalist elites unwilling to relinquish their hold on power. However, as Egypt’s 2005 parliamentary elections and the victory of Hamas in Palestine show, with democratization there may be a greater presence of Islamist parties, so this attitude must change if Europe is serious about democratization in the Mediterranean. As the case of Turkey shows, democratization forced moderation on Islamist groups as they were afforded organizational space and the opportunity to participate, as they had to take into account the secular sensibilities of voters. Moreover, also crucial was the realization among such groups that their rights could only be protected under a democratic system based on the rule of law and the protection of individual rights.

One of the greatest challenges for policy-makers is to understand the duality or paradoxical nature of political Islamism, as opponents of an authoritarian status quo *and* defenders of what are often very conservative projects, many of which have undemocratic undertones. Many Islamist parties are open to competitive elections, pragmatic, and accept state legality; however, they also espouse views that seem antithetical to pluralistic democracy (their attitude towards the private rights of women is a case in point). Another big cleavage between Islamist parties that must be understood is not so much that between parties that are in favour of democracy and those that are not, but between the degree to which such parties or movements are dominated either by their religious or political functions.

III. The Institutional Dimension

The Reform of the Forces of Law and Order

As we have seen above, countries undergoing a transition to democracy must engage in a series of fundamental choices about which kinds of institutions they want, ranging from political and party systems, to judiciaries, to models of military structures. Two key institutional areas are the judiciary and police, and the military, or the forces of domestic and external law and order. Democracy depends on the existence of independent judiciaries, effective police forces, and military institutions that are accountable to civilian authority. Reforming such institutions involves so many different tasks that impinge on so many different arenas, that they are a challenge even for the most efficient and wealthy of democratic states.

The Military in the Politics of Transition

Military reform involves various different tasks and challenging tasks. These may include demobilisation, cutting back on personnel and social reintegration (as in Central America); dismantling security apparatuses (as in South America and Eastern Europe) and establishing new ones that are compatible with democratic life, limiting the jurisdiction of military courts, redefining the mission and the precepts underlining the training of military officers, purging forces of those formerly responsible for mass human rights violations, establishing civilian oversight over the armed forces, including on specific issues such as arms purchases, and defining the role of the military in government or state structures (as in Chile). Also crucial, and particularly relevant today with the broadening of a “security” discourse and the prominence that the “war on terror” has taken on in various contexts, is the subordination of security forces to democratic control. This can take many forms, including the control of elected officials over budget matters, arms purchases, the definition of strategic goals, and the ability of elected officials to investigate military or security force wrongdoing without fear of reprisals or without threatening democratic political structures.

None of these tasks are easy. According to democratic theory, only elected officials have the right to determine policy, and the military should simply follow the dictates of elected authorities, and respond to the needs of the society. However, in many instances, the military have adopted an outright political role in society. Sometimes they have intervened and taken power because civilian politicians have violated the rules of the democratic game; other times, they oust civilians from power because of a perceived national security threat, as in Latin America in a context of widespread fear of communist takeover. Indeed, in some countries the military have long regarded themselves as the “ultimate guardians” of the nation, and intervention in politics is invariably justified on the grounds of safeguarding the “interests of the nation” above party politics, which are often perceived as corrupt or conducive to disorder.

In Portugal, for instance, the historical role of the military was seen to be as that of “ultimate arbiter,” and they were involved in politics on various occasions in the nineteenth and twentieth centuries: they contributed to the establishment of the Republic in 1910 and its end in 1926, helped to bring Salazar to power and constituted the backbone of the regime. Despite a long-standing connection with authoritarianism, middle ranking military officers, influenced by left-wing nationalism and well aware of the high costs of an un-winnable war in the colonies, led the coup that led to the demise of nearly half a century of dictatorship. The military remained involved in politics in the early years of the transition, but the process of democratic consolidation has involved a gradual phasing out of that role, to the point where the military are now a professional force that is clearly obedient to elected civilian authorities.

As in Portugal, one of the most delicate issues in the first years of the transition in **Spain** was how to keep the military out of politics. However, unlike the case of Portugal, the Spanish military found it hard to adapt to the transition, not only because the hierarchy was faithful to the Franco regime and its legacy, but also because it found it hard to adapt to a new active civil society and as the maintenance of law and order and civil demobilisation had been a key element of the former regime. Another key concern was calls for regional autonomy by the nationalist and left wing parties, given the historical commitment to maintaining the unity of the Spanish state. It was only after the failed coup of 1981 that military reform gained ground. Membership of NATO and of the EU has, as in the case of Portugal, contributed to the professionalization and modernisation of what is now a democratic and fully subordinated military establishment.

In Turkey, the military have also played the role of “guardians” of the nation, and one of the great challenges of democratisation is to bring them firmly under civilian control and limit their active role in political affairs.

The Armed Forces of **Turkey** are seen and see themselves as the embodiment of enlightened secularism and of the Republic established after the military-led revolution against Ottoman rule, and as the ultimate guardians of the nation, an image that was reinforced when they repelled occupying armies during the First World War, and when they “saved the nation” from the political turmoil of the late 1970s. The military see themselves as standing above politics, positioned to guard the nation against extremism of all stripes, be it on the left or, more recently, from Islamist movements. Many of the country’s presidents have been military officers, and there have been three direct interventions in politics, in 1960, 1971, and 1980, always on the grounds that they were preserving national values and “democracy.” The 1982 constitution introduced by the military symbolised the attempt of the Armed Forces to end polarisation. It prohibited banned all political activity and parties and political activism among students and within unions. The military has been particularly resistant to the participation of Islamist groups in political life, given its secularist ideology. From the 1990s onwards, the role of the military in Turkish politics has changed so much that it is now almost unthinkable that there might be another military coup. The military has tried to maintain a role in politics behind-the-scenes, but it has become difficult for it to openly oppose democratic and consensual decisions. Although challenges remain, the tendency has been toward more balanced civil-military relations with successive reforms in the laws governing the military in political life.

The relationship between military forces and civilian authorities and democracy may be clouded by the existence of armed or terrorist groups, or by what is perceived as a state of war in a part of the national territory. The dilemmas generated by this situation are apparent, in different ways, in Spain, Morocco and Turkey.

The case of **Morocco** provides another example of the challenges of reforming civil-military relations in a context of authoritarian regime liberalisation, and in the post 11 September era, of how to remake the links between the political and military establishments without an excessive “securitization” of political discourse and practise, which would be detrimental to further liberalisation and any process of democratisation. Unlike the nearly symbiotic relationship between the Spanish Armed Forces and the Franco dictatorship, in Morocco, two coup attempts in 1971 and 1972 the monarch by the head of the ‘Military Household’ and the Minister of Defence, consolidated a relationship of mutual mistrust between the monarchy and the Royal Armed Forces (FAR). Since that time, when the posts of Minister of Defence and Chief of Staff were abolished, the monarch has been the Commander, Chief of Staff and Minister of Defence. From the late 1980s onwards, a process of reconciliation between the monarchy and the FAR was initiated, and various measures (the replacement of the Minister of the Interior and the civilian Director of the domestic intelligence service with military officers, the transferral of the responsibility for the security of the King to the military, and a pay rise for military officers in 2001 are examples of gestures of reconciliation). The new monarch has also made an effort to modernise the FAR, increasing their participation in international peacekeeping operations, the numerical upgrading of the Navy and its new role in anti-smuggling and anti-trafficking activities, and increasing cooperation with military forces from Spain, as well as France and the US. It remains to be seen, however, how the definition of the role of the Armed Forces will be settled, particularly in light of the ongoing conflict in the Western Sahara, and the problem with human rights violations in that context. At present, the role of the Defence Ministry has no role comparable to its counterparts in democratic countries because it lacks planning and strategic capabilities.

The dynamics of civil-military relations in the process of liberalisation and democratisation in each of these four countries is very varied. The history, conditioning context and position of each country’s armed forces is very different, as a comparison between the Turkish situation (where the army is still one of the most popular and trusted institutions of the state) and that of Portugal and Spain (where the military was gravely discredited and much weakened institutionally with democratisation) shows. However, in every case, the establishment of secure and predictable civilian authority over the armed forces is a key to the establishment of full democratic governance, and the experiences of Portugal and Spain provide clues as to the kinds of changes that can rebalance civil-military relations positively.

Police Reform

Where the police are concerned, two key tasks are demilitarisation, and retraining (often with purging) to ensure that police forces are effective *and* respectful of fundamental rights. Very different paths may be adopted when dealing with the police, depending on the nature of the transition process itself. Spain illustrates some of the dilemmas faced by transitional democratic authorities when addressing police reform a context of close ties between the latter and the outgoing authoritarian order.

Like the Armed Forces, the police forces in **Spain** were loyal to the dictatorship. Indeed, the so-called Public Order Forces (the Armed Police and the Civil Guard), were part of the armed forces. Reform was particularly challenging, as there was fear that they would weaken the capacity of the institution to combat ETA terrorism. Also difficult was to create a new culture of rights within the police. In 1978 the Public Order Tribunal was dissolved, a new Police Act was approved, and a new force, the National Police Force, was created to replace the Armed Police, and the jurisdiction of military tribunals was curtailed. The 1978 Constitution stated that the mission of the police was to 'protect the free exercise of rights and freedoms to guarantee law and order' and the Police and Civil Guard, were definitively separated from the Armed Forces despite a bitter political battle over the issue. Different police forces were established for the Autonomous Communities (there are separate forces in the Basque Country, Navarre and Catalonia). In 1980, there was a further reform to the Military Justice Code to clarify the jurisdiction of civilian courts over the police. Later, police officers were granted the right to form unions and to strike. It was only in 1986, however, that the Organic State Security Forces Act was passed, definitively de-militarising the National Police and introducing a civilian Director General of the Civil Guard.

Police Reform and Human Rights Violations

As the Spanish example shows, one of the key challenges in police reform is creating a "culture of human rights" within police forces. Portugal has undergone a process of re-education and training and of adaptation to a new culture of rights. Portugal has three police forces, the National Republican Guard (GNR) with jurisdiction outside cities, the Public Security Police (PSP) with jurisdiction in cities, and the Aliens and Borders Service (SEF) with jurisdiction on immigration and border issues. Despite purges in the early years of the transition and a series of reforms, human rights abuses still occur – albeit not systematically. In 2004 the General Inspectorate of the Internal Administration (IGAI) received 276 complaints of human rights abuses, mostly against the PSP and the GNR, involving injuries or threats with firearms, excessive use of force, illegal detention, and abuse of power. The major problems with the police forces were understaffing, insufficient training with firearms, and inconsistent or weak law enforcement. Police training and operational guidelines are inadequate, and insufficient measures are taken to ensure implementation of international laws and standards in policing practices. There is an independent ombudsman that investigates complaints of abuse or mistreatment, but the slow pace of investigations and the lack of an independent oversight agency to monitor the Ministry of Interior and the IGAI have been the target of criticism.

Morocco has also struggled with the issue of torture. Key changes include the 1999 reform of the Prison Code and the 2003 reform of the Penal and the Criminal Procedure Codes, and a draft law of 2004 criminalising torture, establishing fines for those accepting or covering up incidents of torture, sentences of between 5 and 30 for those convicted of torture, and fines of between US \$1,100 to US \$3,300 for such offences.

Turkey is perhaps the country that encountered the worst problem when addressing police reform – and also the country that has made the most dramatic progress in a relatively limited period of time in the area of human rights.

There are four forces within the National Police in **Turkey**: the Civilian Police, the Organised Crime Unit, the Border Police and the Gendarmerie. Police brutality, ill-treatment of detainees, excessive use of force and firearms has long been a problem, and it has been a key source of concern for EU institutions in the process of negotiating Turkish accession. Until recently, torture was endemic in police stations, civilian had no access to police stations, and the only monitoring bodies were the European Committee for the Prevention of Torture and the Turkish parliamentary human rights commission. However, the government has undertaken a series of reforms to prevent the use of torture in particular and increase the rights of the detained. Successive "harmonization packages" from 2002 onwards have

reformed legal structures to eliminate restrictions on fundamental freedoms, which have been monitored by the Reform Monitoring Group made up of the Ministers Foreign Affairs and Interior, the Deputy Prime Minister for human rights, the Chairman of the Human Rights Presidency (of the Office of the Prime Minister), and the Chairman of the Human Rights Advisory Council (which consists of thirty non-governmental organizations and various public institutions). More recently, in 2005, a new programme was introduced to allow human rights organisations in different provinces to monitor local police stations in special bodies including government officials and professional associations, under the aegis of the Office of the Prime Minister. Also in 2005 Turkey signed the First Optional Protocol to the UN Convention against Torture, which allows for regular international monitoring of detention centres. All these reform efforts have had the effect of dramatically reducing the use of torture, which is no longer systemic. The EU has encouraged the broad reform process in Turkey, and has supported human rights training programs for Turkish judges and prosecutors.

One of the aspects of police and military reform is the reform of political police forces or intelligence agencies, often responsible for gross human rights violations under authoritarian rule. In the case of Portugal, the trauma induced by the secret police of the dictatorship was significant, and delayed the establishment of a new intelligence and security service for almost a decade.

In **Portugal**, one of the first measures was to dissolve the political police of the dictatorship, the Police for the Defence of the State (PIDE). The Commission for the Abolition of the Political Police, Portuguese Legion and Portuguese Youth (CEPML) prepared the criminal prosecution of PIDE officers and a constitutional law of 1975, allowed for the trial of PIDE members by a military court. After the first years of what was a "PIDE hunt" a more moderate and legal process was established to deal with former members of this force. It took Portugal a long time to re-establish an intelligence service because of the legacy of the PIDE. A new intelligence and security service was established in the early 1980s, and prohibited from engaging in any domestic surveillance by a 1989 constitutional reform.

Political Police, Internal Order and Terrorism

One of the most serious challenges to ongoing judicial, police and even military reform is the existence of a terrorist threat. The case of Spain illustrates how when police forces are not sufficiently purged and there is no coming to terms with the past, intelligence and security services may resort to "dirty war" tactics under democracy and thus undermine the rule of law (although some analysts would challenge the link between the one and the other). Spanish democracy was severely tested in 1983-1987, one of the worst phases of ETA terrorism, when the Antiterrorist Liberation Groups (GAL) death squads financed by secret funds of the Interior Ministry, killed 28 people in a "Dirty War" of sorts, some of them entirely unconnected with ETA.

The advent of a new terrorist threat in the wake of 11 September has brought this issue to the fore again, particularly in Morocco and Turkey. In a context of liberalisation, such a reversal can delay political opening for years to come. In Morocco human rights observers say that the May 2003 bombings in Casablanca endangered the process of liberalisation. In the aftermath of those attacks, the parliament unanimously passed the anti-terrorist legislation that had been rejected a few weeks before, which very broadly defined terrorism as an act or acts intended to create fear and discord in society and threaten its safety. Of most concern is Article 283 of the Penal Procedure Code, which allows confessions obtained by police when fighting terrorism to be final, and not subject to contestation, and further limits the role of the judiciary in determining the legality of such confessions. Police reform has never been a top priority, and with the threat of terrorism, police practises have grown increasingly problematic. Indeed, with the possible exception of Portugal, anti-terrorist legislation and action by the police has become a source of concern for human rights groups, and threatens basic civil and political liberties that lie at the heart of democratic government.

The Challenge of Judicial Reform

It is widely recognized in governmental as well as nongovernmental circles, that supremacy of law in a democratic society cannot be firmly established and safeguarded

without an effective and well-functioning judiciary. Judicial reform is a cornerstone of the broader process of reformulating the role of the State in society and the economy. Judicial reform is not only about establishing the conditions for transparency, probity, autonomy and efficiency in the area of civil and political rights, but also about creating the legal conditions for economic development and a stable investment environment. In short, judicial reform is an essential component for strengthening democracy to the extent that it is an effort to redefine interactions between the State and the citizens aimed at increasing efficiency, equity and predictability in the resolution and prevention of conflicts. Moreover, the reforms to the justice system, while trying to establish reliable and enforceable legal rules, non arbitrary procedures, and judicial organizations capable of acting with transparency and effectiveness, also uphold the use of law as a tool for peaceful and equitable coexistence.

The case of Latin America highlights the difficulties of undertaking effective judicial reform. In spite of various comprehensive overhauls of the judiciary in many countries of the region, legal processes are excessively long (and pre-trial detention concomitantly abused seriously), the accumulation of cases in the courts is immense, access to services, especially by the poor is very limited, there are corrupt practices, and the level of trust of citizens in their respective judicial systems is very low. Reform entails not just changing the procedural rules governing the judiciary, but its success also depends on various factors that are beyond the scope of the judiciary *per se*, including cultural practises that distort what are often well designed and timely reforms. Informal but deeply entrenched traditions, corporatist behavioural patterns and clientelism generate perverse incentives. And ensuring access to justice by low-income sectors and of groups such as indigenous peoples and women, means undertaking broader socio-economic policy reforms, touching upon areas such as education and income distribution. The case of Morocco illustrates some of the challenges facing processes of judicial reform and accountability.

In **Morocco**, the constitution stipulates the independence, universal accessibility, and legal accountability of the judiciary. In practise, however, the courts are often subject to governmental pressure, and judicial irregularities and inefficiency as well as corruption are common in the Islamic, communal and district, and first instance courts. The judiciary is often interfered with by the executive, particularly when it has cases of terrorism, official corruption, offences against the king, or cases dealing with Islamism and territorial integrity in hand. Indeed, the Ministry of Justice has very broad powers and can actively intervene in the judicial process, even though it is a political body. Various reforms have been undertaken in recognition of these and other deficiencies. In December 2002, the King established a non-judicial ombudsman to review citizen allegations of government injustices, but this initiative did not lead to any substantive changes. In August 2004, the Supreme Council of the Judiciary initiated disciplinary proceedings against 14 judges and eventually dismissed 2 of them and retired 4 more judges. Despite these and other measures, as noted by a 2004 Transparency Morocco report, the bribery of judicial officials remains a serious problem and judicial reform is still very much in its incipient stages.

Given the enormity of the challenge, it is hardly surprising that consolidated democracies have trouble with their judiciaries. The case of Portugal illustrates how even after successive reforms, judiciaries continue to struggle with problems, and access to justice remains a pending challenge for the deepening of democracy.

In **Portugal**, the judiciary was one of the institutions least affected by the purges of the transitional period, and although about 500 magistrates and 42 judges were purged in 1974–75, primarily those involved in political courts or censorship, most of them were integrated only two years later. Today, the judiciary is recognised as being independent and subordinated to the customary rules that typify a rule of law democracy, but the system is also highly criticised, not because of corruption but because it continually denies citizens access to speedy trial due to its inefficiency. The European Court of Human Rights has found Portugal guilty of violating Article 6 (1) providing for fair and public hearing of a case within a “reasonable time” on 19 occasions and ordered the Ministry of Justice to play a fine to any citizens who are similarly denied access to justice. Such is the extent of the problem that in 1999, the situation in the courts was deemed by many to constitute a “crisis.” The Ministry of Justice acknowledged that there were one million cases were pending in the courts and that each year another 100,000 enter the system. A study by the Ministry shows that in 1993-1998 38,531 criminal complaints were not even tried, and that for 1998 alone the number of untried cases reached 12,000. Various reform measures were introduced to deal with this key deficiency of Portuguese rule of law democracy – the absence of equal and speedy access to justice for all citizens.

Gender Rights and Judicial/Legal Reform

One of key challenges of judicial reform in Morocco and Turkey is the discrimination faced by women within the legal system. Women face discrimination within the formal court system, given the nature of the laws applied and because of the patriarchal jurisprudential traditions. In Portugal and Spain, by contrast, the problem is essentially implementing existing rights to full participation in employment opportunities given limited maternity provisions and the lack of paternity leave provisions for men, and *de facto* discrimination as apparent in wage differentials between men and women. However, measures have been adopted in both Morocco and Turkey that have begun to create greater access to justice for women.

In 2004 a new penal code in Turkey has dramatically improved the legal situation of women. Morocco provides a particularly encouraging example of various legal reforms in favour of greater gender equality, including the establishment of family courts, the long-awaited 2004 reform of the Family Code, among various other measures.

Conclusions

Reforming institutions or of creating new ones may cause serious political and social tensions given the broad issues at stake. Military restructuring and cutbacks may cause unrest, particularly when demobilised troops lack avenues for social re-insertion. Judges that once served an authoritarian order may resist all reform on the grounds that political authorities are undermining the independence of the judiciary. And police forces accustomed to repressive tactics and to the violation of fundamental rights in the course of policing, may resist all attempts to establish mechanisms of accountability. However, the issues pertaining to institutional design, like those relevant to constitutional engineering are a key aspect of the politics of transition and the politics of nation-building in the wake of wars (as in post-war Yugoslavia or Iraq). It is no accident that the study of political institutions increased dramatically over the last twenty years. The attempt to democratize or to re-democratize over fifty countries in the past twenty-five years has promoted a new interest in "institutional engineering," or the attempt to create political institutions that support stable democracy.

IV. The Social Dimension

Civil Society as Transition and Democratisation Actors

Along with the importance of “elite pacts,” the literature on transitions has always emphasised the key role played by organised civil society actors in pushing liberalisation forward and shaping the politics of transition. Liberalisation makes it almost inevitable that elites will appeal to “the masses” to stay in power or push for an alternative political project. Gaining the support of popular actors may mean having more bargaining power when negotiating transition. Strong civil society organisations such as unions, professional associations and thematic NGOs can be in a position to take advantage of moments of liberalisation, or can even be the prime promoters of liberalisation through popular mobilisation, resurrecting the power of soft-liners within the elite. At the same time, social groups can place unbearable pressure on liberalising authoritarian regimes or incipient democracies by making impossible distributive demands of them. What role has civil society played in pushing for democracy in Europe and the Southern Mediterranean, and how is a “social consensus” established around the need to push for democratic game rules?

Civil Society as the Bedrock of Democracy

The concept of civil society cannot be dissociated with the concept and quality of democracy. From Hobbes’s distinction between natural (uncivilized) society and civil (civilized) society, through to the notions advanced by de Tocqueville and Montesquieu on the need for private associations among citizens to control and curb the power of the state, and for “civic virtue,” has been a vital element in thinking about representative and democratic government. Today, the notion of free association and participation in voluntary organizations and, crucially, the idea of the autonomy of society vis-à-vis the state, are at the heart of our understanding of what constitutes public life in a democratic society. Civil society is seen as the “third sector” (with the state and the market being the other two), and as constituted by a wide range of social sectors (family, segments and groups, voluntary associations).

The basic characteristics attributed to civil society are autonomy from the state, associational structure (it is not an undifferentiated mass of individuals), the openness (non-corporative nature) of its organisations, pluralism in the nature of organisations, and autonomous access to the political sphere. Central to the notion of civil society is that there is no single group or set of groups with a monopoly on social power and resources, which are able to exclude other groups from access to power.

The idea of civil society underwent a great revival with the transitions to democracy, first in Latin America and Asia, and perhaps most importantly with the transition in Eastern and Central Europe after the collapse of Communism. From the late 1980s onwards, there was a tendency to ascribe civil society a “heroic role,” and to regard countries with “weak” or “non-dense” civil societies as having worse prospects for democratization. The “civil society fashion” was also an expression of the liberalism of the post-Cold War era, and the idea that an over-weaning state is the problem. It is now widely assumed that it is only possible to consolidate a strong constitutional democracy if there is a strong, organized and autonomous civil society. Put another way, that civil society is the basis for a free and pluralist democracy.

A Positive Contribution: Civil Society Combats Corruption in Morocco

Civil society organisations have played an exemplary role in combating corruption in Morocco. Transparency Morocco (1995) and *Maroc 2020* (1996) have brought the issue of corruption to the attention of the public and placed it on the political agenda, challenged the notion that corruption is an inevitable part of the country’s “political culture,” and promoted constructive proposals on how to combat it. Another important campaign was organised in 1997 by several NGOs, the Network of Associations to Combat Corruption (CIACC). From its original six members, the CIACC now includes more than 40 associations. The CIACC organises a National Day against Corruption every year, and has presented proposals to government on how to combat corruption. Other key actors in the fight against corruption are the new entrepreneurial associations that began to emerge in the context of economic liberalisation in the late 1980s, representing middle-sized businesses. These groups have attempted to challenge the stranglehold of the traditional business elite, which has dominated economic life and has strong ties to the political elite. Since the early 1990s, the General Confederation of Businesses

of Morocco (CGEM) has become the main organisation representing this new class of entrepreneurs. Some of its most important work has been to push for greater transparency in the awarding of state contracts. In 1998, the CGEM created an Ethics Committee and adopted a Charter for an Ethics of the Firm, which focuses on the need to promote the rule of law, eliminating corruption, abuse of power and unfair competition in economic life.

Civil Society as an Ambiguous Entity: Some Conceptual Problems

More recently, there has been a backlash against the heroic vision of civil society, which draws on older analyses that have had a less sanguine view of civil society: some of these have portrayed a radical and mobilized civil society as a threat to stability and governance, and at least partly responsible for the collapse of democracy in some countries, or as a force placing excessive demands on government policy and thus rendering it ineffective. There is also a strong strand of thought that posits the unsuitability of a mass of citizens with little education and inclinations to accept authoritarian populism to responsible democratic government.

Some analysts have also argued that the overemphasis on civil society has led political parties to be ignored and disdained, and that ultimately, it is political parties that are the best vehicles for citizen participation, since they are most conducive to an institutionalized democracy. Likewise, it has been observed that civil society can only be of real assistance to democracy if it operates in a context of stable and efficient political institutions, including a credible government and political parties rooted in society. It is only when such conditions prevail that democracy can thrive and that civil society can contribute to bolstering democratic legitimacy, and in the absence of such conditions, democracy is doomed to instability or failure.

Another critique is that while civil society in the theory is a pluralistic entity in which players have equal access to power or to the state, in real life contexts, only very few groups actually acquire such access, so that civil society recreates hierarchies of inequality. It has also been observed that many organizations become dependent on the state, so that the posited autonomy is not really there. Another essential element is the degree to there is a common “political community,” with which all sectors of society identify (in ethically divided societies, for instance, it may be hard to speak of “a civil society”). Further, civil society and its role will differ substantially depending on the dominant view of the state and the right state-society relations in any given context, with some authors positing that more state centred hierarchical societies, such as those of Latin America historically, tend to produce weaker civil societies than, say, a country like the US where the “idea of the state” is weak. However, it has also been observed that where the state is too weak, there is usually no civil society to speak of either.

In some instances civil society can actually undermine a democracy, particularly when political society (the party system and political institutions in general) are weak or fragmented. The case of Weimar Germany is a classic example, although the fall of democracy in Argentina and Chile, for instance, have also been cited of examples of how civil society can contribute to the rise of authoritarianism. This debate is also very much present in the Arab world, where the failure of the state to provide for the needs of the population has led to the emergence of civil society organizations, many of which are Islamist and potentially “anti-democratic.”

In addition to question about the real role of civil society, there are various disputes as to what civil society really is. First, there is no consensus about the exact range and type of actors it encapsulates. Civil society is often so broadly understood, as all non-state organizational life, that it is hard to distinguish between political and civil society. There is also a dispute over whether civil society actors are political actors or just social actors. Some view civil society as non-political associations that serve to socialise a “democratic citizenry” by generating trust, ties of reciprocity and building social capital. The activist non-governmental sector, by contrast, tends to see itself as a political phenomenon. Another dispute is over the normative definition of civil society: should it include only pro-democracy groups, or should it include social organisations that are anti-democratic? The latter issue obviously has policy implications, since government authorities and “democracy promoters” must decide which organisations are worthy of support and which are not.

Overall, it can be said that a strong civil society may not be a pre-requisite for democracy (there are plenty of democracies with very thin associational life). This view is borne out by an observation of actually existing democracies: Brazil, which is a fragile democracy has one of the most vibrant civil societies, while in Spain, a consolidated democracy by all accounts, civil society is comparatively less active and more demobilised.

Most analyses of the transition to democracy in Spain underline the importance of elite pacts rather than a mobilised civil society in shaping the process of regime change. Some analysts have argued that mass mobilisation also played a role in the transition, but while civil society did press for change and, as is usually the case, elite pacts are shaped by social mobilisation, it is also the case that years of repressive dictatorship and fear of conflict inherited from a very violent past did not make the Spanish transition one of those most characterised by social activism. In Portugal, for instance, civil society is among the least dense and dynamic in the EU, as this is a country with a political culture characterised by lack of participation and weak mobilisation as a result of the dictatorial legacy and a concomitant attachment to the values of “order,” deference to hierarchy, and a persistent culture of clientelism. In sum, it may be best to view civil society as neither inherently positive nor inherently negative. Its impact on democracy and democratisation will depend on a variety of factors, some inherent to the civil society itself, and others related with the broader political context in which it operates.

Civil Society, Liberalisation and Democratisation: Morocco and Turkey

Whether, or how far, to allow civil society to participate in political and social life is a key dilemma for authoritarian or semi-democratic regimes. As in the case of broadening the political sphere and allowing new parties to participate increasingly competitive elections, authoritarian regimes must balance the desire for greater liberalisation with the need to retain control over what happens in the polity. This delicate balancing act has been apparent in the case of Morocco and Turkey alike.

Civil society entered political discourse in **Morocco** in the 1980s, as a result of political liberalisation at home, and broader global trends. State authorities have traditionally viewed civil society associations as competitors that must be co-opted or marginalised, rather than as co-decision-makers. Civil society is legally conditioned by the very restrictive Code of Public Liberties (1958, amended in 1973), under the aegis of the Ministry of the Interior, which regulates associational life. State-society relations are also conditioned by the monarchy: the king often uses powerful symbolic language to “frame” the direction and limits of political action, and acts as an “arbitrator” of “consensus-builder” between conflicting groups, establishing mechanisms for consultation that bridge the gap between social and political society. As liberalisation has progressed it has become increasingly difficult for the state to “control” society. New social forces have emerged that are not controlled by the state. A 2004 official estimate stated that there were between 20,000 and 30,000 associations working in the field of democratization and human rights, for instance. Another relatively new kind of civil society actor is local, charitable or developmental associations of an Islamist nature, which have substituted for a state often unable to deliver social goods and services to needy, excluded populations. Entrepreneurs have also emerged as a newly empowered civil society actor with liberalisation.

Civil society in **Turkey** is shaped by the paradox of a state that promotes civil society but maintains such a dominant position in society that it effectively controls it, choosing its interlocutors in a very selective and unequal manner. The 1980 coup aimed to destroy independent civil society organisations, but repression actually helped to strengthen the commitment to civil and political rights and associational life. With democratisation the density of civil society has increased significantly, in terms of numbers of active organisations, geographical and issue coverage, and diversity of social groups represented. One study found there were about 54,987 active NGOs in Turkey in 1996. However, the patrimonial state and historically elite-led modernisation and secularisation have continued to inhibit the development of civil society autonomy. As the case of the Civil Initiative of the Five of 1997 shows, the state has been successful in co-opting civil society organisations and creating what can paradoxically be called “state civil society organisations.” There are still many regulations restricting civil association, and a (constitutional) ethos that the primary focus is the protection and survival of the state. Bureaucratic centralization, intolerance of political opposition, state dominance over (or lack of respect for) civil rights and freedoms, and the ideological structure of state control all continue to limit the development of a more autonomous civil society.

Civil Society and Democracy Promotion

Civil society has become the preferred target of democracy promoters since the fall of the Berlin Wall on the grounds that a strong, organised civil society is the basis for democracy. By the mid 1990s, the total amount spent on civil society assistance projects by international aid organizations was over US\$4 billion (about 8.6 percent of the US\$46.5 billion total aid to the developing world). The dominant status of civil society is also apparent in the US Middle East Partnership Initiative (MEPI), for which US\$10 million was earmarked for civil society projects in 2003.

The EU has participated in this trend, but its society promotion initiatives have been criticised on various grounds. First, the sums involved are very modest. There has been criticism of the shift in focus to the detriment of the goal of promoting democracy: while the first projects were clearly political – focusing on organisations of local communities, migrants, human rights, and women’s rights, more recently the focus has been on religious and cultural dialogue, which has depoliticised the thrust of civil society support. Further, even when the focus was more obviously political, the range of NGOs that received assistance was very limited when compared with similar programmes in Latin America. Third, although the EU has attempted to combine a bottom up approach with a top down one, the latter focusing on the reform of formal political institutions to promote the rule of law, accountability and good governance, in effect there has been a reluctance to challenge the regimes in the region to promote deep institutional reform, so that civil society initiatives have become a way of avoiding the other crucial dimension of political reform. Fourth, while EU financing is conditioned, so that good performance is rewarded by greater grants, and negative performance can be penalised, including by the suspension of aid in extreme cases, to date the EU has never punished a Mediterranean state for gross violations by suspending aid.

To be fair, it is often hard for a “civil society” promoter like the EU to fulfil its goals: closed authoritarian states can block EU programmes to support civil society organisations very effectively and have often done so in the past. And it is also hard to find the balance between pressure and cooperation when an authoritarian government is engaged in a process of liberalisation. This has been the case in Morocco, where the EU and its member states have been reluctant to “interfere” by promoting the reform of political institutions without the approval of the King Mohammed VI, given the perception that his government is committed to liberalising the polity. So, while good governance assistance to Morocco has met with success (strengthening administrative capacity and tax reform), there has been a reluctance to interfere with more political institutions such as parties, or with judicial reform.

Ultimately, like any other “civil society” promoter, the EU is not simply an entity concerned with the promotion of democracy: it is also, crucially, concerned with stability and security, and while promoting civil society and democracy is, in the long run, supposedly a factor contributing to greater stability and security, in the short term the choices and dilemmas are acute, as democracy and security are not obviously compatible. And if this is true of EU institutions, it is all the more so for the member states, particularly those with strong ties to the governments of the Mediterranean.

V. The Media in a Context of Political Change

Democracy and the Media

The power of the media is immense. It plays a role in agenda-setting, in determining how information is interpreted (priming), and in establishing the frame of reference within which information is conveyed (framing). In a liberal democracy, an independent and pluralist media is an essential prerequisite.

The normative standards within which the media should operate are inscribed in international treaties under general civil and political rights provision and particularly provisions on the holding of free and fair elections. There is growing acceptance of the idea that governments not only have a negative duty (not to interfere or censor) but a positive duty to promote a diversity of view on public issues. The onus is also on government not to discriminate against non-state groups when there is a state controlled mass media. The normative ideal is that the media should disseminate knowledge about political matters to inform citizens so that they can participate effectively in decision-making, and ensure that governments remain accountable by exposing abuses of power and criticising weak performance.

In real life, however, this powerful instrument often plays a role that falls short of the normative theory, not least because the control of the media and its roles are determined by the pattern of distribution of power in each society, political culture, predominant ideologies, media structure, and market factors, among others. The role of the media is also shaped by the structure of media control. The media may be dominated by economic elites, by the political elite, or by a mix of the two. There may be a liberal corporatist structure in place, where the state, economic and labour elites share power, a laissez-faire structure, where intervention is minimal and the market dominates, or a repressive model, where central political authorities control media output. Within the repressive model, there can be a mix of positive inducements to comply (cooptation) or punitive inducements (repression). So each media establishment and each democracy or democratizing society – and the relationship between the two – is different, and the role of the media will depend on the nature of the dominant structures in place in each context.

The Media and Transition to Democracy

The burden of responsibility on the media in a context of regime change is particularly heavy. Although it is hard to establish any relationship between media messages and the formation of new opinions, there are indications that the media can play a fundamental role in framing new issues, which is particularly relevant in a context of political transition. Many studies also suggest that media effects are stronger for issues that people are unfamiliar with, which is crucial in a context where new foundational political issues are being framed. There are many examples of the capacity of the media to have a strong impact on politics in new democracies or in transitional settings. In Brazil, the media played a crucial role in uncovering, denouncing and bringing about the downfall of President Fernando Collor de Mello. The role of the media will be particularly crucial where other state-society intermediaries such as parties and civil society organisations are weak or shrinking.

Since the process of liberalisation-transition-democratisation involves a political struggle among competing political and economic elites, the role of the media in such contexts becomes particularly crucial, as the way they frame that struggle will shape key foundational public choices. But transitional periods are moments of great uncertainty when new political configurations are emerging but uncertain, and since the media is not entirely autonomous, it will have to re-accommodate itself to take new actors into account and re-adapt to a new political structure. All this will affect its role and shape its capacity to perform according to the “democratic ideal.”

In transitional contexts, the media may have a key role to play in voter education, as newly formed electorates, or citizens deprived of the right to vote for many years may need added guidance to understand foundational political issues and debates. In such cases, the media can play a critical role in civic education. It may also help to promote electoral participation among previously repressed or excluded groups, such as women, geographically isolated communities, ethnic minorities, illiterates, and those speaking the non-dominant national language. The case of the 1985 elections in Guatemala, a key step in the country's process of transition, illustrates the key role that the media can play. Guatemala has a high rate of illiteracy, particularly among rural, poor and non-Spanish speaking communities (there are 4 main indigenous language groups, 22 languages and over 100 dialects). The Supreme Electoral Tribunal and an independent political studies institute thus implemented a broadcast and print media campaign to encourage such people to vote, with radio stations broadcasting in indigenous languages.

In a context of liberalisation, this challenge may be hard to meet, since television and radio is often under government control, it can be run by regime sympathisers, there may be a lack of experience in covering elections, it may be hard to judge how to allocate time for party broadcasts, given that there is no reliable measure of the relative weight of each party in voter preferences, and further “official” parties may have more financial means for political advertising. In order to ensure fair reporting print and broadcast media, there must be independent bodies that can set policy, monitor performance and process complaints. Electoral courts may play a fundamental role in the issue of fair media coverage of elections. Other measures may include controls on campaign financing. Media control is a contested issue in “consolidated” democracies, and in a context of regime change, such “media wars” may be particularly important, given the foundational issues that are often at stake.

Journalists in transitional settings also face particularly tough challenges. Not only may there be laws restricting freedom of expression, but there may also be fear of reprisals; journalists may be long accustomed to act as a “mouthpiece” of dictatorship and may find it difficult to adapt to a new normative role; the media may be more used and inclined to sustain the status quo and silence dissent and opposing voices, contributing to impoverished debate and demobilisation. Where power is very concentrated, the media tends to act as an extension of the state, and journalism tends to be partisan. In such contexts, liberalization does not guarantee that the media will become independent and diverse. There are many new democracies with concentrated media ownership (Brazil or Russia), a corrupt media establishment (Korea), or with a politicized state ownership (Hungary and the Czech Republic). Thus, in a context of transition, journalists may have to engage in “self-education” and “self-training” to prepare for a different kind of reporting and information ethos.

Reporting in a democratic context is informed by the ideals of neutrality, objectivity, and competing plural views, but even in “consolidated democracies” there is no “single correct recipe.” And some of these qualities may even be appropriate in a transitional setting (journalists may want to be less neutral and engage in pro-democracy reporting; others may want to preserve the status quo and report accordingly). But equally, the absence of neutrality may work against democratisation or the preservation of a fragile democracy. In Chile, for instance, extreme polarisation of reporting prior to 1973 was part of the process of democratic breakdown. In a context of regime change is therefore crucial to understand the degree to which the media is shifting towards the democratic “ideal role” and where it is failing to perform adequately, why and with what possible consequences.

In **Portugal**, the media operated under strict authoritarian controls under the Salazar dictatorship. After 1974, there was a dramatic change in the relationship between the state and media. The administration of radio and television was purged and replaced, censorship services dissolved, and the regime newspaper disappeared. Given the revolutionary nature of the transition, many papers became the property of the state and an intense political battle occurred for control of the media liberals, left wing radicals and even the Catholic Church, which had a radio station that became a mouthpiece of the extreme left until the station was restored to the Church. However, by the early 1990s there were no government owned papers, and a free press was in place. The state continues to have radio and television broadcasting systems, but all political parties have equal access to these stations, and they now compete with privately held ones. At the beginning of the 1990s, there were about 30 dailies, and various specialist magazines, hundreds of private radio stations, and around 50 publishing houses in operation. Press freedom is guaranteed by the constitution and although there are laws against insulting government and armed forces officials, they are rarely enforced.

In **Spain**, the media was also severely controlled under the Franco regime although there was a partial liberalisation in 1966 of the print media. During the transition, the media played a key role in informing the public, shaping views and propagating democratic values, given that the parties had little roots within civil society. Many new papers were founded in the early transitional years, including regional newspapers in Catalonia and in the Basque Country, written partially in the regional language. Although per capita circulation of newspapers in Spain is well below the EU average, radio and television are very popular, and these outlets as well as the global media also played a key role in the transition. There has been recent concern about the impact of antiterrorism legislation on freedom of speech, and on press restrictions in the Basque Country. Spain has a free press today, however, with more than 100 newspapers covering all kind of sensitive public issues.

The “global” media, including the Internet, may also have a particularly important role to play in a context of regime change, since it can provide the kind of independent information that censored or state owned media outlets may not be able to provide. External media outlets can play a role in undermining (or bolstering) authoritarian regimes and supporting (or de-legitimising and weakening) pro-democracy forces; they can have a “demonstration effect” by showing a demobilised population how mobilised citizens in other countries have successfully challenged a seemingly immovable status quo. Western radio programmes, such as Radio Free Europe in Eastern Europe under Communism, the Internet in China, or mobile telephony in electoral processes in Africa provide some examples of how external media outlets broadly understood may provide impetus to processes of democratisation or liberalisation or help to inform voters in transitional elections.

Repression and Censorship

One of the key problems facing the media in a context of regime liberalisation is the threat or practise of censorship, which can be implemented by government-controlled media, government agencies, by banning access to the media of some parties, media closures, government confiscation, states of siege, charges of sedition, and even outright attacks on journalists. For example, during the 1984 Uruguayan election campaign, two journalists and the publisher of a newspaper were detained by police a few weeks before the election for a report on torture. In Chile, threats, violence, legal prosecution and economic pressure generated a climate of intimidation during the 1988 national plebiscite campaign. Morocco exemplifies some of the challenges faced by a media that is increasingly pluralistic and outspoken but still subject to various forms of censorship and intimidation.

In **Morocco**, the press became much freer in the late 1990s, and journalists report on a broad range of issues, including government corruption. Many new independent papers have emerged, robbing former “regime media” of its central place. It can be said that the Moroccan press is the freest in the Arab world. The Constitution amended in 1992 guarantees “freedom of opinion, freedom of expression in all its forms.” In 1994, the King repealed a 1935 decree that had greatly limited press freedom and issued a general amnesty. However, there are some sensitive issues that are still taboo: the press law forbids journalists from criticizing the king, the royal family, denigrating Islam, or threatening “territorial integrity,” and journalists who violate these provisions may be fined and imprisoned. Press freedom has also been limited by actions against the defamation of public officials or against “endangering the public order.” More recently, the 2003 anti-terrorism law permits the arrest of journalists who disseminate information that “supports” terrorism. Another problem is the vulnerability of the judiciary to political pressure when dealing with suits against journalists. Advertisers are unwilling to place their adverts in papers that report on controversial matters and despite a 2003 law to encourage private investment the broadcast media, the latter is still very much under state control. In Morocco this kind of media is particularly crucial as the literacy rate is 45 percent and total circulation of publications is only 300,000 (in a population of 32 million). The system of state subsidies for papers is also biased, favouring pro-regime media. Moroccans also have broad access to “global” media sources, and an estimated 1 million people had access to the Internet in 2003, which is relatively free, with the exception of some Islamist sites that are blocked.

Turkey has implemented a series of legal reforms as part of the process of EU accession that have liberalised the media. A new press code was adopted in June 2004 that liberalised reporting and media structures and the reform of the penal code in September 2004 also introduced greater press freedom. One positive measure was the elimination of the military member of the Supreme Council of Radio and Television (RTUK), the body that regulates the broadcast media, and can punish outlets that violate the law or its governing principles. However, the RTUK is often subject to political pressure. Another positive development is radio and TV broadcasting in Kurdish and other minority languages. However, some of the articles have been criticised for being vague and leaving the door open to unwarranted prosecution by courts that are often very punitive. Media ownership is also very concentrated, and there is strong pressure towards “conformity,” particularly not criticising the government to avoid reprisals against investors. These groups may become as much of a problem for press freedom in the future as the state. Despite the restrictions, the print media delves into many issues, provides a plurality of views and is largely independent. Access to the “global media” is free, and although only about a quarter of the population accessed the Internet in major cities in 2003, the number of users is growing, particularly in rural areas.

Media Liberalisation and Consolidated Democracies

It has been observed that the media has tended towards convergence (similar reporting), concentration (of ownership), globalisation (multi-nationalisation), commercialisation and growing commercial influence on content, trivialisation, popularization (the tendency to disseminate simple, uncontroversial messages), towards the selection of news that ignores the traditional role of gate-keeping and traditional notions of “newsworthiness,” and by a tendency to place excessive emphasis on news that transmit fear and danger (a source of what has been called the “mean world syndrome). For “consolidated democracies” the issue of market domination has become a crucial one, as the media has become increasingly driven by the market and advertising, and thus trivializing content (less “serious reporting” and less “documentaries” and more sensationalism). In such a context, the media ceases to become a source of empowerment and to serve as a public forum. Further, in many democracies, the links between the media and the state have become so close in the context of a dominant market logic that the role of the media as a watchdog is at risk.

These challenges are also present in liberalising or democratising policies. However, the effects may not be the same. While commercialisation may be detrimental to the role of the media as a responsible informant about fundamental political issues, in contrast to a consolidated democracy, where market criteria may weaken the democratic role of the media, during political liberalization it may have the opposite effect, as increasing pluralism will challenge state monopolies on information. In Portugal and Spain during the late 1970s, for instance, market competition between different outlets led to significant changes in coverage without full liberalization of the political environment. However, even in such contexts, if there is no political freedom, the dominance of the market may result in the corruption of the relationship between still or quasi authoritarian political authorities and private media outlets.

VI. The Politics of Memory

Dealing with Past Human Rights Violations

Transition to Democracy and the Challenge of the Past

One of the key issues facing any new government in the wake of a transition away from authoritarian repressive rule is how to deal with the legacy of past human rights violations. Different countries have adopted very differing strategies to deal with the past, ranging from amnesties and pardons, to trials, purges, the establishment of truth commissions, financial compensation, and measures of symbolic reparation, including the building of monuments or the proclamation of commemorative days of 'remembering'. This issue has acquired special significance over the last 20 years: transitional truth and 'political justice' are not an invention of the twentieth century, but in the post-Nuremberg age, and particularly since the mid 1980s, efforts to deal with the past have risen exponentially.

Trials have been seen to establish moral principles, and act as a form of 'political theatre' that provides "collective lessons in justice." Deterrence has also been cited often as a reason to pursue accountability, on the grounds that speaking out and punishing will prevent the recurrence of atrocities. Truth commissions, on the other hand, are seen to provide acknowledgement (as opposed to just knowledge) of the suffering of the victims. They help to reintegrate victims into society by recognising their suffering, and provide a form of compensatory justice. They can counter oblivion, combat 'social amnesia', denial, cover-up, and various pernicious forms of revisionism. Truth telling can also be the basis for the extension of material and moral measures of compensation and reparation. It can help to resolve legal and material issues such as the collection of life insurance with official recognition of death. The information provided by truth commissions can also serve as the basis for criminal prosecution. Further, unlike courts that can only establish individual guilt, truth commissions can undertake a global political-institutional judgment and establish non-judicial collective or institutional responsibility. And by establishing state responsibilities and pinpointing the institutional causes of abuse, truth commissions can be a first step towards the kinds of institutional reforms that make a process of democratisation possible. The case of Morocco illustrates some of the benefits of establishing a truth commission.

In January 2004 **Morocco** became one of a growing list of countries that have decided to confront their past through the establishment of a truth telling commission. The mandate of the 17-member Equity and Reconciliation Committee (IER) was to investigate the disappearances and illegal detentions perpetrated by the forces of law and order between 1956 and 1999, establish institutional responsibility for these crimes, fix compensation for the victims, recommend reparations and reforms, and to promote reconciliation. Its creation is significant not just for nationals: as the first such commission in the Arab world it is setting a very valuable precedent in a region that the 'human rights revolution' has largely passed by. The EIR began its work in January 2004. By the February deadline, more than 22,000 compensation claims had been filed. In July 2004, the IER announced that there would be public hearings, which were held over 10 weeks, with EIR visits to various parts of the country to hold on site interviews. For the first time, victims and relatives were able to tell their stories and Moroccans were able to publicly and collectively 'see' the legacy of their violent past, with testimonies were broadcast on national television and radio. Morocco has also undertaken a policy of monetary compensation for the victims of past repression.

The Dilemmas of 'Transitional Justice'

Limited time, human and material resources make accountability partial or selective. A report of each and every violation would take years to compile. The guilty usually refuse to acknowledge their guilt and repent because they feel they have done the right thing. Two competing versions of the truth will continue to exist even when the facts have been proved beyond a shadow of doubt, as facts can always be interpreted in different ways. Similarly, the trial of each and every violation would be impossible to carry out. Even if courts were able to dedicate themselves full-time to the successful resolution of such cases, even if the passage of time and financial limitations were not a consideration, even if violators had no power to resist, this outcome would be impossible for spatial and temporal reasons. Thus, reality compromises the uncompromising nature of truth and justice. The intensely political nature of the pursuit of accountability and its attendant legal problems introduces an immediate conflict with the absolute and ethical nature of demands for truth and justice.

Limits on truth and justice are also unavoidable if the ultimate aim is to establish a pluralistic, rule of law democracy. Authoritarian or totalitarian regimes are ironically better equipped in philosophical and psychological terms to implement ‘totalising’ justice policies, as they do not care about pluralism or due process. By contrast, democratic regimes must respect both. If they are to respect pluralism, they must take into account the view of all parts of the political and social spectrum (some may demand truth, others may argue for ‘forgetting’ and ‘forgiveness.’), and they will have to find a policy that aggregates preferences rather than expresses the full wishes of one or another sector. And if they are to comply with due process, there can be no indiscriminate purges, mass trials or collective guilt, which may be ‘just’ but debilitate the rule of law and violate due process. Courts may not be able to legally establish guilt of people that ‘everyone knows’ to be culpable. Seedy and severe responses can be ‘just’ but complying with due process creates a gap between what is ‘just’ and what constitutes ‘justice.’

In the end, truth policies have to be both ethically and politically informed: they must strike a balance between maximalist moral demands whose tendency is to stretch political limits, and pragmatic minimalist demands whose tendency is to assert the logic of a constrained political context. For this reason there are good (and not only bad) reasons to limit the mandate of a truth commission: truth policies must be timely and sustainable, the truth must be revealed quickly and the work carried through to the end, or a truth commission may lose credibility and legitimacy. All this usually means its mandate will be limited in time and scope. The Moroccan EIR was criticised for being limited in scope and for ignoring the issue of penal culpability, but despite its shortcomings, its works was nothing less than a groundbreaking experiment in the Middle Eastern-North African context. Indeed, for Mark Freeman of the International Centre for Transitional Justice (ICTJ), these hearings are the most impressive of their kind ever held to date.

The Problems of Punishment

In the wake of the Second War many countries instituted rigorous and far-reaching purges, extra-judicial executions, and trials by criminal courts, official executions and mass jailing. Severity and speed were prized over adherence to the rule of law. Standards of collective guilt were adopted, and there were serious procedural irregularities as courts came under great pressure to sentence people. Retroactive justice was applied in violation of the *nulla poena sine lege* (no punishment without law) principle. Treason, for example, was punished retroactively, Nazi parties were made criminal after the fact, and although the death penalty had been abolished in many of these countries, it was reinstated. Similar problems plagued the Eastern Europe in the 1990s. The border guard trials in Germany raised some of the problems with retroactive justice starkly. How fair is it to select exemplary cases, to try the ‘small fish’ and let the ‘big fish’ get away? How is one to get around the problem of due obedience or even obedience to a political order that was legal and suddenly is declared criminal? Statutes of limitation, double jeopardy and retrospective liability all make legal justice less than just – be it in terms of satisfying victims’ demands for justice or in terms of ensuring the rights of defendants. The case of Portugal, where far reaching purges were undertaken, highlights some of these problems.

The path taken by **Portugal** to deal with its repressive past was radical and the broad purge movement that affected all areas of the public administration and even nationalised private enterprises, was characterised by the violation of due process and rule of law requirements. The first purge phase, the so called “savage” purges, occurred in 1974-1975 when the state was still in crisis, democratic institutions had not yet been established and the radical left and the Communist Party were controlled political dynamics. Later, to contain and remedy the manifest illegality of the popular purge movement, the provisional government promulgated regulations on public administration purges and established an Inter-ministerial Purge and Reclassification Commission (CIMSR), which was responsible for the coordination of existing purge commissions and the creation of new ones until 1976. Official reports state that by February 1975 estimate that around 12,000 had people were dismissed or suspended legally and illegally. From 1976 onwards, the period in which the process peaked, steps were taken to reintegrate those purged, as moderates began to take control of the political situation. Although there was no “truth commission,” various initiatives were undertaken to open and study the archives of the regime and the political police. There have also been various symbolic measures of rehabilitation, with figures of the opposition being awarded the Order of Freedom, streets and other public sites being renamed. There was an attempt by the political right to criminalise the activities of the radical left in the early years of the revolution, but there was an ‘informal agreement’ to accept that both sides had committed excesses, effectively putting and end to the “politics of truth and justice” in Portugal.

The Case for Forgetting

Given the above mentioned problems, some analysts have concluded that forgetting is preferable to punishment. It has been observed that if one takes into account the basic principle of equality among citizens and equality before the law, and if one sees that it is impossible to try everyone involved in repressive activities at various levels (including enthusiastic participants and the forcibly complicit), it is fairest to try nobody. Thus, it has been argued that one must either punish everyone or nobody, and as it is impossible to try everybody, nobody should be punished or compensated. Further, people cannot be held guilty for what they are forced to do. All in all then, it is best to promulgate a “general amnesty” and abandon all attempts to compensate victims. The case of Spain offers a classic example of the option to “forget.”

Spain opted for a radically different approach to the past: it decided to forget, given the traumatic memory of the fratricidal Civil War, in which both sides committed atrocities. Indeed, the trauma of past conflict is often cited as a key explanation of the moderate, consensual and “pacted” transition in this country. The 1977 Amnesty Law was thus one of the first measures of the new democracy, permitting the release and rehabilitation of all political prisoners, and eliminating any scope for trials of former regime members. Civil servants were able to regain their posts and pensions. Compensating the victims of the violence of the 1940s was very difficult, given the amount of time that has passed, but there were acts of moral rehabilitation and public recognition, and material reparations for the survivors or families of the dead. In 1976, a decree conceded pensions to the mutilated of the Republic Army (an issue still not entirely resolved today), and in 1984 a law was passed recognising ‘the rights and services rendered’ by military and police officers during the Civil War. Spain did not have a truth commission, but a few private initiatives were undertaken to investigate the ‘truth.’ Some suits were presented against alleged torturers as a result of such initiatives, but most were thrown out of court due to the provisions of the Amnesty Law. In 2004 a movement for the recovery of historical memory was initiated, the Association for the Recovery of Historical Memory, which organised a series of acts of homage, films, published books, and after 2002, engaged in an attempt to exhume the bodies of victims of repression. More recently, a parliamentary commission has been established to study measures to open archives, and in July 2006, to mark the 70th anniversary of the Civil War, the government passed a Law of Historical Memory. In Spain, therefore, the politics of memory took off only very late due to the official policy of forgetting and a general reluctance to go into a past in which atrocities had been committed by both sides.

One may not agree with the argument for “forgetting,” but the fact remains that while justice with regard for due process can never be enough, any other kind of justice will not be affirmative of the kind of legality of a democracy governed by the rule of law; and the fact is also that while rule of law democracies may never succeed in proving the guilt of all the individuals that everyone ‘knows’ are guilty, this morally unsatisfactory situation is ultimately more life-affirming because it strengthens the institutions and procedures which are indispensable for the kind of political system that makes such mass human rights violations less likely to occur in the future.

It should also be noted that the nature and success or failure of truth and justice policies is determined by the particular national political conditions and the institutional, constitutional and political limitations operating during the transitional period and under the successor democratic regimes. Among the many conditioning factors are: the strength of institutions (particularly the judiciary), the legacy and nature of repression itself and how long ago it occurred (investigating disappearances that occurred 20 years ago is much harder and less likely to produce definitive findings than looking into torture that occurred only 2 years ago), the nature of prior experience with democracy (a positive experience usually signifies a greater readiness to pursue this issue and fewer fears of breakdown when doing so), the strength and nature of the parties in opposition to authoritarian rule, the nature of leadership under the new democratic dispensation, the nature and power of NGO pursuing truth and justice, and the nature of involvement of religious actors in the process.

As the case of Spain and Chile both show, restricted, negotiated peaceful transitions to democratic rule are particularly challenging. A peaceful transition to democracy implies the continued existence and survival of the state institutions existing prior to and under military rule. When such institutions are responsible for the violations of the past, successor regimes are faced with the question of how to punish institutionalised crimes without destroying the state institution which had perpetrated them, and with the fact that individual prosecution of institutionalised crimes sustains the ‘legal’ fiction that crimes are

committed by individuals for individual reasons, rather than part of an institutionalised policy. Negotiated transitions mean that repressors are not defeated and are even given a degree of political legitimacy by their voluntary withdrawal from power and their participation in the transitional negotiations with the democratising civilian elites. Thus, successor democratic governments must avoid a backlash which may endanger the stability of the transition and when pursuing accountability for past abuses. In this context, can justice be pursued without a breakdown of the new democracy due former authoritarian rulers and supporters leading a backlash? Can democracy survive if the principle of equality before the law, one of its ethical foundations, is not established and lived up to from the outset? Obviously, as time passes, this starkness of this dilemma fades, and it becomes possible to establish “deep democracies” without past accountability.

Whatever the answers, one thing is certain: a key variable shaping such processes seems to be the relative strength of pro-reform groups emerging from the old regime, moderate opposition forces, and intransigent groups on both sides, namely the authoritarian elite and radicals within the opposition. Negotiations between these political groups, and their relative strength in the transitional processes, are crucial variables for understanding when and how retroactive justice measures are adopted. In the case of Morocco the political constraints are even more severe.

Morocco, for instance, has not experienced a process of democratisation; rather it is undergoing a process of controlled liberalisation. There has been no regime change, and it is the authoritarian regime itself that is attempting to transform itself and to undertake what are usually ‘transitional truth and justice’ policies. The Moroccan security forces responsible for violations have even more power than those that leave power after constrained negotiated transitions. What is more, these same forces fought a “dirty war” in the Western Sahara, and in the post 11 September context the tendency for state repression is again on the rise. The authoritarian legal order is still in place and, to give just one example, the prohibition on criticising the royal family, continues to make it very difficult to point the finger at the preceding monarch for the violations of the past.

A similar situation is apparent in Turkey. Although there is a process of ongoing democratisation in this country, it is still very hard to deal with the various issues of past repression, since the old forces of law and order are still very much involved in the political process.

Turkey has not undertaken a comprehensive policy to deal with past repression. The three key issues in the Turkish context are the Armenian issue, the war with the Kurdish separatist PKK since the early 1980s, and the systematic use of torture by penal and police authorities up until the recent past. As regards the Armenian question, there has been a private initiative, the Turkish Armenian Reconciliation Commission (2001-2004) to propose measures to reconcile Turks and Armenians, but no government action. As regards the systematic use of torture, there have been highly effective reforms to eliminate the practise, but there have been no moves to establish any kind of “truth commission” to deal with this painful reality of the past as yet. As regards the Kurdish issue, the capture of the PKK leader in 1999, his repentance and call for a PPK forces to lay down their arms, initiated a period of relative peace and established the conditions for truth telling and reparations. In August 2005, the prime minister acknowledged the need to address the “Kurdish question” and in July 2004, the government passed a Law on Compensation for Damage Arising from Terror and Combating Terror, to which an estimated 104,734 internally displaced persons had applied for compensation in the end of July 2005 deadline. There have been calls for a “comprehensive amnesty” to socially reintegrate PPK fighters, and EU pressure for the repeal of laws limiting public debate about the war. In September 2004 the PKK renounced the unilateral cease-fire it had declared in February 2000. Since then there has been a dramatic escalation of PKK attacks, not just against the security forces but against the civilians including foreign tourists as well. This situation makes reconciliation efforts quite difficult.

Reconciliation and Democratisation

The two most ambitious claims made are that such policies promote reconciliation and are essential for democratisation. Neither claims stands up to scrutiny. The link made between truth telling and reconciliation was most explicit in the cases of Chile and South Africa (where *ubuntu* or recognition of the humanity of the other, was a byword). The presence of the concept stems from the influence that religious figures have had in the transitions in both these countries, yet it is usually not clarified. What is the ‘rainbow nation’ described by Desmond Tutu? Can one ‘make whole’ what was torn asunder? Was there ever such a ‘whole’

to begin with? Is it possible to create a 'single epic' for a united 'imagined community?' Individual victims may forgive or even become 'reconciled' with their victimisers, but can a process of this kind be reproduced at a national level? It is more likely that old hatreds will persist and that many will not forgive, be they victims or victimisers who feel they fought to 'defend the nation' or another such abstract value.

Making such claims may lead to debilitating disappointment when truth or trials fail to produce such miraculous results. Rather than talking about reconciliation, therefore, it may be more appropriate to ask whether accountability processes can contribute to affirming democratic governance. There is a difference between 'political' reconciliation and 'social' reconciliation: the first can be achieved by agreement among elites, but the latter may never be truly complete. Consensus on the need for democracy, a system of rules, laws, procedures and values that call for peaceful coexistence among all kinds of groups, whether friendly or not, is a lower threshold and a more practicable possibility.

The evidence shows that such policies are not, in and of themselves, necessary or sufficient to promote a process of democratisation. If this were the case, Spain would be much worse off than, say, Argentina or even Rwanda. Because trials, purges and truth commissions are undertaken and constituted does not per se guarantee a better quality democracy. It is only insofar as such policies form a part of a wider process of fundamental, forward-looking institutional reform to promote present and future accountability – namely a reform of the principles and the procedures governing the judiciary and the forces of repression, as well as other institutional reforms that strengthen democratic governance – that they can become a key to democratisation. The pursuit of accountability may make a vital contribution to setting in motion a dynamic for wider reform, while worrying too much about stability can lead to a reform immobilism which halts the social, institutional and political transformation necessary for the process of democratic consolidation. In the final analysis, however, it is the fundamental overhauling of these institutions that is indispensable.

In short, there is no clear and automatic link between transitional truth and justice and democratisation. The answer depends on whether policies are in themselves democratic and carried out according to due process, or whether they constitute mere instruments for the accumulation of power or for revenge. The answer will differ also according to the level of popular participation and interest in the process. It depends on whether such policies are conceived of as a way to break with an undemocratic past and build a new democracy.

Truth and justice policies should be part of wider effort by governments and societies to undertake the necessary measures of institutional reform and prevention, such as policies to democratise the military, strengthen the judiciary and promote a culture of human rights, as outlined in the chapter on institutional reform in this Report. In other words, the best kind of truth and justice policy is not only the one that addresses the needs of the victims, but also creates the conditions for such violations never to occur again. It appears insulting to ask victims and relatives to be 'pragmatic' and 'realistic' given their long suffering, and yet realistic expectations and aims are necessary.

The contribution of international actors to processes of domestic political transformation is tremendously varied in scope and effect. Their role depends on the particular combination of internal and external economic, social and political circumstances, the foreign actors involved, on the mode of intervention or policies that are adopted, on the relationship between foreign and domestic players, and on the ideological and normative climate of the times. It is hard to generalise about the impact of external interventions of any kind, ranging from sanctions to quiet diplomacy, as these are fraught with pitfalls, and success often depends on the qualities of leadership and other unpredictable factors, because it is hard to say in hindsight, which variables were fundamental catalysts for change, and because it is increasingly difficult to separate the domestic from the external fronts given globalisation and the increasing power of transnational phenomena.

The conventional wisdom is that international actors play a secondary and supportive role in processes of political change, and that domestic players are determinant. However, as various socio-political and economic trends which promote increasing interdependence and increasingly interweave domestic and foreign dimensions, this affirmation has been prone to shift and change over time. Structural theories, such as modernization theory and its critical riposte – neo-Marxist dependence theory – posited a much stronger causal relationship between international economic conditions and domestic political outcomes, positing a close causal link between economic conditions and political structures or arguing that there were “pre-requisites for democracy” that had to be in place before regime change became possible. This approach has been challenged by more analyses that posit the greater autonomy of the political sphere, as well as by real life events.

Processes of liberalisation, transition and democratisation occur in any number of ways, involve a variety of factors, actors and multiple causalities. The Dahlian formulation is that “the more the costs of suppression exceed the costs of toleration, the greater the chance for a competitive regime,” and it is certainly the case that international factors and actors have been playing an ever more important role in “increasing the costs” of authoritarian government. Indeed, there is greater acceptance today of foreign “interventionism,” particularly where human rights and democracy are concerned. Domestic opposition forces often ally themselves with external actors to press forward their political reform agenda, and foreign “democracy promoters” may take advantage of many “openings” to press for domestic change. One such opening is the existence of gross human rights violations, which may mobilise opposition at home and abroad and shift government behaviour through the “politics of shame.” Sometimes it is enough to finance electoral monitoring for foreign actors to act as catalysts for change. It may be that the mere perception that external actors will react to domestic events will encourage governments to act, without any specific interventionist acts becoming necessary. Indeed, omissions or ceasing to support authoritarian regimes may be just as powerful as pro-active policies of support for democratisation. The symbolic discursive elements of international politics can alone be crucial.

International actors can play an important role in transitional processes: they can create a positive climate for change, and they can act as catalysts for change. The instruments at the disposal of the international community are well-known quiet diplomacy and more aggressive diplomatic pressure, conditionality regimes, which includes not only conditioned development or military assistance, but also the “positive” conditionality that the EU imposes on states aspiring to membership of that community, targeted assistance for elections or civil society groups for example; normative advocacy, or the “politics of shame,” which includes denunciations of torture, imprisonment or disappearance; military interventions, sanctions, various kinds of economic, financial or political carrots, such as loans and membership of international institutions, among others.

International actors may help to promote democratisation through “diffusion,” “infection,” “penetration,” “emulation,” “reaction,” “control,” “incorporation” or “inclusion,” via “interdependence” or “conditionality,” to use only some of the words used to describe the influence of the external dimension. Influence may be passive or active. “Infection by vicinity” in Portugal and Spain and Central and East Europe is quite common. According to one study, there have been approximately 40 democratizations since 1974 of this kind; the same study indicates that approximately two thirds of the existing democracies in 1990 were at least partly established as a result of “control,” or deliberate imposition or intervention. And many other transitions involve a relationship of “consent,” whereby domestic groups establish a strong relationship with external actors or models. Most transitions, however, involve a combination of all three elements, and perhaps others.

VII. International Dimensions of Democratization

What Role Can International Actors Play?

International actors may have an influence at different points in different contexts: either in the inaugural or initial phase, when the first decisions are adopted to change a regime, the constituent phase, when constitutions and game rules are fixed, or the termination phase when, the new system settles into a routine. External actors may exert continuous pressure, or have a strong impact on a crucial isolated act. The timing of the transition will also make a difference: there may be more opportunities for influence when transitions are protracted compared to when they happen very quickly, in which case foreign actors may have more of an influence on the phase of “consolidation.”

The evidence suggests that, all things being equal, the kinds of interventions that are the most likely to be successful are those that combine pressures from all sources: interventions that are multilateral (involving various states) and multidimensional (involving various levels of action). Multilateral interventions allow the international community to draw on a wealth of expertise and experience and are generally perceived as the most legitimate (multi-nationality of forces has been crucial for the perception of neutrality of UN peacekeeping forces, for example). And the evidence also suggests that pressure works best when there is already an endogenous movement and desire to liberalize or democratize. Finally, whether democratization is influenced – positively – by international actors or has a strong international dimension depends much on the international or a geo-historical regional climate.

The importance of Europe and more specifically the EEC and what is called the “European identity,” is evident in the so-called “third wave” of democratization, particularly in the cases of Portugal, Spain and Greece, but latterly in post-Communist Eastern Europe. The case of the MERCOSUR in South America is another example. The shift from rivalry to cooperation was possible due to a change in the policies of the Brazilian and Argentine governments, who were leading a process of transition to democracy, and the stability of those regimes was in turn assisted by the growing strength of the intra-regional relations promoted by the MERCOSUR.

The historical process of decolonization, particularly linked with events after the Second World War and, most particularly, after 1960, also encouraged the diffusion of democratic models and international organizations to support post-colonial democratizations. So the regional, sub-regional as well as the global zeitgeist, which is more than the sum of the parts, more than the combined action of all kinds of actors, counts a great deal. It may even become “internalized” and part of the thinking of new governments, and thereby lead to internal reforms without any need for specific “interventionism.” The cases of Portugal and Spain highlight the role of such phenomena in promoting democratisation.

The international dimension of the transition in **Portugal** was crucial. The country participated in various multilateral institutions and was not as isolated as Spain before the transition, being a founding member of NATO, a member of the European Organization for Economic Co-operation (EOEC), the European Free Trade Agreement (EFTA), the European Payments Union (EPU), and a recipient of Marshall Plan funds. However, “Europe” became the focus of the moderate parties in the transition with the twin processes of decolonisation and democratization, and the pull of Europe played a key role in marginalising the initially dominant left and radical left and “normalising” the revolutionary transition. When the 1974 “revolution” took place, the Cold War was in full swing, so foreign intervention in the early years of the transition was very high, as various actors sought to mitigate the destabilising effects of intense social mobilisation and radical left domination of the political process. The US was crucial in giving support to the moderate parties, as were the Party Internationals. The role of the EEC was more important in the consolidation phase, rather than the early transitional years, although as early as 1975 the Council of Europe stated that it would initiate accession negotiations but could only “support a pluralist democracy.” It was in the early 1980s that Portugal finally began to break with the “double legacy” of authoritarianism and the revolutionary politics. It did so with the crucial support of the US, the EEC and many other international civil society and political actors.

It is only recently being recognised in the literature that the international dimension of the transition in **Spain** was quite significant, and that the influence of accession to the EEC was crucial, as the Spanish elite and public saw “Europe” as the path to modernity and peaceful democracy. Some countries played a key role in supporting the transition, namely France, the Federal Republic of Germany, Portugal and Italy in Europe, and the US, which had a permanent role without a direct intervention even during the period of consolidation. Portugal was important as it provided the example of what Spaniards wished to avoid, and it was also important in mobilising other states – including the US, which wished to protect its defence interests – in supporting a more controlled transition to democracy. The

Council of Europe also played an important role, accepting Spain as a member in 1977 even before it had a democratic constitution (a fact without precedent at that time). The issue of NATO membership was central during the transition (it led to the participation, for the first time in the history, of the Spanish people in a referendum on an international matter). Also important was the role played by the Party Internationals and international trade union associations, particularly the Socialist International, the German party foundations and unions, and private Catholic foundations. Even the Vatican played a role given the power of Catholicism in Spain.

International interventionism in favour of democracy may not work or can backfire. For every East Timor there is a Somalia. And in the case of the Middle East, there is broad consensus that international factors worked against the prospects for democratic change for a long time, primarily as a result of the nature of the process of decolonization, which placed leaders without popular legitimacy or democratic credentials in power in fragile states that resorted to strong security forces to consolidate the national state (fragmented due to the unclear boundaries often left by former colonial powers, and ethnically mixed populations) and their own power. The shift in the international context after 11 September 2001 has opened a new debate about whether international actors may now have a more positive impact on the region, but the verdict is still pending, not least because of the highly ambiguous results of the equally disputed intervention in Iraq.

The success or failure of foreign intervention depends on myriad local factors that may be unpredictable, not only for the outsider but also for those directly engaged in reform processes at home. Conflicting policy goals may render democracy promoting policies ineffective; and as Iraq demonstrates, they may even produce more violence and instability. Democratic development is a slow precarious process that is characterised by uncertainty, and it calls for the kind of consistency and sustained attention and financing which foreign actors may not be in a position or willing to provide. The impact of foreign assistance will also depend on how open a target country is, and whether it has a “defensive nationalist” or an “open” attitude.

Crucially, the diffusion of a specific climate of values, ideologies and political attitudes are as, if not more, powerful as interventionist by specific actors, be they states, transnational advocacy organisations or international organisations. The actions of all international actors are shaped by – and shape – the international “ideological” climate or zeitgeist. While the latter is not measurable and therefore difficult to integrate into causal explanations, it cannot be underestimated. Indeed, it is perhaps the single greatest contributor to empowering the international dimension of democratization. The end of the strictures of the Cold War, the “human rights revolution,” the advancement of a global “democracy and human rights promoting ethos, the development of a more interventionist ethos within the UN, the establishment of regimes of “democratic conditionality” such as that exemplified by the EU or, to a lesser extent, the OAS, the emergence of powerful transnational activist networks, and the fact of globalisation and growing interdependence themselves, have all been part of this global “climate change” in favour of democracy and human rights and in favour of lowered sovereign boundaries.

The EU as a Democracy Supporter

The EU has a record of support for democracy and human rights, which is primarily expressed in its capacity to induce political transformation through the “politics of inclusion.” Conditioned inclusion is perhaps one of the fundamental characteristics of the EU as an international actor: protecting and promoting democracy to ensure peace among nations and economic prosperity is at the core of the history of European integration. Although the EEC primarily an economic enterprise in the years following its founding, the underlying *raison d'être* was to establish peace and democracy through integration.

The politics of conditioned inclusion, while not entirely eschewing hard power approaches to democratisation, are based on offering closer economic and political ties – including membership in the democratic, economic EU “club” – as the best long-term strategy to encourage regime reform. Through conditioned inclusion, a democratic and stable ‘core’ integration project (the EU) uses a variety of carrots and sticks to encourage the ‘integration’ of the periphery to achieve an ever-expanding area of security and democracy. It is a methodology unique to integration projects, as only they can offer membership as the ultimate “carrot” to encourage countries to make the kinds of political and economic reforms conducive to democratisation.

Democracy promotion in its neighbourhood is not simply a question of morality for the EU: given its geographical location it must address the questions of political stability and economic development not only in candidate countries but in the wider neighbourhood. For the EU, then, promoting democracy in these disparate regions and countries is synonymous with stability, peace and economic development: it is nothing short of a security issue. As stated in the European Security Strategy of December 2003 “the best protection for our security is a world of well-governed democratic states.”

The accession of Greece, Spain and Portugal was an early example of the success of the “politics of inclusion” as a means to encourage democratisation in candidate countries. All dictatorships in the 1970s, the democratisation process in these countries, while not entirely driven by exogenous factors, it was certainly closely enmeshed with efforts to meet EC political criteria for membership. With the collapse of the Soviet Union, the EU was confronted with the challenge of eastern enlargement, particularly urgent given the spectre of nationalism. In December 2002, a formal decision was adopted to open accession negotiations for ten new eastern states. From then on, the EU built on its experience with Southern Europe and democracy promotion, including the most stringent and detailed democracy conditionality ever applied for accession. The case of Turkey illustrates the positive impact that EU democracy promoting conditionality can have on prospective members.

The historical experience of **Turkey** also highlights the role of external actors in domestic processes of political change. During the Cold War the international environment less supportive of democracy than in the war and post-war periods, as stability was valued over freedom, and the West supported “friendly” authoritarian regimes to contain communism. The US supported or failed to condemn the military coups. In the 1980s the international context changed again as there was increasing divergence within the West and the democratization of southern Europe. Europe placed greater emphasis on democracy and human rights and pressed the Turkish military regime to hasten the process of transition to democracy. With the end of the Cold War, democratization became a by-word. The democratization of Eastern and Central Europe had a tremendous demonstration effect. Above all, relations with the EU have had a real impact on strengthening the reform process. After 1999, when Turkey was accepted as a candidate for EU membership and the Accession Partnership conditions financial cooperation on the basis of compliance with the Copenhagen criteria. The power of the politics of conditioned inclusion is particularly notable in this instance, when one considers that 11 September might have served to put democracy and human rights consideration in second place, as has occurred in various countries around the world. In the case of Turkey, this has not happened because the domestic reform process has become so closely enmeshed with the commitment to EU membership, to the point where the presentation and passage of constitutional or legislative reform packages tend to coincide with important dates in EU negotiations/evaluations. One key debate in this case is whether the fact that the EU may be undermining reformers by setting hurdles for Turkey that are higher than for other candidates, or whether such demands actually help to ensure that a more democratic Turkey emerges.

It is difficult not to be impressed by the political transformation of the candidate countries. In just a decade, they have moved from authoritarianism to democracy, a process unparalleled in scope and depth anywhere else in the world. The ten new Member States - Estonia, Latvia, Lithuania, Poland, the Czech Republic, Slovakia, Hungary and Slovenia, as well as Cyprus and Malta increased the EU population by 75 million, from 380 million to over 455 million, extended its territory by more than 20 percent to almost 4 million square kilometres (1.5 million square miles) and nearly doubled its official languages from eleven to twenty.

Conditioned inclusion was the cornerstone of this monumental enlargement process. The accession process was undertaken according to the 1993 Copenhagen accession criteria, which determined that countries wishing to become EU members had to support the principles of democracy, the rule of law, human rights and respect of minority rights and put them into practise, and more specifically, judicial reform and independence, combating corruption, administrative reform and decentralisation, effective protection of political, civil, and economic and social rights and of minorities.

Although problems remain, most notably with the treatment of minorities (the Roma), the degree to which democratisation and human rights standards have improved is notable. The EU is applying similar methods to countries with which there is no accession agreement, through the regional Stabilisation and Association Process, which explicitly dangles the carrot of EU integration in return for respect for human rights, minority protection, good

governance and democratic principles. The 1999 Stability Pact for South Eastern Europe, which helps to coordinate donor politics in the Balkans, also focuses on democracy and human rights. Although EU membership is not currently on offer for the TACIS countries, the Partnership and Co-operation Agreements (PCA) signed with most of the countries of the region, and the Common Strategies adopted for a number of individual countries, such as Russia and the Ukraine, provide for political dialogue and establish democratisation, the rule of law, human rights and good governance as priorities.

The EMP and the ENP

The policy of the EU towards the Mediterranean provides another example of the potential and limitations of a policy of constructive engagement without the rewards of inclusion and in a culturally more challenging context. In 1995, Morocco and Tunisia became the first Mediterranean countries to sign Association Agreements with democracy clauses. Since then, pressure has been exerted on Algeria, Morocco and Tunisia for specific human rights cases with some success. In June 2000, the EMP was formally subsumed into the EU Common Strategy towards the Mediterranean, and the commitment to human rights, democracy, good governance and the rule of law has been frequently reiterated as a fundamental goal.

Morocco is a crucial country in the “Arab world” since it has made the most progress with liberalization in a region that is the least touched by the so-called “third wave” of democratization. Since Mohammed VI assumed the throne in 1999, Morocco has entrenched a system of liberal rights protection and has been held up by many observers as the clearest hope for Arab reform. The international dimension of regime liberalisation in Morocco has not been as marked as in the case of Turkey. King Mohammed VI has made it clear that he will not follow “European models” of democratisation, and that he favours a “strong, democratic executive monarchy.” However, Morocco is no longer “defensive” about democracy or human rights issues (the greatest demand for foreign attention comes from within), and there are examples of how international pressure has worked to promote policy change: the decision by the King to deal with past human rights violations, for instance, was partly a result of external pressure from the human rights groups such as Amnesty International (AI) and the United States Department of State (USDS). Exiles also played a crucial role in raising international awareness of the repression suffered by Moroccans. As far as the EU is concerned, the dominant tendency has been to adopt a policy of “positive conditionality.” There is now a Euro Mediterranean Association Agreement (EMAA) with Morocco (in force since 1 March 2000), which includes a (never used) conditionality clause, and Morocco is one of the main EMP beneficiaries of the MEDA Democracy Program (MDP) funds, to which governmental and non-governmental bodies can apply. Some have argued that the EU approach to human rights and democracy in Morocco is still too cautious, and overly concerned with upsetting the government and its policy of change within continuity. The ENP Action Plan for Morocco refers to the need to improve access to justice and administrative capacity, and to fight corruption, and to compliance with international conventions on human rights protection, freedom of association and expression, and greater protections for women, children and other social rights. However, EU policy appears to be limited to achieving partial political reform rather than full democratisation.

Conditionality and democracy promotion has not met with great success in the MEDA countries. Hopes for better performance are now pinned on the new European Neighbourhood Policy (ENP) inaugurated in 2003, which has brought the Mediterranean and non-member Eastern European countries together into a common overall framework. ENP is now the framework that will give countries preferential access to the EU market and eventually establish free circulation of people, goods and services, in exchange for progress with “shared values”, notably democracy, pluralism, human rights, civil liberties, the rule of law, and which will hopefully strengthen security within the new neighbourhood created with the last enlargement. With ENP, the EU will broaden the inclusion/conditioned approach to democracy promotion. However, while the aims, structure and conditions of ENP are similar to those offered to candidate countries, the incentives are not, and it remains to be seen to what degree conditions will be met without EU membership being on offer.

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Country	Law	State Church	Politics	Society	Schools
Australia	SEPARATION State religion outlawed since 1901.	None	Parliament holds prayers at start of sittings.	According to the 2001 Census, "Australians" stated religious affiliations were: 27% Catholic, 21% Anglican, 21% other Christian denominations and 5% non-Christian religions. Just over one-quarter of all Australians either stated that they had no religion, or did not adequately respond to the question." http://www.abs.gov.au/Ausstats/abs@.nsf/0/eba753c2cca256cae00053fa3?OpenDocument	A debate in 1962 on funding of Catholic schools led to laws implementing State aid for non-government schools (Catholic and other private schools).
Canada	SEPARATION Charter of Rights and Freedoms: Canada "is founded upon principles that recognize the supremacy of God and the rule of law."	None	-	According to the 2001 Census, 43.2% are Roman Catholic, 16.2% have no religion, 2% are Muslim. http://www12.statcan.ca/english/census01/products/highlight/Religion/Index.cfm?Lang=E	Tax exemption for religious groups; some religious schools government funded; Catholic education system alongside the secular 'public' education system; no restriction on government funding of 'faith-based' activities
Egypt	According to the Constitution of Egypt, the country is considered an Arab Republic and Islam is the State Religion.	Islam	Most observers agree that the Coptic Church is the unofficial state church of Egypt. According to many rights groups some laws endanger religious minorities.(see Freedom House's report on Egypt's endangered Christians http://www.freedomhouse.org/religion/publications/endangered/index.htm)	Muslim (mostly Sunni) 90%, Coptic 9%, other Christian 1% https://www.cia.gov/cia/publications/factbook/geos/eg.html	-
France	SEPARATION A 1905 law prohibited the State from recognizing or funding any religion.	None	-	Roman Catholic 83%-88%, Protestant 2%, Jewish 1%, Muslim 5%-10%, unaffiliated 4% https://www.cia.gov/cia/publications/factbook/fields/2122.html	Public tax money supports some church-affiliated schools, but they must agree to follow the same curriculum as the public schools and are prohibited from forcing students to attend religion courses or to discriminate against students on the basis of religion.

Germany	SEPARATION	None	Churches and religious communities can levy taxes collected by the state.	Protestant 34%, Roman Catholic 34%, Muslim 3.7%, unaffiliated or other 28.3% https://www.cia.gov/cia/publications/factbook/fields/2122.html	As required by the constitution, religious instruction (for members of the respective religions) is an ordinary subject in public schools (in most states). It is organized by the state, but also under the supervision of the respective religious community. A small but significant number of religious schools, which receive the majority of their funding (but never all of it) from the state, exist in most parts of the country; however nobody can be compelled to attend them.
Greece	A separation of Church and State would require an amendment of the Constitution.	The Greek-Orthodox dogma is the prevailing religion.	Some financial support is given by the government to the Orthodox Church. Greece is the only European Union (EU) country to ban proselytism in its constitution, and for this reason the only EU country to have been condemned by the European Court of Human Rights for a lack of religious freedom.	Greek Orthodox 98%, Muslim 1.3%, other 0.7% https://www.cia.gov/cia/publications/factbook/fields/2122.html	-
Ireland	The Fifth Amendment of the constitution removed the section which referred to the special position of the Catholic Church, though it has been argued that this section was more symbolic than of actual influence.	None	The Irish President has to swear an oath that does contain an explicit religious reference, though this may be changed in future.	Roman Catholic 88.4%, Church of Ireland 3%, other Christian 1.6%, other 1.5%, unspecified 2%, none 3.5% https://www.cia.gov/cia/publications/factbook/fields/2122.html	Many religious schools are funded, the religious link is due to the way the national school system is funded - a board of management runs the school, which is usually privately owned, while teachers' salaries are paid by the state.
Israel	Officially there is a separation between state and church.	None	-	Every citizen of Israel, regardless of his or her religious or national affiliation, enjoys full and equal civil rights. This of course includes the large Arab and Muslim minority. Jewish 76.5%, Muslim 15.9%, Arab Christians 1.7%, other Christian 0.4%, Druze 1.6%, unspecified 3.9% https://www.cia.gov/cia/publications/factbook/fields/2122.html	-

<p>Finland</p>	<p>The Evangelical Lutheran Church of Finland has a special legal position which is codified in the national constitution.</p>	<p>Evangelical Lutheran Church of Finland and the Finnish Orthodox Church have a status protected by law.</p>	<p>Both churches have the right to levy an income tax on their members and every Finnish company as a part of Corporation Tax. The tax is collected by the state. The general direction has been to restrict and remove the privileges of the national churches, and as of 2004, in most other official business (such as officiating marriages) any registered religious community has a status comparable to that of the national churches.</p>	<p>Lutheran National Church 84.2%, Greek Orthodox in Finland 1.1%, other Christian 1.1%, other 0.1%, none 13.5% https://www.cia.gov/cia/publications/factbook/fields/2122.html</p>	<p>-</p>
<p>Japan</p>	<p>SEPARATION According to Article 20 of Japan's constitution the State is separated from religious organizations.</p>	<p>None</p>	<p>Religious organisations do not have privileges and cannot have political authority. However, the New Komeito Party is affiliation with Buddhism.</p>	<p>Observe both Shinto and Buddhist 84%, other 16% (including Christian 0.7%) https://www.cia.gov/cia/publications/factbook/fields/2122.html</p>	<p>-</p>
<p>Iran</p>	<p>The Constitution declares that the "official religion of Iran is Islam" and the country is considered a theocracy by most observers since both the elected president and the legislature are supervised by two offices reserved for Shiah clerics.</p>	<p>Islam is the official state religion</p>	<p>The Constitution accords full respect to "other Islamic denominations" and officially recognizes Zoroastrians, Jews, and Christians as the only minorities, which, "within the limits of the law," are permitted to perform their religious rites and ceremonies and "to act according to their own canon in matters of personal affairs and religious education."</p>	<p>Shi'a Muslim 89%, Sunni Muslim 9%, Zoroastrian, Jewish, Christian, and Baha'i 2% https://www.cia.gov/cia/publications/factbook/fields/2122.html</p>	<p>The Government allows recognized religious minorities to conduct the religious education of their adherents under the Ministry of Education's supervision. With few exceptions, the directors of these private schools must be Muslim. http://www.state.gov/g/drl/rls/irf/2001/5691.htm</p>
<p>Mexico</p>	<p>The Leyes de Reforma enacted between 1859 and 1863 mandated, among other things, the separation of church and state, allowed for civil marriages and a civil registry, and confiscated the church's property.</p>	<p>None</p>	<p>The Constitution establishes the right to religious freedom and also provides for the separation of Church and State. In August 2001, a provision was added that establishes, for the first time, a prohibition against any form of discrimination, including discrimination against persons on the basis of religion. http://www.state.gov/g/drl/rls/irf/2004/35546.htm</p>	<p>Nominally Roman Catholic 89%, Protestant 6%, other 5% https://www.cia.gov/cia/publications/factbook/fields/2122.html</p>	<p>Religious instruction is prohibited in public schools; however, religious associations are free to maintain private schools, which receive no public funds. http://www.state.gov/g/drl/rls/irf/2004/35546.htm</p>

Sweden	The Lutheran church was the State church until 1999. The Constitution provides for freedom of religion, and the Government generally respects this right in practice.	None	The Constitution provides for freedom of religion, and the Government generally respects this right in practice. All churches receive state financial support.	There are ongoing efforts to remove the special status from the former state church. Lutheran 87%, Roman Catholic, Orthodox, Baptist, Muslim, Jewish, Buddhist https://www.cia.gov/cia/publications/factbook/fields/2122.html	Independent schools are open to everyone and must be approved by the National Agency for Education. The municipality in which the student resides pays the school a per student/per year grant. The education of independent schools shall have the same basic objectives as municipal schools, but may have a profile that distinguishes it from the municipal school. http://www.skolverket.se/sb/d/354
Turkey	According to the national Constitution, Turkey is a secular state.	None	The Constitution provides for freedom of religion, and the Government generally respects this right in practice despite a number of restrictions imposed on several levels of governmental action in order to preserve the “secular state.” http://www.state.gov/g/drl/rls/irf/2005/51586.htm	Muslim 99.8% (mostly Sunni), other 0.2% (mostly Christians and Jews) https://www.cia.gov/cia/publications/factbook/fields/2122.html	Officially recognized religious minorities may operate schools under the supervision of the Ministry of Education. Such schools are required to appoint a Muslim as deputy principal; reportedly these deputies have more authority than their nominal supervisors. http://www.state.gov/g/drl/rls/irf/2005/51586.htm
UK	In the United Kingdom, there are two state-approved churches: the Church of Scotland (Presbyterian), separated from the State, and the Church of England (Episcopalian - Anglican), a State-established church, dependant on parliamentary approval for any major changes to doctrine, liturgy, or structure.	Church of Scotland; Church of England.	The law provides for freedom of religion, and the Government generally respects this right in practice. The 1998 Human Rights Act guarantees freedom of religion and bans discrimination based on religion. http://www.state.gov/g/drl/rls/irf/2005/51589.htm	Christian (Anglican, Roman Catholic, Presbyterian, Methodist) 71.6%, Muslim 2.7%, Hindu 1%, other 1.6%, unspecified or none 23.1% (2001 census) https://www.cia.gov/cia/publications/factbook/fields/2122.html	State schools must provide religious instruction and regular religious ceremonies, though parents may withdraw their children from either; the choice of religion is left up to the school governors, but in the absence of an explicit choice it is by default “broadly Christian”; the Church of England and the Roman Catholic Church operate many state-funded schools and there are a small number of Jewish and Muslim ones.
US	Establishment Clause of the First Amendment to the Constitution, which states that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof”.	None	The court-enforced separation does not extend to all elements of civil religion. By law, the country’s currency now carries the motto “In God We Trust.” Congress begins its sessions with a prayer, and since 1954 the Pledge of Allegiance contains the phrase, “one nation, under God.”	Protestant 52%, Roman Catholic 24%, Mormon 2%, Jewish 1%, Muslim 1%, other 10%, none 10% (2002 est.) https://www.cia.gov/cia/publications/factbook/fields/2122.html	-

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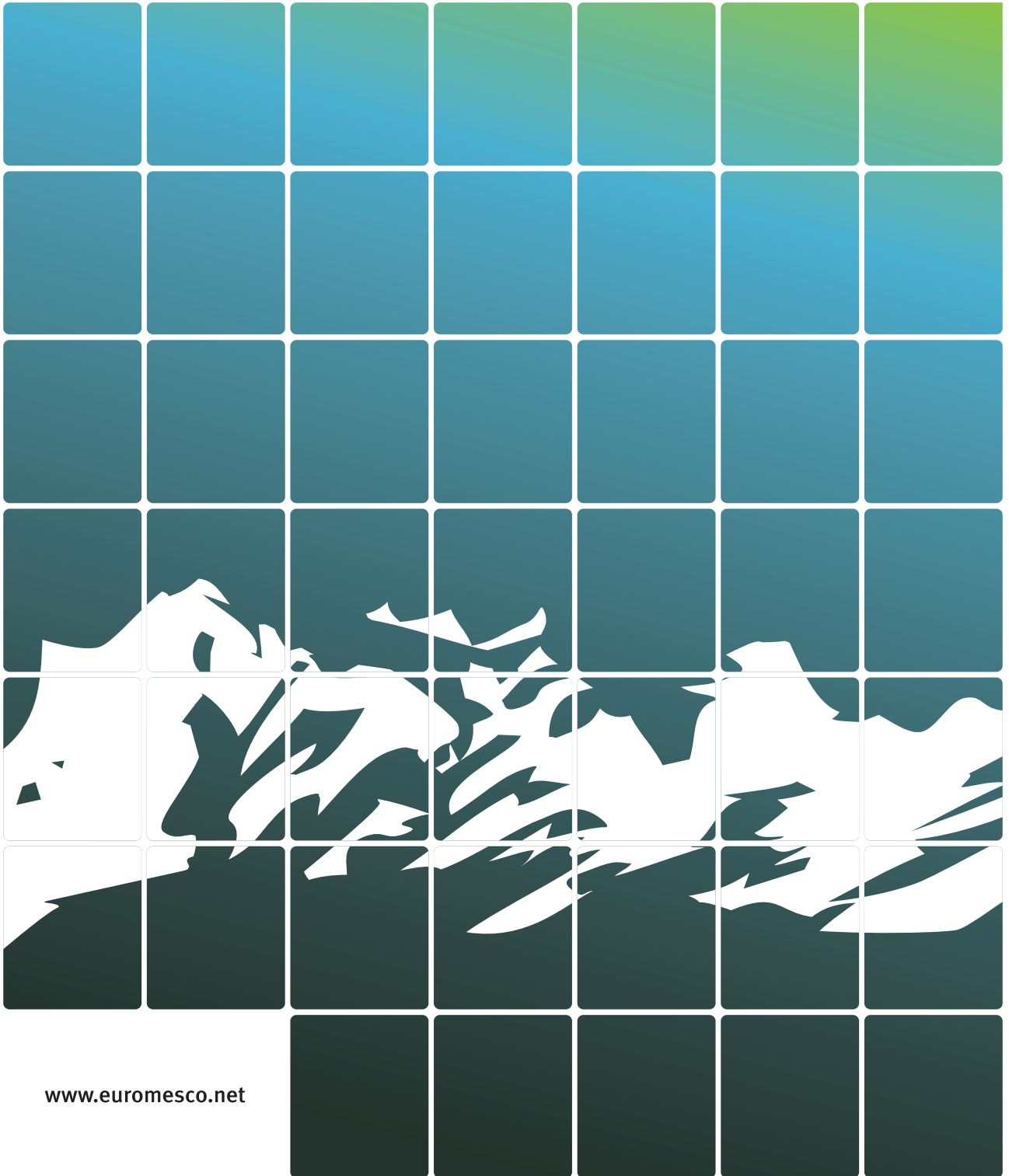
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