

EuroMeSCo Annual Report 2006

Benchmarking Human Rights and Democratic Development within the Euro-Mediterranean Partnership

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Benchmarking Human Rights and Democratic Development within the Euro-Mediterranean Partnership

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Summary

The purpose of this study is to design a framework for the evaluation of progress within the Euro-Mediterranean Partnership (EMP) in the broad category of human rights – political and civil rights – and democratic development. The basic assumption underlying the benchmarking system proposed towards this end is that objectively monitoring progress towards commonly formulated goals is a tool that can be used towards the achievement of such goals. Monitoring is thus regarded as a partnership-building instrument, and this approach presided over the identification of the key priority-areas earmarked for benchmarking, and the associated selection of appropriate indicators.

The study contains two parts: the first part discusses the usefulness of monitoring against the background of existing political dialogue frameworks, proposes the appropriate methodology and identifies the set of areas/priorities for a common benchmarking system; the second part discusses in depth the types of indicators through which progress in the identified areas/priorities should be evaluated.

EuroMeSCo's Approach to Benchmarking

In the report prepared for the 2005 Barcelona Summit outlining its vision of a future Euro-Mediterranean Community of Democratic States, EuroMeSCo stressed that measuring progress towards the fulfilment of the common objectives stated in the Barcelona Declaration would *“require regular monitoring with clear indicators and benchmarks, allowing for an assessment of the evolution towards mutually agreed goals”*. An emphasis on incentives on the part of the EU was also recommended, in the form of clearly indicating to southern partners what they would *“gain by engaging in reforms – such as a stake in a single market based on all four freedoms, including the free movement of people.”*

In line with this approach, the following elements constitute the foundation of the benchmarking system proposed in this study:

- A genuine dialogue between partners is needed to build a common language, a common understanding leading to common definitions and norms, and common criteria governing membership in a regional community.
- The EMP political dialogue must be based on a balanced system of regional governance, shared responsibility, and co-ownership.
- The notion of co-ownership is essential in determining the criteria, defining standards and norms and explicitly clarifying values and targets for the evaluation of progress towards a future Euro-Mediterranean Community.
- The benchmarking system designed in this study to measure progress in human rights and democratic development should be applied as a partnership-building instrument, for it assumes shared responsibility, the right to mutual scrutiny and reciprocal obligations.

Identification of Monitoring Areas/Actions/Priorities

The study is grounded on the main reference documents governing Euro-Mediterranean relations, on the basis of which a systematic listing of the areas/priorities which are clearly expressed was drawn. The four reference documents are the following:

- The Barcelona Declaration
- The Association Agreements
- The Five-Year Work Programme adopted at the 10th Anniversary Euro-Mediterranean Summit
- The ENP Action Plans

The crossing and regrouping of formulated targets makes it possible to identify the following key areas/actions/priorities which are crucial to evaluating progress reached in the political chapter of the EMP:

- 1 Commitment to human rights
- 2 Right to physical integrity
- 3 Political participation
- 4 Rule of law
- 5 Civil liberties
- 6 Civil society
- 7 Women's empowerment and rights
- 8 Migrants' and minority rights.

Main Recommendation: Joint Ownership and Shared Responsibility

When it comes to monitoring progress in the area of the human rights and democratic development, in addition to officials, stakeholders and members of civil society must also be included to ensure the acceptability of the established benchmarking system. It is crucial for all official and non-official actors to be involved in designing a common framework, and develop from the beginning a "culture" of joint ownership. Shared responsibility must arise in the very early stages of the process of elaborating the common framework.

The structure of the benchmarking system designed in this report is summarised in the table below, in which the eight key areas identified are broken down into sets and subsets of indicators for which the selected sources are indicated, and main recommendations are also summarised. The proposed benchmarking system relies primarily on a combination of existing indicators available from a variety of well-reputed sources – building a set of indicators from scratch would have required an inordinate amount of time and money and would serve no other purpose besides duplicating existing work –, requiring in most cases only minor adaptations to the Euro-Mediterranean framework.

Summary Table Selected Indicators and Sources in the Eight Key Areas

Area Priority	Selected sources and indicators	Brief comments and recommendations
Commitment to human rights	Source: Danish Centre for Human Rights <i>Formal commitment to human rights.</i>	The methodology is relatively relevant. It could be improved and adapted to the Euro-Mediterranean context. The inventory of ratifications and reservations to the seven main covenants and conventions and the five fundamental optional protocols allows us to focus on compliance with international standards as well as on the deficits which should be the subject of a genuine dialogue, in order to determine the actions/priorities corresponding to the recorded reservations.
Right to physical integrity	Source: The Cingranelli–Richards (CIRI) Human Rights Dataset <i>Right to physical integrity.</i> This indicator is an aggregate of four indicators related to <i>disappearance, extrajudicial killing, political imprisonment, and torture.</i>	The Cingranelli–Richards (CIRI) Human Rights Dataset is interesting for its large coverage (161 states) and availability on an annual basis since 1981. Additional reliance on other primary sources such as reports by the International Federation of Human Rights Leagues (FIDH) is suggested.
Political participation	Sources: (1) KK Governance Indicators, World Bank Institute: <i>Voice and accountability</i> ; (2) Bertelsmann Transformation Index (BTI), Bertelsmann Foundation: <i>state of democracy</i> ; (3) CIRI Political Participation Index: <i>political participation</i> ; (4) Freedom House: <i>Political Freedoms</i> .	KK Governance Indicators: According to UNDP, this is the most comprehensive benchmarking .system for governance (and in our view, the strongest scientifically). The KK governance indicators are already operational as the US administration currently uses indicators linked to five governance dimensions to determine eligibility for the Millennium Challenge Account's aid programme. The underlying vision could be adapted and used by the EU's new financial facility to support eligible Mediterranean partners in carrying out political reform. Freedom House: According to UNDP, several studies have shown the index to have an ideological bias. Also, the final rating is not a point estimate but a range, which does not capture gradual change that may occur. Not to be used as a single source.
Rule of law	Sources : (1) KK Governance Indicators, World Bank Institute: <i>Rule of Law</i> ; (2) Freedom House, Countries at the Crossroads: <i>Rule of Law</i> .	Freedom House: there is a strong probability that this kind of publication will continue in the future. The methodology is interesting and can also be adapted to the Euro-Mediterranean context.

Civil liberties	<p>Sources: (1) The Cingranelli–Richards (CIRI) Human Rights Dataset's Indicators on Civil Liberties: aggregated index composed of the following four freedoms: <i>Freedom of speech; Freedom of religion; Freedom of movement; Freedom of assembly and association.</i></p> <p>(2) Freedom House's <i>Civil liberties</i> indicator</p>	<p>See above for recommendations vis-à-vis the Cingranelli–Richards (CIRI) Human Rights Dataset and Freedom House indicators.</p>
Civil society	<p>Source: the CIVICUS Civil Society Index is composed of four main elements: structure, values, impacts, and <i>environment</i>. We have selected the latter indicator whose sub-components are the following: <i>political context; basic freedoms and rights; socio-economic context; socio-cultural context; legal environment; state-civil society relations; private sector-civil society relations.</i></p>	<p>We recommend this methodology to be expanded so as to cover all EMP countries.</p> <p>The “environment” dimension makes it possible to highlight the enabling and/or impeding factors to promote civil society and then set up the actions/priorities that can be launched with EU support.</p>
Women's rights and empowerment	<p>Sources : (1) The Cingranelli–Richards (CIRI) Human Rights Dataset's indicator on women's rights composed of: <i>political rights; economic rights; socio-cultural rights,</i></p> <p>(2) Freedom House's indicator on women's rights in Arab countries (2005, 16 countries of the Maghreb and the Mashrek) composed of five categories: <i>no discrimination and equal access to justice; empowerment, security and personal freedom; economic freedom and equal opportunities; political rights and civil liberties; socio-cultural rights.</i></p>	<p>The methodology established by Freedom House is relatively relevant and allows to measure evolution if evaluations are done regularly and frequently.</p>
Migrants' and minority rights	<p>The only suitable and credible source is the EUMC – European Monitoring Centre on Racism and Xenophobia. EUMC annual reports are available since 1998.</p> <p>There are insufficient, readily-available adequate indicators and data resources specifically relating to migrants' and minority rights. This complicates the task of establishing a system of benchmarking to measure progress in this area.</p>	<ul style="list-style-type: none"> • <i>The task of elaborating a benchmarking system to measure progress in the field of migration, discrimination, racism and xenophobia is feasible despite the difficulties mentioned in the study. Agreement must be reached on international legal sources, credible primary sources and the set of migrants and minority rights areas/priorities/actions (or its components).</i> • <i>This study contains appropriate proposals on this matter.</i>

Introduction

The purpose of this study is to design a framework for the evaluation of progress within the Euro-Mediterranean Partnership (EMP) in the broad category of human rights – political and civil rights – and democratic development which relates primarily to the first and marginally to the third chapters of the Barcelona Process.*

The basic assumption underlying the benchmarking system proposed towards this end is that objectively monitoring progress towards commonly targeted goals is a powerful tool that civil societies and governments can use towards the achievement of such goals. Monitoring is thus regarded as a partnership-building instrument, and this approach presided over the identification of the key priority-areas earmarked for benchmarking, and the associated selection of indicators.

The study contains two parts: the first part discusses the usefulness of monitoring against the background of existing political dialogue instruments and frameworks, proposes the appropriate methodology and identifies the set of areas/priorities for a common benchmarking system. It is concerned with the existing visions and the discussion of methodological aspects related to the identification of key priority-areas for monitoring progress in human rights and democratic development within the EMP. The first section details the European Commission's vision and the fitting logic of the European Neighbourhood Policy (ENP); the second concentrates on EuroMeSCo's vision as set forth in its 2005 report on *Barcelona Plus: towards a Euro-Mediterranean Community of Democratic States*. The principal methodological issues relating to the task of compiling suitable indicators in the areas of human rights and democratic development follow, concentrating on conceptual difficulties, definitions, methodologies of measurement and practical recommendations. The last section is devoted to the presentation of the main sources having guided the selection of the following eight areas/priorities identified in the study as crucial for the evaluation of progress in human rights and democratic development:

- Commitment to human rights.
- Right to physical integrity.
- Political participation.
- Rule of law.
- Civil liberties.
- Civil society.
- Empowerment and women's rights.
- Migrants' and minorities rights.

* The key-area of civil society's environment identified in this study is sitting on the fence between the first chapter on political and security cooperation within the EMP and the third chapter, which is concerned with the social, cultural and human dimension of the Barcelona Process. Measuring progress towards shared economic and social development, on the other hand, requires an altogether different methodological approach, and so does the evaluation of enjoyment of social and economic rights.

Part two discusses in depth the types of existing indicators through which progress in the identified areas/priorities should be evaluated. The pre-selected sources producing such indicators are described at length, in order to ascertain which should be used to monitor progress in the eight priority-areas identified in the study; a section is devoted to each one in which methodologies and quantitative data are presented, and relevant recommendations are formulated.

Although the study recommends mutual scrutiny as a precondition for success of benchmarking in achieving its stated objectives – fostering real and widespread progress on areas which are crucial to the emergence of a regional grouping –, it is no less obvious that in certain areas, e.g. formal commitment to human rights, the South has generally a longer way to go than the North; but in other areas, e.g. migrants and minority rights, and the associated issues of intolerance and xenophobia, it is the North that can usefully be more consistently scrutinised so that benchmarking can perform the constructive role for which it is designed. In discussing methodologies and selecting indicators and examples, these concerns have therefore been borne in mind.

For the purpose of this study, EU members and hopefuls within the EMP are part of the 'North'. Turkey is thus considered to be part of Europe, as was the case in the 2005 *Barcelona Plus* EuroMeSCo report, and southern partners therefore include Israel. The geographical scope of the benchmarking exercise poses a practical problem for most of the sources used and proposed to generate EMP indicators, e.g. the Bertelsmann Transformation Index, as they do not cover Israel. Available sources for Palestine are also extremely scarce, and most sources and indices on the key areas defined do not cover all of the southern members of the EMP. This practical difficulty will be compounded if the objective is to broaden the EMP benchmarking model to the entire neighbouring area defined by the ENP. It must be stressed however that the system proposed in this study relies heavily on adapting – as opposed to simply replicating – existing survey-based and other indices to the reality of the EMP, and this approach can readily be applied to any larger area in the future.

A final word about the deliberate focus of the benchmarking system proposed in this study on human rights and democratic development. The other 'pillar' of the first chapter of Barcelona, security and defence, is thus purposely left out, not only because it rests on an entirely different set of international legal instruments as far as formal commitments are concerned, but because the set of areas and priorities to be identified are much less clearly expressed in such founding documents as the Barcelona Declaration and the ENP action plans. More importantly, while human rights and development relate primarily to the evolution of societies and the way they relate to their respective governments, security and defence – in the sense of the first chapter of the EMP –, relate primarily although by no means exclusively to inter-state relations. The difficulty of the exercise in this particular area that generally remains a well-guarded preserve of the state where transparency has a very long

way to go is compounded by the dearth and lack of comparability of sources. This is yet another reason perhaps to make the task of monitoring progress through agreed benchmarks quite as useful as it is demanding. Security, in the sense of domestic security, however, is certainly addressed in its relationship with the rule of law and individual rights and freedoms, this being obviously the case of the key priority-area related to the right to physical integrity which it is the primary task of security establishments to guarantee.

The main conclusion of the study is that designing a benchmarking system to monitor progress towards commonly stated goals in the broad area of human rights and democratic development, broken down into the selected key priority areas, is a useful task conducive to the achievement of those same goals within the EMP, provided the sense of joint ownership, based on shared responsibility and common understanding, be present from the very early stages of its implementation.

Part I

General Framework and Methodology for Selecting Key Areas/Priorities

The main question we have to address at the starting point of this study is why is a benchmarking system to measure progress in key areas related to the political basket of the Euro-Mediterranean Partnership needed, and what purposes should it serve? The answer to this question is the core of the general vision underlying this task.

1. The Vision of the European Commission

The ENP: “a differentiated, progressive and benchmarked approach”

The Communication from the Commission to the Council and the European Parliament on the European Neighbourhood Policy (ENP) reflects the EU's general vision and clearly states what is expected to be achieved in the long run: “the Union's relations with neighbouring countries [will] ultimately resemble the close political and economic links currently enjoyed with the European Economic Area.” The excerpts given below clearly illustrate this vision.

“The long term goal ... is to move towards an arrangement whereby the Union's relations with the neighbouring countries ultimately resemble the close political and economic links currently enjoyed with the European Economic Area. This implies the partners taking on considerably deeper and broader obligations, specifically when it comes to aligning with Community legislation. While the EU should aim to ensure a more coherent approach, offering the same opportunities across the wider neighbourhood, and asking in return the same standards of behaviour from each of our neighbours, differentiation between countries would remain the basis for the new neighbourhood policy.

The overall goal will be to work with partner countries to foster the political and economic reform process, promote closer economic integration and sustainable development and provide political support and assistance.

The EU should start from the premise that the institutions of state need to be capable of delivering full transition to comply with international political, legal and human rights standards and obligations.

Partners will start from variable, in some cases limited, capacity to undertake rapid reform and comprehensive transition. They will need to show a strong commitment to building up their administrative, institutional and legal capacity.

For the EU, there is therefore no alternative to a step-by-step approach.

The extension of the benefits, including increased financial assistance, should be conducted so as to encourage and reward reform – reforms which existing EU policies and incentives have so far not managed to elicit in all cases.

*The EU engagement should therefore be introduced **progressively**, and be **conditional on meeting agreed targets for reform**.*

New benefits should only be offered to reflect the progress made by the partner countries in political and economic reform. In the absence of progress, partners will not be offered these opportunities.

Country and/or regional Action Plans must set out clearly the overarching strategic policy targets and benchmarks by which progress can be judged over several years.

*The setting of clear and public objectives and **benchmarks** spelling out the actions the EU expects of its partners is a means to ensure a consistent and credible approach between countries.*

Benchmarks also offer greater predictability and certainty for the partner countries than traditional 'conditionality'.

Political and economic benchmarks could be used by the EU to **evaluate progress in key areas of reform** and against agreed targets.

Beyond the regulatory and administrative aspects directly linked to market integration, key benchmarks should include the ratification and implementation of international commitments which demonstrate respect for shared values, in particular the values codified in the UN Human Rights Declaration, the OSCE and Council of Europe standards. Wherever possible, these benchmarks should be developed in close cooperation with the partner countries themselves, in order to ensure national ownership and commitment."

*Wider Europe-Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours
Communication of the Commission to the Council and the European Parliament, COM (2003) 104 final*

The proposed "differentiated, progressive and benchmarked approach" is to be developed "in close cooperation with the partner countries" in order to promote "national ownership and commitment" in achieving reforms in human rights and democratic development. Therefore, the need for a genuine political dialogue is clearly spelled out.

Political Dialogue in Human Rights and Democratic Development

The two documents mentioned below largely reflect the EU's vision on political dialogue with its partners for the promotion of human rights and democratic development:

- The Communication from the Commission to the Council and the European Parliament on "The European Union's role in promoting human rights and democratisation in third countries" (COM (2001) 252, from 8.5.2001);
- The Communication from the Commission to the Council and the European Parliament, on "Reinvigorating EU actions on Human Rights and democratisation with Mediterranean partners – Strategic guidelines" (COM (2003) 294, from 21.05.2003).

The EU engages in a political dialogue of varying degrees of formality with all countries with which it has relations. In many cases, the basis for a dialogue on human rights and democracy is the “essential elements” clause included in all third-country agreements since 1992, which now applies to over 120 countries. Such clauses stipulate that respect for fundamental human rights and democratic principles as laid down in the Universal Declaration on Human Rights underpins the internal and external policies of the parties and constitute an ‘essential element’ of the agreement. The following main points arise from the EU’s vision:

Approaches to Dialogue

- Discussions between the Commission and the partner country should in particular be linked to the establishment of the EC’s assistance programme.
- Discussions should consider how ratification of the fundamental human rights instruments and other rights-based international agreements and their effective implementation could be pursued, addressing such issues as the following:
 - democratic participation (including universal suffrage, free elections, multiparty structure, equality of access to political activity, participatory decision making);
 - human rights (including adherence to, and implementation of, commitments under international human rights treaties and conventions);
 - protection of civil liberties including freedom of speech and of assembly, effective operation of human rights monitoring;
 - the rule of law (including an independent and effective judiciary, transparent legal framework, equality of all citizens before the law, police and public administration subject to the law, enforcement of contractual obligations).

Dialogue Objectives

- Successful dialogues should include the joint establishment of certain goals depending on local circumstances.
- These are necessary for both the EU and the partner country to measure progress over time.
- Some internationally accepted benchmarks exist, for example as established by the ILO, the UN and the Council of Europe.
- However, the EU should avoid the mechanical use of such indicators, and it should not attempt to compare or rank countries’ performances. Each situation is different.
- Trends matter more than snapshots. The EU’s objective should be to pursue a consistent approach across countries and regions, and avoid double standards.

Regional Dialogue Arrangements

- Main points drawn from the 2000 Cotonou Agreement with the ACP States:
 - The Cotonou Agreement is built on three interrelated components: political dialogue, trade and investment, and development co-operation.
 - Respect for human rights, democratic principles and the rule of law constitute the essential elements of the Agreement.
 - A major innovation in the Cotonou Agreement lies in a mutual commitment to good governance, defined as the transparent and accountable management of human, natural, economic and financial resources for the purposes of equitable and sustainable development.
 - The negotiations between the EU and the ACP States focus on the concept of good governance.
 - The Agreement explicitly states that regular joint assessments of developments concerning respect for human rights, democratic principles, the rule of law and good governance will take place at country level.
 - Civil society is or will furthermore be associated to the political dialogue, and to the assessment of policy performance in the context of the reviews of ACP-EC Country Support Strategies.

- The EU's relations with Mediterranean countries:
 - According to the European Commission, the dialogue could lead to the establishment of joint working groups on human rights; the aim would be to agree on a number of concrete benchmarks and objective criteria.
 - The Commission will draw on developments in benchmarking and indicators in the field of human rights, democratisation and governance, as appropriate to provide a framework for dialogues with partner countries so as to promote coherence and consistency. The Commission will particularly draw on internationally accepted benchmarks such as those established by the ILO, the UN and the Council of Europe. The Commission will use dialogue to seek the joint establishment of certain goals.

In its bilateral dialogues, the European Commission should aim inter alia at examining the respect of international conventions and treaties to which partners have agreed and the pertinence of current reservations to such treaties and conventions. At the request of the partners the EU should equally be ready to discuss human rights issues within the Union, for example the situation of immigrants in the European Union.¹

¹ On the issue of political dialogue, while European Commission communications point towards a balanced dialogue and a partnership-based approach, when it comes to guidelines for human rights dialogues there seems to be a rather more unilateral approach towards engaging in dialogue. "Any decision to initiate a human rights dialogue will first require the defining of the practical aims which the Union seeks to achieve by initiating dialogue with the country concerned, as well as an assessment of the added value to be gained from such dialogue. The European Union will also, on a case-by-case basis, establish criteria for measuring the progress achieved in relation to the benchmarks and also criteria for a possible exit strategy. In addition, any decision to initiate a human rights dialogue will first require an assessment of the human rights situation by the EU and the COHOM in particular. An assessment of the exploratory talks will then be carried out. The European Union will decide in the light of that assessment whether or not it wishes to continue on a more structured and institutionalised basis." European Union guidelines on Human rights dialogues, Council of the EU – 13 December 2001.

2. EuroMeSCo's Perspective

Partnership, Potential Acquis and Political Criteria for Access to a Future Euro-Mediterranean Community

The general vision outlined in this section is strongly inspired by the 2005 EuroMeSCo report, *Barcelona Plus – Towards a Euro-Mediterranean Community of Democratic States*. The proposals made in this study in what concerns the selection of priority areas and relevant indicators are in line with the global objectives and the main suggestions and recommendations proposed in EuroMeSCo's report. Here are the key elements:

- The EMP is a regional grouping that aims to become a Euro-Mediterranean Community of Democratic States.
- The Barcelona Process has an *acquis*, i.e., a body of common rights and obligations stemming from the norms and agreements adopted in Barcelona in 1995. These address the principles and values on which commitments have been formulated and ratified. Accepting the potential *acquis* means recognising the principles and values of Barcelona as the foundation of the integration project and of the next stage of the process, the constitution of a Euro-Mediterranean Community.
- The Euro-Mediterranean Partnership *acquis* is potential in the sense that the commitments of the partners to develop and promote the rule of law and democracy in their political systems constitute aspirations which require to be effectively achieved.
- The final outcome must be the creation of a coherent and diversified regional group based on political convergence of all Member States by the achievement of the necessary conditions which make effective the potential *acquis*. This would result in the setting-up of a Euro-Mediterranean Community similar to the European Economic Area (perhaps by the year 2015).
- On the basis of the Barcelona Declaration and of the EMP potential *acquis*, the underlying principles and values must be understood as criteria that need to be fulfilled by countries before they can join the future Euro-Mediterranean Community. In this perspective, a benchmarking system based on precise key references and indicators to measure each partner's progress must be envisaged.

“Fulfilling the Barcelona Declaration will require regular monitoring with clearer indicators and benchmarks. This will allow for an assessment of the evolution of mutually agreed goals that allow each country to advance towards the more complex objective of the Euro-Mediterranean Community of Democratic States.”

EuroMeSCo Report *Barcelona Plus – Towards a Euro-Mediterranean Community of Democratic States*, April 2005.

Unlike the Copenhagen criteria for joining the European Union, which are imposed in the sense of being drawn by those countries who are already inside the club, in the case of the Euro-Mediterranean Community the appropriate criteria are to be established on a mutually-agreed basis in order to build an economic and free trade community based on a common political grounding, as suggested in the above EuroMeSCo citation. Each country has to decide at what pace it wishes to advance towards the goals formulated by the whole Community, which can thus be built on a case-to-case and gradual manner.

Common Language and Co-ownership: The Partnership-Building Option

It should be noted that the principles and values stated in the Barcelona Declaration, which constitute the basis for the proposed benchmarking system to measure how far they are being effectively implemented, also require a genuine dialogue between partners to build a common language, a common understanding leading to the definitions of common standards and common criteria of belonging to the same regional group.

This dialogue is all the more necessary because it entails elements such as powers, reciprocity, shared responsibility and a co-ownership over benchmarks and benchmarking systems.

The starting point of a common language can be established on the basis of some key principles, a number of which have been suggested in a EuroMeSCo paper²:

- Compliance with international human rights standards;
- Harm avoidance;
- Avoidance of intrusion in inter-state relations.

Since the first two principles concern us in this study, we have selected as areas/actions/priorities:

- Commitment to human rights;
- Right to physical integrity.

The *partnership-building* approach to benchmarking suggested in this study is grounded on shared responsibility, the right to mutual scrutiny and reciprocal obligations. It is an alternative to traditional political conditionality, which rests on a structurally unequal bargaining power between donor and recipient: the intended recipient of a given offer, whether it be aid or trade facilities for instance, must accept the donor's unilaterally-fixed terms relating to type of behaviour, objectives to achieve, and criteria to meet.

In the proposed approach, the concept of common ownership is essential and should govern the determination of the criteria, the definition of the standards, the clarification of the values and the establishment of the benchmarking system measuring progress towards membership in the Euro-Mediterranean Community.

² Alboni, R., "Common Languages in Democracy in the Euro-Mediterranean Partnership", EuroMeSCo Paper no 31.

Benchmarking Systems and the Selective Option: The Millennium Change Account Example

It is necessary, however, to put forward a third option (complementary or exclusive of the one we proposed) known as "selective option" where the donor alone determines and officially publishes the targets that must be met and the benchmarks used for their evaluation with a set of pre-established criteria. The latter is used to select eligible beneficiaries of a given offer, as is the case with the Millennium Challenge Account recently launched by the US administration. The US administration has established three main eligibility criteria for MCA – “ruling justly”; “investing in people”, and “encouraging economic freedom” – and defined a set of indicators for each of them each dimension.

Thus for “ruling justly” the following indicators were suggested:

MCA Eligibility Criteria: “Ruling justly”

INDICATORS	SOURCES
Control of corruption	World Bank Institute
Rule of law	World Bank Institute
Voice and accountability	World Bank Institute
Government effectiveness	World Bank Institute
Civil liberties	Freedom House
Political rights	Freedom House

Developing countries whose income per capita is lower than 1435 \$ (2002) and benefiting from USAID assistance are eligible for the first year; all developing countries whose income per capita is lower than 1435 \$ are eligible for the second year; finally, developing countries with an income per capita ranging between 1435 \$ and 2965 \$ are eligible for the third year. The eligibility criteria are the following: obtaining a score higher than the median (calculated on the basis of all eligible countries) in at least half of the indicators for each dimension (3 out of 6, 2 out of 4, 3 out of 6), and necessarily fulfilling the indicator on control of corruption.

These indicators and the MCA eligibility criteria are given here as an illustration of current usage of governance indicators, and also to demonstrate the feasibility of the proposed procedure within the so-called selective option framework. This option can be taken into account, for example, within the framework of the new EU financial facility aiming to support willing Mediterranean partners in carrying out reforms.

3. Methodological Issues

Four main documents were used to determine the methodological issues underlying the establishment of a benchmarking system measuring progress in human rights and democratic development. Moreover, they were used to identify all the existing international sources producing indicators in the areas/actions/priorities selected in the study:

- *Governance Indicators: A Users' Guide*, European Commission/UNDP. This guide was prepared by the UNDP Oslo Governance Center in collaboration with the European Commission/Eurostat, and is referred hereafter as UNDP Guide;
- *Sources for Democratic Governance Indicators*, UNDP, 2004;
- *Map-making and analysis of the main international initiatives on developing indicators on democracy and good governance*, University of Essex, Human Rights Centre, 2003;
- *Handbook of democracy and governance program indicators*, USAID 1998.

Methodological Difficulties

The UNDP Guide notes that there is an increasing demand to measure various aspects of human rights, democracy and governance and that more and more indicators to measure outcomes in these areas have been created.

In general, attempts in benchmarking and measuring in those areas face difficulties because there is no theory or objective model unanimously accepted as a framework reference to measure progress. There is an inherent risk of bias and temptation "to impose" a dominating model without taking into account historical contexts and cultural identities. It may be necessary to adapt indicators related to political development in order to avoid "imposing" a dominating model (in terms of democratic system, for example) corresponding to a highly advanced stage of political development. However, there is a common hard core represented by the fundamental treaties and human rights instruments which can serve as a reference framework for international norms and standards on the basis of which a benchmarking system can be built.

Definitions

According to the UNDP Guide, an indicator is used to indicate, which means to show, to be a signal or the symptom of something, to strongly imply, to suggest a course of action as desirable or necessary. According to the Latin etymology, the indicator (in + dicare) means "make known". It indicates the state or the level of a phenomenon; it is a device for providing specific information on the state or condition of a phenomenon. One can associate to the term "indicator" the following concepts: measure, gauge, barometer, index, mark, sign, signal, guide to, standard, yardstick, benchmark, criterion, point of reference.

Generally, an indicator is used to measure outcomes which take the form of quantitative or qualitative changes, of success or failure. As a marker of evolutions, it can be used to monitor progress, to question the accountability of governance or measure the impact of actions and programs focused on the human rights and democratic development areas. Indicators are presented in a numerical, statistical, quantitative form (a number, a percentage, an index).

In the areas of human rights and democratic development, indicators are measurements carrying qualitative information transformed into quantitative data. Although indicators which concern us here are presented in an objective form (a number or a score), they nonetheless carry normative assumptions. It is important to accurately define an indicator and to know how to interpret it within a given context, if need be.

Several types of indicators can be distinguished:

- Input indicators or "of formal commitment", e.g. commitments to international human rights and democratic development instruments, and their integration in the constitution and national legislation.
- Process indicators (*de facto* responsibility), e.g. functioning institutions, appropriate measures, policies, etc.
- Outcome or result indicators, measuring the degree of respect and effective enjoyment of rights, for example.

Methodology of Measurement

Four types of methodological approaches and primary sources can be identified according to data-collection methods:

- Administrative and socio-economic statistics approach;
- Events-based data approach;
- Surveys, polls on restricted samples of the population;
- Data based on expert opinion.

The first approach relates to benchmarking in the economic, social and cultural rights areas and in economic and social development. The second proceeds by recording individual events in achievements and violations. The Human Rights Information and Documentation Systems, International (HURIDOCS) developed a standardised system of recording violations providing an excellent methodology for this purpose. The recorded information, however, is not transformed into indicators of measurement.

The third approach involves surveying a sample group of the population on the basis of a questionnaire. Each answer is inserted in a scale, and an indicator of measurement is generated and expressed in the form of a score. Here we are dealing with perceptions and opinions which are then transformed into indicators.

The fourth approach and the most widespread, resorts to a limited number of experts in charge of benchmarking the outcomes by giving scores thanks to a questionnaire where the answers are predetermined and included into a framework using a cardinal scale and allowing the establishment of a score. This last method is used by all indicator sources selected in this study, with the exception of those generating formal commitment indicators.

Indicators are produced according to a similar pattern: the first step is to select the areas/priorities related to human rights and democratic development, e.g. Freedom House retains political rights and civil freedoms. These primary categories are then broken down into different components and sub-components, e.g. for political rights: electoral process, political pluralism and functioning of government, to which sets of questions are associated. The pre-established answers are coded according to a scheme which differs from one source to another. The final score is obtained either by addition or by average.

Main Recommendations on How to Proceed

- Available sources and databases must be explored in order to identify the specific issues where indicators are available. The sources must identify themselves adequately and make available critical comments about their work (UNDP, Human Rights Centre – Essex University).
- A small number of indicators must be used (i.e., approximately ten), and if possible they must be combined with quantitative indicators resulting from research or expert opinions, or produced by the administrations' statistics departments.
- All terms, concepts and methodologies used, including the coding scheme, must be clarified. It is equally important to clearly specify the goal for the benchmarking system and to determine the actors and processes involved.
- Contextualisation is always a necessary part of result interpretation.-
- Excessive admiration of benchmarking and quantitative indicators (mysticism of figures) as ultimate tools to measure reform progress is unjustified.
- Apart from officials, stakeholders and civil society members must also be part of the discussion on acceptability of the established benchmarking system in the area of human rights and democratic development.
- When setting up a benchmarking system to measure progress in human rights and democratic development, it is crucial that all partners develop from the outset a "culture" of common ownership and shared responsibility.
- The UNDP Guide laid down two 'golden rules' for the correct use of governance indicators:
 - Use a range of indicators as opposed to using a single one, but don't use too many: pick a balanced set with sufficient but not redundant information;
 - Understand an indicator before using it.

4. Selection of the Areas/Actions/Priorities: Framework Reference

How have we proceeded to select the main areas/actions/priorities related to human rights and democratic development? The Barcelona Declaration, the initiator of the EMP, and the Association Agreements constitute the basic reference documents as they incorporate the political basket related to human rights and democratic development. More recently, the Euro-Mediterranean Summit commemorating the 10th anniversary of the Barcelona Declaration adopted a five-year work programme in which a section is devoted to the development of the “Political and security partnership”. Finally, ENP Action Plans developed for individual countries include a section on “Political dialogue and reforms” that in keeping in line with the Barcelona Declaration further expand certain areas. Action plans have therefore been taken into account in the process of selecting the main areas/priorities/actions.

The Barcelona Declaration

One of the major objectives solemnly proclaimed in Barcelona in 1995 was to create within the Mediterranean basin *“an area of dialogue, exchange and cooperation guaranteeing peace, stability and prosperity”*.

The instigators of the Partnership unanimously asserted that realising this objective *“requires a strengthening of democracy and respect for human rights, sustainable and balanced economic and social development, measures to combat poverty and promotion of greater understanding between cultures, which are all essential aspects of partnership.”*

The signatories of the Barcelona Declaration agreed to

- Develop the rule of law and democracy within their political systems
- Respect human rights, including freedom of expression and association
- Combat racism, xenophobia and intolerance

They also acknowledged the “important contribution that civil society can make in the process of development of the Euro-Mediterranean partnership and as an essential factor for greater understanding and closeness between peoples”.

Barcelona Declaration

Preamble:

The partners declare themselves:

- *“resolved to establish to that end a multilateral and lasting framework of relations based on a spirit of partnership, with due regard for the characteristics, values and distinguishing features peculiar to each of the participants”.*
- *“convinced that the general objective of turning the Mediterranean basin into an area of dialogue, exchange and cooperation guaranteeing peace, stability and prosperity requires a strengthening of democracy and respect for human rights, sustainable and balanced economic and social development, measures to combat poverty and promotion of greater understanding between cultures, which are all essential aspects of partnership”.*

The first basket: the political and security dimension

In particular, the participants:

“express their conviction that the peace, stability and security of the Mediterranean region are a common asset which they pledge to promote and strengthen by all means at their disposal. To this end they agree to conduct a strengthened political dialogue at regular intervals, based on observance of essential principles of international law, and reaffirm a number of common objectives in matters of internal and external stability.

In this spirit they undertake in the following declaration of principles to:

- *act in accordance with the United Nations Charter and the Universal Declaration of Human Rights, as well as other obligations under international law, in particular those arising out of regional and international instruments to which they are party; develop the rule of law and democracy in their political systems, while recognizing in this framework the right of each of them to choose and freely develop its own political, socio-cultural, economic and judicial system;*
- *respect human rights and fundamental freedoms and guarantee the effective legitimate exercise of such rights and freedoms, including freedom of expression, freedom of association for peaceful purposes and freedom of thought, conscience and religion, both individually and together with other members of the same group, without any discrimination on grounds of race, nationality, language, religion or sex;*
- *give favourable consideration, through dialogue between the parties, to exchanges of information on matters relating to human rights, fundamental freedoms, racism and xenophobia;*
- *respect and ensure respect for diversity and pluralism in their societies, promote tolerance between different groups in society and combat manifestations of intolerance, racism and xenophobia. The participants stress the importance of proper education in the matter of human rights and fundamental freedoms;”*

The Human Rights Clause in Association Agreements

The Association Agreements that were concluded in the framework of the EMP contain an article (Article 2) stipulating that human rights and democratic principles constitute an “essential element” of the agreement. This clause has been formulated in two slightly different ways:

- a. *“Relations between the Parties, as well as all the provisions of the Agreement itself, shall be based on respect for human rights and democratic principles which guide their domestic and international policies and constitute an essential element of the Agreement.”*
- b. *“Respect for the democratic principles and fundamental human rights established by the Universal Declaration of Human Rights shall inspire the Parties’ domestic and external policies and shall constitute an essential element of this agreement.”*

Regarding implementation of Article 2, the parties freely consent to defer to a *right of mutual scrutiny* concerning respect for democratic principles and human rights. These “human rights clauses” – the formulation of which is reciprocal – also mean that the European Community has obligations. It too allows its human rights policy to be the subject of dialogue.

The explicitly reciprocal nature of this commitment favours a mutual and more balanced approach between the EU and its Euro-Mediterranean partners. By including migrants and minorities in general as well as references to non-discrimination, the fight against xenophobia, racism and intolerance against religion in the dialogue, States lend legitimacy and credibility to benchmarking of progress in the areas of human rights and democratic development.

According to the Barcelona Declaration and the Association Agreements, the areas/actions/priorities in human rights and democratic development should be:

- International commitment to human rights
- Political participation
- Rule of law
- Civil liberties
- Civil society
- Rights of migrants and minorities

The Five-Year Work Programme

The section on political and security partnership in the five-year work programme adopted at the 10th Anniversary Euro-Mediterranean Summit is clearly focused on democratic development and commits the partners to deepening dialogue on human rights issues, while explicitly stating the EU’s commitment to reward efforts towards genuine political reform generated from within societies, as is illustrated by the following excerpts:

Members of the Euro-Mediterranean Partnership will strive to achieve their mutual commitments in this area including through measures that:

- a) Extend **political pluralism** and **participation by citizens**, particularly women and youth, through the active promotion of a fair and competitive political environment, including fair and free elections;
- b) Enable citizens to **participate** in decision-making at the **local level** including by increasing the decentralisation of governance and the management of public affairs and delivery of public services;
- c) Increase the **participation of women** in decision-making including in political, social, cultural and economic positions;
- d) Ensure **freedom of expression** and **association** by facilitating the work of independent information providers and increasing access to information for all citizens;
- e) Foster the **role of civil society** in accordance with national legislation as appropriate and enhance its capability through improved interaction with governments and parliaments.
- f) Enable the further **implementation of UN and Regional Charters and Conventions** on civil, political, social and economic rights to which they are party and promote the ratification of other instruments in this area.

With a view to contributing to the above objectives:

- (a) The EU will co-operate with partners in promoting and supporting their political reforms on the basis of universal principles, shared values and the Neighbourhood Action Plans, in accordance with national priorities, building on the commitment countries in the region have demonstrated to reform, including in **the Tunis Declaration**;
- (b) **In this context the EU will establish a substantial financial Facility to support willing Mediterranean partners in carrying out their reforms taking into account that successful reforms must develop from within the societies of the region.**
- (c) Euro-Mediterranean partners will meet internationally **agreed standards in the conduct of elections**. In this context they will discuss the possibility of developing, on a voluntary basis and upon request of the country concerned, joint co-operation and exchange of experience in the field of elections.
- (d) Euro-Mediterranean partners **will deepen dialogue** on Human Rights issues in the framework of the Association Agreements; representatives in the permanent missions at UN Headquarters shall conduct informal exchanges of views before the meetings of the UN Commission on Human Rights and of the UN General Assembly where appropriate.
- (e) Euro-Mediterranean Partners will take measures to achieve **gender equality**, preventing all forms of discrimination and ensuring the protection of the rights of women,
- (f) Euro-Mediterranean partners will take action to implement the agreed Code of Conduct on Countering Terrorism.

The following areas/actions/priorities that come into light on the basis of the EMP five-year work programme are in line with those emerging from the Tunis Declaration:

- Human rights commitment
- Political participation
- Civil liberties
- Civil society
- Women empowerment

Tunis Declaration of the Arab League

We, the Leaders of the Arab States:

*Reaffirm our states' commitment to the **humanitarian principles** and the noble **values of human rights** in their comprehensive and interdependent dimensions, to the provisions of the **various international conventions and charters**, and to the Arab Human Rights Charter adopted by the Tunis Summit, as well as to the reinforcement of the **freedom of expression, thought and belief and to the guarantee of the independence of the judiciary**.*

*Endeavour, based on the Declaration on the process of reform and modernization in the Arab world, **to pursue reform** and modernization in our countries, and to keep pace with the rapid world changes, by **consolidating the democratic practice**, by **enlarging participation** in political and public life, by **fostering** the role of all components of the **civil society**, including NGOs, in conceiving of the guidelines of the society of tomorrow, by widening **women's participation** in the political, economic, social, cultural and educational fields and reinforcing their rights and status in society, and by pursuing the promotion of the family and the protection of Arab youth.*

Tunis Declaration, issued by the Arab Summit held in Tunis on 22-23 May 2004

The ENP Action Plans

Action plans for five Southern Mediterranean EMP partners – Israel, Jordan, Morocco, Palestine and Tunisia –, have been elaborated within the ENP framework. All begin with a chapter on “political dialogue and political reforms (cooperation)” under which two main areas/actions/priorities are more or less systematically considered:

- Democracy and rule of law
- Respect of human rights and basic liberties

Within each main area, actions/priorities/objectives are decomposed into sub-actions/objectives. In the case of Tunisia, for example, under “Democracy and Rule of law”, two major actions/objectives were considered, “*Strengthen institutions guaranteeing democracy and the rule of law*” and “*Consolidate the independence and efficiency of the judiciary and improve prison conditions*” which are narrowed down into sets of sub-actions/objectives such as those identified within the first action:

1. Further increase participation by all sections of Tunisian society in political life;
2. Further develop the role of civil society;
3. Encourage exchanges of experience between Tunisian and European members of parliament in all the priority areas of the Action Plan;
4. Set up a subcommittee under Article 5 of the Association Agreement with a view to developing structured political dialogue on democracy and the rule of law;
5. Continue support to political parties so as to further strengthen their involvement in the democratic process;
6. Support the efforts of the Tunisian authorities in the area of administrative reform, with a view in particular to greater transparency.

The full breakdown of areas/priorities/actions contained in the ENP action plans for Tunisia, Jordan, Morocco, Israel and Palestine is given in the summary tables appended at the end of this section.

A benchmarking system is considered optimal if an indicator can be matched to each sub-area/priority/ action. Because of the lack of relevant international sources this exercise is sub-optimal, in the sense that we have attempted to cover closer the different actions and sub-actions and proposed related indicators. Taking the above-mentioned example of Tunisia, under the heading *Strengthen institutions guaranteeing democracy and the rule of law* and the sub-actions/priorities/objectives “Further increase participation by all sections of Tunisian society in political life” and “Continue support to political parties so as to further strengthen their involvement in the democratic process”, the area/priority selected is political participation, measured as will be shown later through four indicators from four different sources. On the other hand, areas/priorities/ actions specific to certain Action Plans and not included in others, such as administrative reform and decentralization in the case of Morocco, for example, fall outside the scope of this study. The protection of migrants and minorities’ rights was included as a key area in spite of the lack of available indicators. The study attempts, however, to propose a methodology for benchmarking applicable to the Euro-Mediterranean area.

Summary table **Selected Areas/Actions/Priorities**

Selected areas/actions/priorities	Barcelona Declaration and Association Agreements	Five year work programme	ENP Action Plans
Commitment to human rights	✓	✓	✓
Right to physical integrity			✓
Political participation	✓	✓	✓
Rule of law	✓		✓
Civil liberties	✓	✓	✓
Civil society	✓	✓	✓
Women empowerment and rights		✓	✓
Migrants and minority rights	✓		✓

Part II

Indicators Measuring Progress in the Eight Selected Areas

1. Area/Priority: Commitment to Human Rights

Source: Danish Institute for Human Rights (www.humanrights.dk)

Coverage: 150 countries; only 2000

Objective: To measure countries' formal and actual commitment to international human rights standards, allowing users to make comparative country assessments of the formal commitment to human rights. According the UNDP Guide, the indicators are relevant and can be used in human rights assessments or evaluation studies.

Methodology: The Human Rights Indicators include four sets of indices:

- Formal Commitment Index: Ratification, reservations and implementation of human rights instruments
- Commitment to Civil and Political Rights Index: Measure human rights violations: extra-judicial killings, torture, participation and discrimination
- Commitment to Social, Economic and Cultural Rights Index: The proportion of government expenditure spent on health and education as share of GDP; Gross national income in combination with progress in HDI health and education indicators
- Gender Discrimination Indicator: Government employment of women at all levels in combination with GDI and GEM

From these, we have selected the indicators related to formal human rights commitment. Commitment to economic, social and cultural rights is not part of this study and *de facto* commitment to human rights (measured against violations thereof) and discrimination against women are dealt with in the corresponding sections, using more suitable indicators.

The following data were taken from the UN databases on human rights treaty ratification, and the formal commitment index uses a 0–6 point scale which assesses the following four variables:

- Ratification of *fundamental international and regional instruments*, namely:
 - International Covenant on Economic, Social and Cultural Rights
 - International Covenant on Civil and Political Right
 - Optional Protocol to the Covenant on Civil and Political Rights

Scoring system: Maximum score is 6, and minimum score is 0. A low score indicates a high level of formal commitment, while a high score indicates that the state exhibits a low level of commitment to human rights standards. Scores are allocated in the following manner: no ratification of the CDESCR – 2 points; no ratification of the CCPR – 2 points; no ratification of the Optional Protocol to CCPR – 1 or 2 points.³

- Ratification of *other UN human rights conventions*, namely:

Convention on the Prevention and Punishment of the Crime of Genocide (1948)

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)

International Convention on the Elimination of All Forms of Racial Discrimination (1965)

Convention on the Elimination of All Forms of Discrimination against Women (1979)

Convention on the Rights of the Child (1989)

Convention Relating to the Status of Refugees (1951)

Scoring scale: Maximum score is 3, and minimum score is 0. Scores are allocated in the following manner: Ratification of all 6 instruments – 0 points; ratification of 5–4 instruments (i.e. 1–2 not ratified) – 1 point; ratification of 3–2 of these conventions (i.e. 3–4 not ratified) – 2 points; ratification of 1 or 0 of these conventions – 3 points.

- *Reservations to international and regional conventions*, i.e. substantial reservations which wholly or partly sidestep or nullify commitments undertaken under those conventions. Maximum score is 1, and minimum score is 0.
- *Incorporation of international human rights standards into the Constitution or National Bill of Rights*, focusing on the extent to which human rights are protected *de jure* at the highest level of domestic law.

Scoring system: Maximum score is 6, and minimum score is 0: no Bill of Rights or no explicit incorporation of international human rights instruments in the Constitution – 6 points; Bill of Rights, but a limited catalogue only (i.e. only civil and political rights, only economic, social and cultural rights, or a number of key rights in either category missing) – 3 points; Bill of Rights with a full catalogue of civil, political and economic, social and cultural rights – 0 points.

The total aggregate score obtained from these four sub-indicators is 16, which is then divided by two to make it easier to use. The maximum score, denoting the lowest level of formal commitment to human rights is 8, and the minimum, denoting the highest level, is 0. The table below summarises formal commitment to human rights in the year 2000, for ten Mediterranean countries.

³ Usually, while establishing the score allocation, one point is dedicated to the non-ratification of the Optional Protocol to the International Covenant on Civil and Political Rights (CCPR-OP1) and one point to the non ratification of regional conventions. Regional conventions are not taken into account, and therefore, in line with the Danish Center's scale of scores, we affected 2 points to the non ratification of the CCPR-OP1.

Table measuring human rights commitment and recommendations: Despite the fact that data is only available for the year 2000, the methodology proposed by the Danish Center on Human Rights is relevant and could be improved and adapted to the context of the Euro-Mediterranean Partnership. Two tables have been prepared containing the status of ratifications for eight Arab Mediterranean countries and Israel. The full text of articles to which reservations were made is given in Appendix 1.

The inventory of ratifications and reservations status allows all partners concerned to focus on compliance with international standards, as well as on the deficits, which should give rise to a genuine dialogue, in order to determine what priorities should be established and actions undertaken in connection with the reservations.

Check-list of the 12 instruments:

1. International Covenant on Economic, Social and Cultural Rights (CESCR)
2. International Covenant on Civil and Political Rights (CCPR)
3. International Convention on the Elimination of All Forms of Racial Discrimination (CERD)
4. Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
5. Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT)
6. Convention on the rights of the Child (CRC)
7. International Convention on the Protection of the Rights of Migrant Workers and Their Families (CRMW)
8. First Optional Protocol to the International Covenant on Civil and Political Rights (CCPR–OP1)
9. Second Optional Protocol to the International Covenant on Civil and Political Rights (CCPR–OP2)
10. Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (OP–CEDAW)
11. First Optional Protocol to the Convention on the Rights of the Child (OP1 – CRC)
12. Second Optional Protocol to the Convention on the Rights of the Child (OP2 – CRC)

Table 1 Status of Ratifications or Accessions

	CESR	CCPR	CERD	CEDAW	CAT	CRC	CRMW	CCPR –OP1	CCPR–OP2	OP–CEDAW	OP1–CRC	OP2–CRC
Algeria	✓ ✓	✓ ✓	✓ ✓	✓	✓ ✓	✓	✓	✓ ✓	X	X	X	X
Egypt	✓ ✓	✓ ✓	✓	✓	✓ ✓	✓	✓	X	X	X	X	✓ ✓
Israel	✓ ✓	✓	✓	✓	✓	✓ ✓	X	X	X	X	✓ ✓	X
Jordan	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓ ✓	✓	X	X	X	X	X	X
Lebanon	✓ ✓	✓ ✓	✓	✓	✓ ✓	✓ ✓	X	X	X	X	X	✓ ✓
Libya	✓ ✓	✓ ✓	✓	✓	✓ ✓	✓ ✓	X	✓ ✓	X	✓	✓ ✓	✓ ✓
Morocco	✓ ✓	✓ ✓	✓	✓	✓ ✓	✓	✓	X	X	X	✓ ✓	✓ ✓
Syria	✓ ✓	✓ ✓	✓	✓	✓	✓ ✓	✓ ✓	X	X	X	✓ ✓	✓ ✓
Tunisia	✓ ✓	✓ ✓	✓ ✓	✓	✓	✓	X	X	X	X	✓ ✓	✓ ✓

Source: Office of the High Commissioner for Human Rights

- ✓ Ratification or Accession
- ✓ ✓ Ratification or Accession without reservations
- x Not party to the treaty

Table 2 Reservations and/or declarations to those international instruments

	CESR	CCPR	CERD	CEDAW	CAT	CRC	CRMW	CCPR –OP1	CCPR–OP2	OP–CEDAW	OP1–CRC	OP2–CRC
Algeria	--	--	--	2, 9.2, 15.4, 16, 29	--	13, 14.1, 2, 16, 17	92.1	--	--	--	--	--
Egypt	--	--	22	2, 9.2, 16, 29.1	--	--	4, 18.6	--	--	--	--	--
Israel	--	23	22	7, 16, 21.1	20, 30	--	--	--	--	--	--	--
Jordan	--	--	--	9.2, 15.4, 16.1 c), d), g)	--	14, 20, 21	--	--	--	--	--	--
Lebanon	--	--	22	9.2, 16.1 c), d), f), g), 29.1	--	--	--	--	--	--	--	--
Libya	--	--	22	2, 16.1, c), d)	--	--	--	--	--	--	--	--
Morocco	--	--	22	2, 9.2, 15.4, 16, 29.1	--	14	92.1	--	--	--	--	--
Syria	--	--	22	2, 9.2, 15.4, 16.1 c), d), f), g), 16.2, 29.1	20	14, 20, 21	--	--	--	--	--	--
Tunisia	--	--	--	9.2, 15.4, 16.1 c), d), f), g), h), 29.1	20, 21	2, 6, 7	--	--	--	--	--	--

Source: Office of the High Commissioner for Human Rights

2. Area/Priority: Right to Physical Integrity

Source: The Cingranelli–Richards (CIRI) Human Rights Dataset (2007 version) (www.humanrightsdata.com)

Main researchers: David L. Cingranelli and David L. Richards

Coverage: 161 countries since 1981

Objectives: The data set is designed to provide an indicator of governments' human rights practices.

According to the UNDP, since CIRI contains standards-based data (except for economic rights), its coding methodology implies that the primary sources (State Department and Amnesty International annual reports) from which these data are drawn are complete and accurate. Possible biases.

Methodology: The indicators and indices are based on expert coding of primary sources from US State Department and Amnesty International. US State Department used for most indicators, with Amnesty International evidence being the primary source for Physical Integrity rights.

Below is the list of indicators proposed by the Cingranelli–Richards Human Rights Dataset:

Disaggregated indicators:

- Extrajudicial Killing
- Disappearance
- Torture
- Political Imprisonment
- Freedom of Speech
- Freedom of Religion
- Freedom of Movement
- Freedom of Assembly and Association
- Political Participation
- Worker's Rights
- Women's Political Rights
- Women's Economic Rights
- Women's Social Rights

Aggregated indices:

- Physical Integrity Rights Index
- Empowerment Rights Index

The sub-set of indicators – extrajudicial killing, disappearance, torture and political imprisonment – that form part of CIRI's Physical Integrity Rights Index were selected for the purpose of this report and are analysed in detail below. Scales for most individual indicators in the CIRI dataset range from 0 (no respect for a given right) to 1 (partial, occasional respect) to 2 (full respect), and the final aggregate score ranges from 0 to 8.

Indicators: Definitions, coding scheme, scores and grounding in international law are the ones used by the Cingranelli–Richards Human Rights Dataset (2004 version).

• **Extrajudicial Killing**

Definition: Extrajudicial killings are killings by government officials without due process. These killings may result from the deliberate, illegal, and excessive use of lethal force by the police, security forces, or other agents of the state whether against criminal suspects, detainees, prisoners, or others. Deaths resulting from torture are counted, as well as deaths occurring while detainees and prisoners are in custody of government agents. This category includes killings and murders by private groups in case they are instigated by government or security officials.

Grounding in International Law: International Covenant on Civil and Political Rights, Part III, Article 6

Coding scheme and scores: Political or extrajudicial killings are: Practised frequently (50 killings or more) – score 0; practised occasionally (from 1 to 49 killings) – score 1; have not occurred – score 2.

• **Disappearance**

Definition: Disappearances are cases in which people have disappeared for political motivation or because of a victim's ethnicity, religion, or race. Knowledge of the whereabouts of the disappeared is, by definition, not public knowledge. However, while there is typically no way of knowing where victims are, it is typically known by whom they were taken and under what circumstances. Cases where people disappear for a period of time and then later re-appear are also to be counted. Often, victims are referred to by governments as "terrorists," and labelled a threat to national security.

Grounding in International Law: International Covenant on Civil and Political Rights, Part III, Articles 9, 10, 14, 16, 17

Coding scheme and scores: Disappearances have occurred frequently (50 instances or more) – score 0; have occurred occasionally (from 1 to 49 instances) – score 1; have not occurred – score 2.

• Torture

Definition: Torture refers to the purposeful inflicting of extreme pain, whether mental or physical, by government officials or by private individuals at the instigation of government officials. Torture includes the use of physical and other force by police and prison guards that is cruel, inhuman, or degrading. Torture can be anything from simple beatings, to other practices such as rape or administering shock or electrocution as a means of getting information, or a forced confession.

Grounding in international law: International Covenant on Civil and Political Rights, Part III, Articles 7, 8, and 14.

Coding scheme and scores: Torture is practised frequently (50 or more instances) – score 0; practised occasionally (from 1 to 49 instances) – score 1; not practised – score 2.

• Political Imprisonment

Definition: Political imprisonment refers to the incarceration of people (including placing them under “house arrest”) by government officials because of: their speech; their non-violent opposition to government policies or leaders; their religious beliefs; their non-violent religious practices including proselytizing; or their membership in a group, including an ethnic or racial group. AI in many instances refers to “prisoners of conscience.” A “prisoner of conscience” is someone that was imprisoned because of his or her beliefs. In many instances political prisoners are classified as terrorists and threats to national security.

Grounding in international law: International Covenant on Civil and Political Rights, Part III, Articles 18, 19, 21, 22

Coding scheme and scores: People imprisoned because of their political, religious, other beliefs: yes, and many (50 or more political prisoners held) – score 0; yes, but few (from 1 to 49 political prisoners held) – score 1; none – score 2.

Table 3 Scores relating to the physical integrity indicator

	1996	1997	1998	1999	2000	2001	2002	2003	2004
Algeria	3	0	4	0	4	4	2	1	5
Egypt	3	4	5	3	4	3	2	2	2
Jordan	4	5	5	4	4	5	5	5	4
Lebanon						4	5	4	4
Libya	1	2	2	3	4	1	3	3	4
Morocco	3	3	6	4	4	5	4	5	4
Syria	3	3	3	3	2	4	4	3	3
Tunisia	6	3	4	6	3	4	4	4	4

Source: The Cingranelli–Richards (CIRI) Human Rights Dataset

The table shows that the right to the protection of physical integrity is generally poorly respected with at least one or two exceptions. For the sub-indicator related to the evaluation of the frequency of torture, the figures show that score 0 [torture is frequent] prevailed over all the 1996–2004 period, nearly in all countries.

Conclusion and recommendations: the Cingranelli–Richards (CIRI) Human Rights Dataset is interesting for its large coverage (161 states) and yearly availability data since 1981. As mentioned above, there is a possible bias because of the choice of primary source. For more international credibility, we kindly suggest the authors to introduce additional primary sources such as the International Federation of Human Rights Leagues (FIDH).

3. Area/Priority: Political Participation

In this area four sources were selected:

- KK Governance Indicators – World Bank Institute
- Bertelsmann Transformation Index (BTI), Bertelsmann Foundation
- Political Participation Index – CIRI
- Political liberties index – Freedom House

A. KK Governance Indicators

Source: World Bank Institute (D. Kaufmann, A. Kraay, and M. Mastruzzi)

(www.worldbank.org/wbi/governance/pubs/govmatters3.html)

Goal: To provide periodic (biannual since 1996) cross-country point estimates (199 countries) of six dimensions of governance: voice and accountability, political stability and absence of violence, government effectiveness, regulatory quality, rule of law, and corruption.

According to UNDP, this is the most comprehensive benchmarking system in the area of governance (and, in our view, it is the most robust scientifically), as it allows for comparison between countries and along the years in the six areas of governance (insofar as the margins of error allow for comparison). According to UNDP, these data and results should be interpreted carefully due to the often high margin of error, which are not unique to the KK data, but are pervasive in all benchmarking systems. Data stem from different sources, such as surveys conducted on companies and individuals (roughly representing half of the collected data), as well as assessments of commercial risk rating agencies, non-governmental organisations, and a number of multilateral aid agencies.

Indicators: According to the KK study, governance encompasses “*the traditions and institutions by which authority in a country is exercised.*”⁴ In order to make it operational the authors focus on three main aspects that are meant to materialize governance:

- The political dimension encompassing the process by which policy makers are selected, monitored and replaced;
- The economic dimension encompassing the capacity of the government to effectively design and implement sound policies;
- The institutional dimension encompassing the respect of citizens and the state for the institutions that manage economic and social interactions between them.

However this classification of indicators into clusters may not be definitive and this view is shared by the authors. Rather, it simply reflects our views on what constitutes a consistent and useful organization of the data in agreement with the multiple dimensions of governance.

Each main dimension is captured by two composite or aggregated indicators whose composition reflects the usefulness and the originality of this approach. In fact, each composite indicator is processed by using a great number of primary indicators. The former stem from different sources and are selected because of their relevance and the contribution they make to the different aspects of the governance dimensions they are meant to represent.

The following indicators are related to the first dimension of governance:

- Voice and Accountability (VA), includes a number of indicators measuring various aspects of the political process and political rights (free elections, free vote, political parties, representation in parliament, respect for minorities), civil liberties (freedoms of expression and of assembly, equality). Indicators measuring independence of the media, which has an important role in monitoring decision-makers and holding them accountable for their actions, are also included in this dimension.
- Political Stability and Absence of Violence (PS), which combines several indicators measuring the risk that the government in power and institutions will be destabilized or overthrown. These risks may materialise through military coups, acute political tension, civil war, social upheaval, ethnic tensions and terrorism. This aspect captures the idea that governance can be put at risk by violent changes in power, which have a direct effect on the continuity of policies, but also indirectly impact on the ability of all citizens to participate in public life in a pacific manner.

The following indicators concern the second dimension of governance:

- Government Effectiveness (GE), combines responses on the quality of public service provision, the quality of the bureaucracy, the competency of civil servants, the independence of the civil service from political pressures, and the credibility of the government's commitment to policies. The main focus of this index is on "inputs" required for the government to be able to offer quality public service and to produce and implement adequate policies.

- Regulatory Quality (RQ) includes indicators that are meant to measure the quality of policies and reforms put in place. Those indicators focus on market-unfriendly policies such as State-intervention in the economy or price control, as well as on the impact of excessive regulation on economic activity, including through protectionist measures, taxation, and trade and anti-trust policies.

Indicators related to the third dimension of governance encompass:

- Rule of Law (RL), which includes several indicators measuring a given society's confidence in and respect for laws and their implementation. Together, these indicators measure the society's success in developing an environment in which fair and predictable rules form the basis for economic and social interactions. This aspect encompasses the independence of the judiciary, the enforceability of contracts, confidence in public authority and, in particular, property rights and their protection.
- Control of Corruption (CC) measures perceptions of corruption, conventionally defined as the exercise of public power for private gain. This includes disparate indicators from different areas, such as a corrupt political or judicial system, corrupt public administration, inadequate practices and lack of transparency in the public sphere. Every act of corruption, whatever its nature, sheds light on the bad faith of perpetrators vis-à-vis the laws that rule – or should rule – interactions with members of society.

Concerning the “political participation” area/priority, among the six aspects of governance we selected “voice and accountability” for this study.

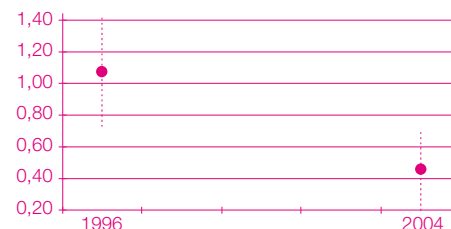
Data collecting and processing method: KK indicators are based on 352 variables measuring perceptions of governance, drawn from 37 different sources and 31 institutions. On the basis of such primary data, the KK study uses an unobserved components model. This method associates margins of error to each indicator, thereby facilitating interpretation and precision. The scale used ranges from –2.5 to 2.5 (higher average values equal higher quality of governance). As already mentioned, margins of error are associated to each point estimation. For instance, if a country X has a 1.07 score for indicator « Voice and accountability » with margins of error between 0.73 and 1.42, there is a high probability that the recorded score is between these two limits.

Furthermore, when comparing data between two dates for a particular country the margins of error shouldn't overlap. If the two compared dates don't overlap one may attest with a high probability that the change (progress or setback) has taken place. For instance, on the following figure we report the point estimates of the « Voice and Accountability » indicator between two dates with the associated margins of error. As shown, the margins of error for the two scores don't overlap. In this case, the data certainly confirm that a setback occurred for this country.

Table 4 and Graph 1 Voice and Accountability Indicator

Year	Point estimate	Lower margin of error	Higher margin of error
1996	1,07	0,73	1,42
2004	0,46	0,20	0,71

Source: KK Governance Indicators, World Bank Institute



However, even when the margins of error do not overlap, change can be observed although with a lesser degree of certainty.

Final remarks and recommendations: The KK governance indicators are already operational as the US government uses KK indicators on five dimensions of governance when determining the eligibility of countries to benefit from the Millennium Challenge Account. We therefore strongly recommend the use of these indicators in the framework of EuroMed relations but with previous approval by partners. Otherwise, the vision underlying the MCA could be adapted and used by the EU in the framework of the new financial facility to support willing Mediterranean partners in carrying out political reform internally.

B. Bertelsmann Transformation Index (BTI)

Source: Bertelsmann Foundation, Berlin (<http://www.bertelsmann-transformation-index.de>)

Goals: On the basis of a normative framework aimed at consolidation of a market-based democracy, the BTI analyses and evaluates development and transformation processes in 116 countries in two years, 2003 and 2006.

Methodology: The BTI collects data grouped in two parallel indices: the “Status Index” and the “Management Index”. The “Status Index” encompasses an indicator on the state of democracy and another one on the functioning of a market economy. The indicator selected for the purpose of this study is related to the status of democracy (with five components, one of which, “political participation”, will be handled separately). The indicator on the state of democracy is divided into five criteria evaluated through 18 questions.

The five criteria for the status of democracy (evaluated through 18 questions) are the following:

1. Stateness (four questions on the extent of the state’s monopoly on the use of force, on the criteria to define citizenship, on the separation of church and state and on the existence of functioning administrative structures);

2. Political participation (four questions on the quality of elections of political leaders, on the effective power to govern by elected political leaders, on the freedoms of association, assembly and expression);
3. Rule of Law (four questions on separation of powers, the independence of the judiciary, the existence of legal or political penalties for officeholders who abuse their position and on the extent to which civil liberties are guaranteed and citizens can seek redress for violations of these liberties);
4. Stability of democratic institutions (two questions on the existence of performing democratic institutions and the extent to which the former are accepted or supported by relevant actors);
5. Political and social integration (four questions on the effectiveness of multipartyism, civil society, the degree of citizens' support for democratic norms and procedures, and the construction of social capital).

The benchmarking system is based on a scale ranging from one (worst score) to ten (best score) for 2006. In 2003 the scale ranged from zero to five. Scores obtained in each question are summed and then an average is calculated for each criterion. The global score consists of the average score for the five political criteria.

C. The Cingranelli–Richards (CIRI) Human Rights Dataset's political participation indicator

Source: The Cingranelli–Richards (CIRI) Human Rights Dataset (2004 version)

Definition: Political participation is linked to the right of citizens to freely determine their own political system and leadership, i.e., the right to self-determination. Enjoyment of this right means that both in the law and in practice citizens have the ability to change the laws and officials that govern them through periodic, free, and fair elections held on the basis of universal adult suffrage.

Grounding in international law

International Covenant on Civil and Political Rights: Part I, Article 1; Part III Article 25
International Covenant on Economic, Social and Cultural Rights: Part I, Article 1

Coding scheme: Political Participation is: very limited – 0; moderately free and open – 1; very free and open – 2.

D. Political liberties indicator – Freedom House

Source: Freedom House (www.freedomhouse.org)

Freedom House's annual surveys are designed to measure progress in development of political freedoms and civil liberties. The US Government is currently using Freedom House indicators in aid allocations processes, particularly the Millennium Challenge Account (eligibility criteria).

Coverage: 192 countries since 1955

Comments: According to UNDP, several studies have shown that Freedom House's indicators have an ideological bias against communist or former communist states. It must also be noted that those indicators rely on assessments made by external experts and it does not reflect the views of citizens.

In addition, Freedom House adds scores obtained for each question and each category of right and gives equal weight to all of them, which means that a low score for one right can be compensated by a better score on another. This is contrary to the principles that stem from international human rights norms. Furthermore, the final rating from one to seven is established not as a point value but corresponds to an interval of values that does not reflect possible gradual changes. It should not be used as a single source.

Methodology: Experts (generally non-resident) in each country establish a codification system based on the answers to a number of questions. Each group of questions is focused on one of the components of the right and/or freedom at stake. Freedom House adopts two indexes, one on political and the second on civil rights. The first one, which is relevant for this study inasmuch as it covers the "political participation" area/priority, encompasses four categories:

- Electoral Process (three questions on the existence of a fair and efficient electoral system and on the holding of free and fair elections);
- Political pluralism and Participation (four questions on the existence of political parties and real competition, the existence of a real opposition and of freedom of political choice and on minority rights and their political participation);
- Functioning of Government (three questions on whether freely elected representatives determine the policies of the government, on corruption and accountability of the government);
- Discretionary questions (questions on consultation with the people and the right to petition the ruler in traditional monarchies and on the existence of deliberate acts of ethnic or cultural cleansing by the government or occupying power).

Scoring system: The scoring process consists of two steps. Raw points are awarded to each of questions on a scale between zero and four. Given that the "political rights" category is divided into four components with in total ten questions, the maximum score is 40 points. Freedom House then awards final scores based on the number of raw points obtained.

Raw points	Score	Remarks
36 - 40	1	Full enjoyment of rights
30 - 35	2	In these countries and territories there is less freedom than in those with a score of 1. Factors such as political corruption, violence, political discrimination against minorities, and foreign or military influence on politics may be present and weaken the enjoyment of freedoms.
24 - 29	3	Other damaging elements can include civil war, heavy military involvement in politics, lingering royal power, unfair elections, and one-party dominance. However, states and territories in these categories may still enjoy some degree of political rights (existence of quasi-political groups, or other significant means of popular influence on government.).
18 - 23	4	
12 - 17	5	
6 - 11	6	Countries and territories with political rights with a score of six have systems ruled by military juntas, one-party dictatorships, religious hierarchies, or autocrats. These regimes may allow only a minimal manifestation of political rights.
0 - 5	7	Extremely oppressive regimes; total absence of political rights.

Table 5 Summary table on indicators related to political participation

	KK	BTI	CIRI	FH	Comments
	1996-2004	2001-2005	1996-2004	1996-2005	
Algeria	Weak improvement, 1996-2004; low probability	No change	Trend to progress	No change	Probable weak progress
Egypt	Declining trend, 1996-2004; low probability	No change	Unstable declining trend	No change	Rather weak declining trend
Jordan	Declining trend, 1996-2004; strong probability	No change	No change	Rather weak declining trend, particularly in 2001-2003	Rather declining trend
Lebanon	Weak declining trend; low probability	No change	Rather slight improvement	Slightly improved at period's end	Rather slight improvement
Libya	Declining trend; low probability	No change	No change	No change	No change
Morocco	Rather improving trend, particularly between 1996 and 2003 ; low probability	No change	Trend to improvement	No change	Rather slight improvement
Syria	Declining trend; low probability	No change	No change	No change	No change
Tunisia	Declining trend; strong probability	No change	Slight trend to improvement particularly since 2001	No change	Rather declining trend
Occupied territories	No change				

Whenever possible, combining several sources is useful, as it allows for a more precise evaluation. Thus, column 5 contains an assessment based on the crossing of the four sources mentioned. In general, the average score over the period 1996–2004 is rather weak or very weak⁵. For the trend of the evolution, simply refer to column 5.

4. Area/Priority: Rule of Law

Different sources selected:

- KK Governance Indicators – Rule of law
- Freedom House Indicator – “Rule of law”, Crossroad countries

A. KK Governance Indicators – Rule of law

Definition: “Rule of Law” includes several indicators which measure the extent to which agents have confidence in and abide by the rules of society. These include perceptions of the incidence of crime, the effectiveness and predictability of the judiciary, and the enforceability of contracts. Together, these indicators measure the success of a society in developing an environment in which fair and predictable rules form the basis for economic and social interactions, and importantly, the extent to which property rights are protected.

B. Freedom House Indicator – “Rule of law”, Countries at the Crossroads

Methodology: This Freedom House publication is a first-of-its-kind survey that evaluates performance in 30 key countries that are at a crossroads in determining their political future including most of the Mediterranean countries. Four areas are covered: accountability and public voice, civil liberties, rule of law, and the fight against corruption and transparency. The area retained for this study is the rule of law, which is rated according to four criteria:

- Independent judiciary (5 questions);
- Primacy of rule of law in civil and criminal matters (7 questions);
- Accountability of security forces and military to civilian authorities (3 questions);
- Property rights (4 questions).

Coding scheme: Scores are based on raw points as described in the last section, but final ratings are attributed in the reverse order: 0 represents the weakest performance and 7 the strongest.

⁵ By normalising the evaluation scales from the four sources to a range between 0 and 100, scores obtained normally lie in the last quartile.

Scoring Scale	
0	<i>No or very few adequate protections.</i>
1	Laws protecting the rights of citizens are nonexistent, rarely enforced, or routinely abused by the authorities.
2	
3	<i>Few or very few adequate protections.</i>
4	Legal protections are weak and enforcement of the law is inconsistent or corrupt.
5	<i>Some adequate protections.</i>
	Rights and political standards are protected, but enforcement may be unreliable and some abuses may occur.
6	<i>Nearly all adequate protections.</i>
7	Citizens have access to legal redress when their rights are violated.

Remarks and recommendations: Despite the fact data is only available for one year (2005), further regular publications are expected. The methodology is relevant and can be adapted to the Euro-Mediterranean context.

Table 6 Summary table on indicators related to “Rule of law”

	KK	FH
	1996-2004	2005
Algeria	No significant trend	Quite low level [2.49]
Egypt	Declining trend; weak probability	Low level [3.19]
Jordan	Rather declining trend; weak probability	Rather low level [2.50]
Lebanon	Rather declining trend; weak probability	–
Libya	Trend to improvement; weak probability	Very low level [1.12]
Morocco	High probability of a declining trend	Quite low level [2.42]
Syria	No significant trend	Rather low level [2.13]
Tunisia	Rather declining trend; weak probability	Rather low level [2.79]

According to KK indicators, the average score between 1994 and 2004 [average of the scores] are acceptable score around 0 [0 being the average on the scale which varies from –2,5 to +2,5], slightly positive for some countries (4) and negative for others (1). For the other 3 SEMC, the score is more or less weak.

For Freedom House, the rule of law level is generally rather weak with differences however. Here the system of measurement allows for less precision. For the trend, it is unchanged, not significant or decreasing.

5. Area/Priority: Civil Liberties

Two sources have been selected:

- The Cingranelli–Richards (CIRI) Human Rights Dataset indicators on liberties
- Freedom House’s Civil liberties indicator

A. The Cingranelli–Richards (CIRI) Human Rights Dataset Indicators

Source: The Cingranelli–Richards (CIRI) Human Rights Dataset, Coder Manual (2004 version) (check methodology above p. 21)

Definitions, the coding scheme, scores and grounding in international law were directly used from this source.

The disaggregated indicators address the following issues:

- Freedoms of speech and of the press
- Freedom of religion
- Freedom of movement
- Freedom of assembly and association

- *Freedoms of speech and of the press*

Definition: This variable indicates the extent to which freedoms of speech and press are affected by government censorship, including ownership of media outlets. Censorship is any form of restriction that is placed on freedom of the press, speech or expression. Expression may be in the form of art or music. There are different degrees of censorship. Complete censorship denies citizens freedom of speech, and does not allow the printing or broadcasting media to express opposing views that challenge the policies of the existing government. In many instances the government owns and operates all forms of press and media.

Grounding in international law: International Covenant on Civil and Political Rights, Part III, Article 19.

Coding scheme: Government censorship and/or ownership of the media (including radio, TV, Internet, and domestic news agencies) is complete (0), there is some censorship (1), or none (2).

- *Freedom of religion*

Definitions: This variable indicates the extent to which the freedom of citizens

to exercise and practice their religious beliefs is subject to actual government restrictions. Citizens of whatever religious belief should be able to worship free from government interference. Citizens should be able to freely practice their religion and proselytize other citizens to their religion as long as such attempts are done in a non-coercive, peaceful manner. Members of the clergy should be able to freely advocate partisan political views, oppose government laws, support political candidates, and otherwise freely participate in politics.

Grounding in international law: International Covenant on Civil and Political Rights, Part III, Article 18

Coding scheme: There are restrictions on some religious practices by the government: Yes (0) or No (1).

- *Freedom of movement*

Definition: It refers to freedom to travel within one's country and to leave and return to one's country.

Grounding in international law: International Covenant on Civil and Political Rights, Part III, Article 12

Coding scheme: Domestic and foreign travel is: Restricted (0) or generally unrestricted (1).

- *Freedom of assembly and association*

Definition: It is an internationally recognized right of citizens to assembly freely and to associate with other persons in political parties, trade unions, cultural organizations, or other special-interest groups. This variable evaluates the extent to which the freedoms of assembly and association are subject to actual governmental limitations or restrictions.

Grounding in international law: International Covenant on Civil and Political Rights, Part III, Article 22.

Coding scheme: Citizens' rights to freedom of assembly and association are: severely restricted or denied completely to all citizens (0), limited for all citizens or severely restricted or denied for select groups (1) or virtually unrestricted and freely enjoyed by practically all citizens (2).

B. Freedom House's indicator on Civil Liberties

Source: Freedom House

Methodology: The methodology is similar to that exposed on political rights indicators with, however, some differences.

The indicator on “Civil liberties” is divided into four components:

- Freedom of expression and belief (with four questions on freedom and independence of the media and other forms of cultural expression, on the existence of free religious institutions and free private and public religious expression, on academic freedom and the independence of the education system, and on the existence of open and free private discussion);
- Associational and organizational rights (with three questions on freedom of assembly, demonstration, and open public discussion, on freedom of political or quasi-political organization, on the existence of free trade unions and peasant organizations and the existence of effective collective bargaining, and on free professional and other private organizations);
- Rule of law (with four questions on the independence of the judiciary, on the prevalence of rule of law in civil and criminal matters, on whether the police are under direct civilian control and the existence of protection from police terror, unjustified imprisonment, exile, or torture, whether by groups that support or oppose the system, freedom from war and insurgencies, and the fair treatment of the population under the law);
- Personal autonomy and individual rights (with four questions on personal autonomy, the state's control over travel, choice of residence, or choice of employment, freedom from indoctrination and excessive dependency on the state, the right to own property and establish private businesses, on whether private business activity is unduly influenced by government officials, the security forces, or organized crime, on personal social freedoms, including gender equality, choice of marriage partners, and size of family, and on whether there is equality of opportunity and the absence of economic exploitation).

Scores rank from 0 to 4 for each question, zero being the minimum and four the maximum. The maximum score is 60 (4 x 15 questions). On this basis, Freedom House awards the final scores as indicated in the following table:

Raw points	Rating	Comments
53-60	1	Closest to the ideals; full enjoyment of liberties
44-52	2	Deficiencies in a few aspects of civil liberties
35-43	3	Partial compliance with all standards with a combination of high or medium scores for some questions and low or very low scores on other questions. The low levels of scores are related to possible censorship, political repression and the prevention of free association
26-34	4	
17-25	5	
8-16	6	Severely restricted rights of expression and association, and there are almost always political prisoners and other manifestations of political repression. Existence of few partial rights, such as some religious and social freedoms, but highly restricted private business activity.
0-7	7	Full repression of freedoms.

Table 7 Summary table on indicators related to civil liberties

	CIRI	FH	Final observations
	1996-2004	1996-2005	
Algeria	Declining trend	Slight trend to improvement	A third source is necessary
Egypt	Weak declining trend	No change	Weak declining trend
Jordan	Weak declining trend	Declining trend	Declining trend
Lebanon	Rather improving trend	Weak declining trend	A third source is necessary
Libya	No change	No change	No change
Morocco	No change	Slight trend to improvement	Slight trend to improvement
Syria	No change	No change	No change
Tunisia	No change	No change	No change
Turkey	Declining trend	Improving trend	A third source is necessary

According to CIRI, the average score is very weak [0] in two countries, and weak in the others.

Score 0 [denial of freedoms] is frequent for freedoms of religion, association and movement.

For Freedom House, except for two countries and recently in 2004–2005, scores recorded since 1996 show there is full repression in two countries – the same indicated by CIRI – and more or less severe restrictions in the others. The general trend is non-significant (no change) or decreasing, with one exception where some slight improvement was recorded.

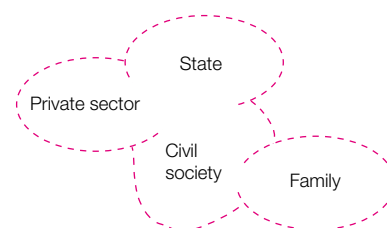
6. Area/Priority: Civil Society

Source: CIVICUS Civil Society Index (www.civicus.org/new/default.asp)

The CIVICUS project started in the 90's with UNDP support. In 2004, 35 countries have been involved including Egypt, Lebanon and Palestine from among the Southern Euro-Mediterranean Partners. Actually, only the country report on Egypt is available (2005 edition).

According to UNDP, CIVICUS indicators on civil society are highly relevant. The Civil Society Index (CSI) is conducted by National Index Teams at a country level, with support from CIVICUS. The findings of the research are debated and validated by national civil society stakeholders' workshops. The process for benchmarking is participatory. Despite the limited number of countries surveyed by CIVICUS and only for one year (2005), we have selected CIVICUS indicators because of the relevance and feasibility of its methodology.

Definition: Civil Society is defined as “the arena, outside of the family, the state, and the market where people associate to advance common interests”. It is a public space (for collective action) with “fuzzy” boundaries but where emphasis is more on functions, role and activity rather than on forms of organisation. This definition is largely accepted because the collective organisation of individuals is a common feature of every society.

Graph 2

Source: Civicus civil society index

The CIVICUS survey is related to four components considered as the main characteristics of civil society: structure, values, impact and environment. For the purpose of this study, we have selected this last dimension. Environment relates to the *de facto* responsibility of states in empowering civil society. The environment dimension assesses how enabling the external environment is for civil society through political, constitutional, social, economic, cultural and legal factors, as well as the attitudes and behaviour of the state and the private sector actors towards civil society.

1. Structure – six sub-dimensions and 21 individual indicators:	Breadth of citizen participation
	Depth of citizen participation
	Diversity within civil society
	Level of organisation
	Inter-relations
	Resources (human, financial)
2. Values – seven sub-dimensions and 14 indicators (implicit or explicit values of civil society actors):	Democracy
	Transparency
	Tolerance
	Gender equity
	Poverty eradication
	Environmental sustainability
3. Impact – five sub-dimensions with 16 indicators:	Influencing public policy
	Holding state and private corporations accountable
	Responding to social interest
	Empowering citizens
	Meeting pressing societal needs (poor people and other marginalised groups)
4. Environment – seven sub-dimensions and 23 indicators	Political context : citizen's political rights, the extent of political competition in the party system, rule of law, corruption, state effectiveness and decentralisation
	Basic freedoms and rights: civil liberties, information rights and freedom of the press
	The socio-economic context: widespread poverty, civil war or conflict, severe economic or social crisis, ethnic/religious conflicts, debt crises, severe socio-economic inequity (Gini index higher than 0.40), pervasive adult illiteracy, insufficient information and new technologies infrastructure
	Socio-cultural context: levels of trust, tolerance and public spiritedness among members of society
	Legal environment: includes an assessment of CSO registration procedures, legal constraints on CSO advocacy activities, CSO tax exemptions and tax benefits to promote philanthropy
	State-civil society relations: autonomy, state-civil society dialogue and cooperation/support
	Private sector-civil society relations: private sector attitudes towards civil society, corporate social responsibility and corporate philanthropy

Many questions are included in each of these sub-dimensions. The scores rank from 0 (most negative) to 3 (most positive). The following table provides details on the “Political context” and “Basic freedoms and rights” sub-dimensions.

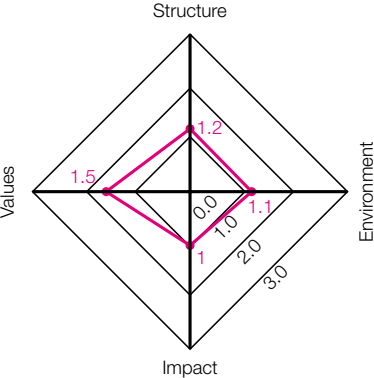
Indicator	Description	Score 0	Score 1	Score 2	Score 3
2.1. Political context	What is the political situation in the country and its impact on civil society?				
2.1.1. Political rights	How strong are the restrictions on citizens' political rights (e.g. to participate freely in political processes, elect political leaders through free and fair elections, freely organise in political parties)?	There are severe restrictions on the political rights of citizens. Citizens cannot participate in political processes.	There are some restrictions on the political rights of citizens and their participation in political processes.	Citizens are endowed with substantial political rights and meaningful opportunities for political participation. There are minor and isolated restrictions on the full freedom of citizens' political rights and their participation in political processes.	People have the full freedom and choice to exercise their political rights and meaningfully participate in political processes.
2.1.2 Political competition	What are the main characteristics of the party system in terms of number of parties, ideological spectrum, institutionalisation and party competition?	Single party system.	Small number of parties formed on a personal basis or of "clientelism" or appealing to identity politics.	Multiple parties, but weakly institutionalised and / or lacking ideological distinction	Robust, multi-party competition with well-institutionalised and ideologically diverse parties.
2.1.3. Rule of law	To what extent is the rule of law entrenched in the country?	There is general disregard for the law by citizens and the state.	There is low confidence in and frequent violations of the law by citizens and the state.	There is a moderate level of confidence in the law. Violations of the law by citizens and the state are not uncommon.	Society is governed by fair and predictable rules, which are generally abided by.
2.1.4. Corruption	What is the level of perceived corruption in the public sector?	High	Substantial	Moderate	Low
2.1.5. State effectiveness	To what extent is the state able to fulfil its defined functions?	The state bureaucracy has collapsed or is entirely ineffective (e.g. due to political, economic or social crisis).	The capacity of the state bureaucracy is extremely limited.	State bureaucracy is functional but perceived as incompetent and / or non-responsive.	State bureaucracy is fully functional and perceived to work in the public's interests.
2.1.6. Decentralisation	To what extent is government expenditure devolved to sub-national authorities?	Sub-national share of government expenditure is less than 20.0%.	Sub-national share of government expenditure is between 20.0% and 34.9%.	Sub-national share of government expenditure is between 35.0% and 49.9%.	Sub-national share of government expenditure is more than 49.9%.

Indicator	Description	Score 0	Score 1	Score 2	Score 3
2.2. Basic freedoms & rights	To what extent are basic freedoms ensured by law and in practice?				
2.2.1. Civil liberties	To what extent are civil liberties (e.g. freedom of expression, association, assembly) ensured by law and in practice?	Civil liberties are systematically violated.	There are frequent violations of civil liberties.	There are isolated or occasional violations of civil liberties.	Civil liberties are fully ensured by law and in practice.
2.2.2. Information rights	To what extent is public access to information guaranteed by law? How accessible are government documents to the public?	No laws guarantee information rights. Citizen access to government documents is extremely limited.	Citizen access to government documents is limited but expanding.	Legislation regarding public access to information is in place, but in practice, it is difficult to obtain government documents.	Government documents are broadly and easily accessible to the public.
2.2.3. Press freedoms	To what extent are press freedoms ensured by law and in practice?	Press freedoms are systematically violated.	There are frequent violations of press freedoms.	There are isolated violations of press freedoms.	Freedom of the press is fully ensured by law and in practice.

As an example, we hereby present the main findings related to the status of civil society in Egypt in 2005.

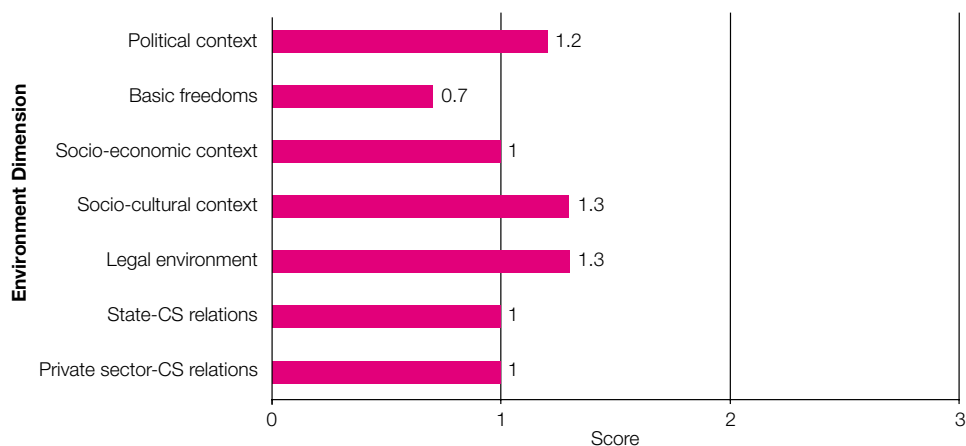
Types of civil society organisations involved in the Egyptian study:

Graph 3
Status of Civil Society, Egypt 2005



Source: Civicus civil society index

- 1. Philanthropic Organizations
- 2. Development Organizations
- 3. Human Rights Organizations
- 4. Business Associations
- 5. Chambers of Commerce
- 6. Co-operatives
- 7. Professional Syndicates
- 8. Trade Unions
- 9. Youth Centres
- 10. Sports Clubs
- 11. Women's Organisations
- 12. Faith-based Organisations
- 13. Churches and Mosques
- 14. Other organisations registered with the Ministry of Social Affairs

Graph 4 and Table 8, 9, 10 and 11:**Environment for Civil Society Empowerment.****Graph 4**

Political context	1.2
Political rights	1
Political competition	2
Rule of law	1
Corruption	1
State effectiveness	1
Decentralization	1

Table 8

Basic freedoms and rights	0.7	Socio-economic context	1
Civil liberties	1	Socio-economic context	1
Information rights	0		
Press freedom	1		

Table 9

Socio-cultural context	1.3	Legal environment	1.3
Trust	1	CSO registration	1
Tolerance	2	Allowable advocacy activities	1
Public spiritedness	1	Tax laws favourable to CSOs	2

Table 10

State/civil society relations	1	Private sector/civil society relations	1
Autonomy	1	Private sector attitude	1
Dialogue	1	Corporate social responsibility	1
Cooperation/ Support	1		

Table 11

Conclusions and recommendations: The CIVICUS methodology is highly relevant. In our view, it is an exemplary attempt (probably the only one today) at evaluating the status of civil society and making the task of benchmarking and measuring progress possible. We strongly recommend the use of this methodology use for all the EMP countries, particularly the “environment” dimension. The latter dimension clarifies what are the enabling and/or impeding factors to the existence and development of civil society, and therefore helps to determine the actions/priorities that can be carried out with the support of the EU.

7. Area/Priority: Women Empowerment

Two sources have been selected:

- CIRI indicator on women’s rights;
- Freedom House’s indicator on women’s rights in Arab countries.

A. CIRI indicator on women’s rights

Source: The Cingranelli–Richards (CIRI) Human Rights Dataset (www.humanrightsdata.com)

- *Women’s political rights*

Definition: Women’s political rights include a number of internationally recognised rights. These rights include:

- the right to vote;
- the right to run for political office;
- the right to be elected and appointed for government positions;
- the right to join political parties;
- the right to petition government officials.

Grounding in International Law: International Covenant on Civil and Political Rights: Part II, Articles 2 and 3; Convention on the Elimination of All Forms of Discrimination against Women: Part I, Articles 1 and 3; Part II, Articles 7 and 8.

Scoring system: Regarding political equality of women: complete restriction – 0; significant limitations (women hold less than 5% of seats in the national legislature and in other high-ranking government positions) – 1; political equality is guaranteed by law (women hold more than 5% but less than 30% of seats in the national legislature and in other high-ranking government positions) – 2; or political equality is guaranteed by law and in practice (women hold more than 30% percent of seats in the national legislature and/or in other high-ranking government positions) – 3.

- *Women's economic rights*

Definition: Women's economic rights include a number of internationally recognized rights. These rights include:

- Equal pay for equal work
- Free choice of profession or employment without the need to obtain a husband or male relative's consent
- The right to gainful employment without the need to obtain a husband or male relative's consent
- Equality in hiring and promotion practices
- Job security (maternity leave, unemployment benefits, no arbitrary firing or layoffs, etc.)
- Non-discrimination by employers
- The right to be free from sexual harassment in the workplace
- The right to work at night
- The right to work in occupations classified as dangerous
- The right to work in the military and the police force

Grounding in international law: International Covenant on Civil and Political Rights: Part I, Article 1; Part III Article 22 International Covenant on Economic, Social and Cultural Rights: Part III, Article 7, 8 Convention on the Elimination of All Forms of Discrimination against Women (particularly Part II, Articles 10, 11).

Scoring system: High level of discrimination against women – 0; moderate level of discrimination – 1; low level of discrimination – 2; or none or almost no discrimination – 3.

- *Women's social rights*

Definition: Women's social rights include a number of internationally recognized rights. These rights include:

- The right to equal inheritance
- The right to enter into marriage on a basis of equality with men
- The right to travel abroad
- The right to obtain a passport
- The right to confer citizenship to children or a husband
- The right to initiate a divorce
- The right to own, acquire, manage, and retain property brought into marriage
- The right to participate in social, cultural, and community activities

- The right to an education
- The freedom to choose a residence/domicile
- Freedom from female genital mutilation (FGM) of children and of adults without their consent
- Freedom from forced sterilization

Scoring system: High level of discrimination against women – 0; moderate level of discrimination – 1; low level discrimination – 2; or none or almost no discrimination – 3.

• *Aggregated Indicator on Women Rights*

Definition: This indicator is obtained by addition of the 3 Women Rights indicators: political, economic and social rights. The score ranks from 0 (complete restriction of women rights) to 9 (no discrimination against women).

Grounding in international law:

International Covenant on Civil and Political Rights: Part I, Article 1; Part III Article 23, 24

B. Freedom House’s Survey on Women’s Rights in Arab countries

Source: Freedom House (www.freedomhouse.org)

Recently, in 2005, Freedom House processed to the evaluation of the status of women’s rights in 16 countries from the Maghreb and the Mashrek. This evaluation was undertaken by experts from each country through national reports. We found this survey highly relevant, because of its methodology and its relatively good feasibility.

Methodology: Women’s rights are divided into five categories, each of which contains a number of checklist questions:

1. Nondiscrimination and access to justice – 9 questions with scores ranking from 1 (the least favourable) to 5 (most favourable):	Constitutional guarantees on equal rights for men and women;
	protection from gender-based discrimination in national laws and policies;
	equality in citizenship status for women;
	nondiscriminatory access to justice at all levels for women;
	level of equality for women under the Penal code and criminal laws;
	protection provided for women from gender-based and discriminatory arbitrary arrest, detention and exile;
	adult women’s recognition as a full person before the court;
	ratification of CEDAW and implementation thereof;
	level of freedom enjoyed by women’s rights groups and/or civil society actors working on issues of nondiscrimination and access to justice.

2. Autonomy, security and freedom of the person – 9 questions with score ranking from (the least favourable) to 9 (most favourable):	Level of enjoyment of freedom to practice religion or belief;
	level of enjoyment of freedom of movement;
	level of equality provided for in the Personal Status Code (Family Law);
	women's capacity to negotiate their full and equal marriage rights;
	protection for women from slavery or gender-based slavery-like practices;
	protection for women from torture and cruel, inhuman and degrading punishment;
	protection for women from domestic violence;
	protection for women from gender-based violence outside the home;
	level of freedom enjoyed by women's rights groups and/or civil society actors working on issues of autonomy, security and freedom of the person.
3. Economic freedom and equal opportunity – 9 questions with score ranking from (the least favourable) to 9 (most favourable):	Women's right to own and full and independent use of their land and property;
	women's right to full and independent use of their income and assets;
	women's right to the inheritance;
	women's right to freely enter into business and economic-related contracts and activities;
	women's free access to education at all levels and level of protection from gender-based discrimination in the education system;
	women's freedom to choose their profession;
	level of protection from gender-based discrimination in the area of employment;
	level of gender-specific protection in the workplace;
	level of freedom enjoyed by women's rights groups and/or civil society actors working on issues of economic rights and equal opportunity.
4. Political rights and civic voice – 9 questions with score ranking from (the least favourable) to 9 (most favourable):	Women's enjoyment of the right to peaceful assembly;
	women's enjoyment of the right to freedom of expression;
	women's right to participate in elections with full and equal suffrage;
	degree of representation in the judiciary;
	degree of representation in national government (executive) structures;
	right of participation in local assemblies and in the national parliament;
	women's right to organise and participate in political parties and processes;
	right to full and equal participation in civic life issues and decision-making;
	freedom to access and use information to empower themselves in civic and political matters.
5. Social and cultural rights – 8 questions with scores ranking from 1 (the least favourable) to 8 (most favourable):	Women's level of freedom to make independent decisions about health and reproductive rights;
	full and equal access to health services;
	level of protection from gender-based harmful traditional practices;
	level of protection from gender-based discrimination in their right to own and use housing;
	right of participation and influence the development policies on local level authorities;
	women's right of participation in and influence community life, policies and social development at the local level;
	level of participation of women in media content and in shaping their own image therein;
	women disproportionately affected by poverty for gender reasons;
	level of freedom enjoyed by women and women's rights activists to advocate women's rights issues.

The score obtained in each component varies from 1 to 5: Corresponds to a situation of total restriction of freedoms – 1; corresponds to a situation of very frequent restriction and very weak protection and enjoyment of the rights – 2; corresponds to a situation of occasional restriction of freedoms and protection and enjoyment of some rights – 3; corresponds to a situation of rather rare restriction of freedoms and high degree of protection and satisfactory enjoyment – 4; or corresponds to a situation of protection and complete or almost enjoyment of rights – 5.

Table 12

Summary Table on Indicators of Women Rights

	CIRI 2004	Freedom House 2005	Final comment
Algeria	0 – 1	3	Tendency for rather frequent discrimination and restrictions
Egypt	0 – 1	3	Tendency for rather frequent discrimination and restrictions
Jordan	1 –	2 – 3	Tendency for frequent discrimination and restrictions
Lebanon	0 – 1	3	Tendency for rather frequent discrimination and restrictions
Libya	1 –	2	Tendency for very frequent discrimination and restrictions
Morocco	1 +	3	Tendency for average discrimination
Syria	1 –	2	Tendency for very frequent discrimination and restrictions
Tunisia	1	3	Tendency for rather average discrimination

Scoring scales:

- Cingranelli–Richards (CIRI) Human Rights Dataset

High level of discrimination against women (score 0); moderate level of discrimination (score 1); low level of discrimination (score 2); none or almost no discrimination (score 3).

- Freedom House

Total restriction of liberties (score 1); frequently restricted liberties (score 2); occasionally restricted liberties (score 3); no restriction (score 4).

Comments:

According to The Cingranelli–Richards (CIRI) Human Rights Dataset for the aggregate indicator on Women's Rights, the average of the scores between 1996 and 2004 is more or less acceptable in two countries and rather weak in the others. The most frequently denied rights in many countries are social rights.

As for Freedom House, in general the scores for each of the five components of the indicator on women's rights vary between 2 (very frequent restrictions) and 3 (occasional restrictions). The third column of the table indicates the trend for each country.

Recommendations: The methodology established by Freedom House is relatively relevant (bearing in mind the reservations noted above) and if evaluations are conducted regularly, it allows evolution to be measured over time.

8. Area/Priority: Rights of Migrants and Minorities

It seems that in the specific area of migrants' and minority rights there are not sufficient, readily available and appropriate data resources to establish a system of benchmarking and measuring progress. The only suitable and credible source is the EUMC – European Monitoring Centre on Racism and Xenophobia (now the European Fundamental Rights Agency) – which began operating in 1998 and since then publishes reports regularly. There is an even greater difficulty in collecting and compiling similar data, where appropriate, for the non-EU members of the EMP.

Main Tasks of the EUMC

The primary task of the European Monitoring Centre on Racism and Xenophobia (EUMC) is to provide the Community and its Member States with objective, reliable and comparable information and data on racism, xenophobia, islamophobia and anti-Semitism at the European level in order to help the EU and its Member States to establish measures or formulate courses of action against racism and xenophobia.

On the basis of the data collected, the EUMC studies the extent and development of the phenomena and manifestations of racism and xenophobia, and analyses their causes, consequences and effects. The very core of the EUMC's activities is the European Information Network on Racism and Xenophobia (RAXEN). 25 National Focal Points collect coordinate and disseminate national and EU information in close cooperation with the EUMC.

The EUMC commenced its activities in 1998.

Indicators, data and statistics on migrants and minorities, according to the EUMC: In order to illustrate the difficulties and the gaps in collecting reliable indicators, data and statistics on migrants and minorities stressed in the introductory section, we note the EUMC's own point of view on the issue as stated in its 2003/2004 and 2005 annual reports:

Challenges to Collecting Reliable Data on Racial Discrimination and Migrants/Minority Rights

Recognising the on-going challenges encountered by the EUMC in its efforts to collect from Member States comprehensive, accurate and reliable data on different aspects of racial discrimination, the EUMC calls on all Member States:

- *To collect, compile and publish yearly such statistics relating to the following: the labour market, housing, education and training, health and social benefits, public access to goods and services, the criminal justice system, and civic and political participation.*

The EUMC welcomes the progress made in incorporating the situation of migrants/minorities in the European Employment and Social Inclusion Strategies. However, the EUMC calls on Member States and the Commission to go further, and

- To set clear, quantitative targets and indicators within the employment and social inclusion guidelines that enable them to measure progress in improving the situation of migrants / minorities. They should indicate steps being taken to achieve such targets in their National Employment Actions Plans and the National Action Plans for Social Inclusion.

The EUMC calls on the European Commission and Member States:

- To examine the feasibility of collecting data on the composition of the workforce of all Community institutions and bodies according to ethnicity and religion. The collection of such data, which should be published annually, will be subject to Regulation (EC) No 45/2001 on the protection and confidentiality of personal data.

The EUMC calls on the Council of the European Union and its Member States:

- To move towards agreement of the Commission's Proposal for a Council Framework Decision on Combating Racism and Xenophobia (COM/2001/664 final), which will improve the comparability of data on racist crimes between Member States.

EUMC, Annual Report 2003/2004

Data gaps and measuring discrimination

The kind of secondary data which can illuminate patterns of inequality and processes of racial discrimination in employment are generally not available. In most cases, basic data concerning the earnings, sectoral distribution, occupation and accident rates of foreign-born or ethnic minority workers are simply not collected.

The problem is that in order to have reliable data on discrimination it is necessary to have information on the main relevant variables, namely on 'race', ethnic origin, national origin or religion.

The authors of the national reports recognise that data indicating discrimination is hard to come by.

Whilst the greater availability of official statistics according to ethnic and national origin would provide a more solid basis of data, this would not be enough in itself to identify discrimination. For one thing, it is necessary to control for other variables within such statistics, such as educational level and gender.

More detailed statistics combined with multivariate analyses provide a more reliable standard of evidence. But it is still only indirect evidence of discrimination. Direct evidence can be seen in actual cases which have come to public or media attention during 2004, often via complaints to NGOs and official bodies, as well as from the evidence of discrimination testing.

EUMC, Annual Report 2005

Quite obviously, EUMC takes the view that we are facing a real on-going challenge in collecting, compiling and publishing comprehensive, accurate data on migrants' rights and on different aspects of racial discrimination. Actually, the relevant available information provided by EUMC is related to the official data (EU15) on racist violence and crime such as reported in the table below.

Proposals for the development of a benchmarking system to measure progress in the migrants/minority rights area/action/priority: Three steps are proposed in order to design a methodology for the development of a benchmarking system for migrants/minority rights:

- a) Establishing international legal sources: the legal basis for norms, standards and criteria underpinning the task of benchmarking in this area could be the following:
 - International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990⁶;
 - International Labour Organization (ILO) Convention concerning Migration for Employment (Revised), 1949 (No. 97);
 - ILO Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, 1975;
 - Durban Declaration and Plan of Action of the World summit against racism, racial discrimination, xenophobia and related intolerance.
- b) Selecting primary sources: the EUMC annual reports may be considered as an appropriate primary source allowing us to establish a benchmarking system with a methodology similar to CIRI's. These could be combined with other sources such as reports by Amnesty International and the International Federation of Human Rights Leagues. Furthermore, UN sources such as reports of relevant UN committees, e.g. the Human Rights Committee, the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women, the Committee against Torture, the Committee on the Rights of the Child, the Committee on the Protection of the Rights of all Migrant Workers and Members of their Families, might be a valuable addition or alternative.

⁶ Signatory governments are obliged to submit regular implementation reports to the monitoring committee, and required, under Article 73 (4) of the Convention to "make their reports widely available to the public in their own countries."

c) Selecting specific issues (indicators) related to migrants/minority rights

- *Civil liberties*

Under this heading, four particular areas should be considered:

(1) Counter-terrorism

Many EU countries are experiencing a trend to work a readjustment of the balance between rights and security as what they consider a “necessary” reaction to increased threat of terrorist attack. This trend has implications upon freedom of speech, freedom of assembly and association, and other civil liberties issues. The monitoring of such trends is important and appropriate data and indicators methodologically similar to CIRI’s should be processed.

(2) Trend towards mandatory integration procedures

Many EU countries are developing national mandatory integration programmes. It is necessary to examine those policies in order to determine to what extent they improve or erode human rights protections for immigrants in the EU.

(3) Procedural rights in criminal matters

It might be worthwhile to gauge to what extent non-EU nationals are given access to linguistic services (translation), and assistance in understanding the differences between legal systems in their countries of origin and the receiving EU member state. At a recent JHA Council meeting, on 1–2 June 2006, ministers agreed to establish common minimum standards on the rights to information, legal assistance, interpretation, and translation of documents for any person subject to criminal proceedings. It might be wise to monitor how effectively these rights are respected in member states once the JHA Council finally agrees to establish a minimum standard.

(4) Return policy, if unlawfully resident

The EU Council of Justice & Home Affairs has attempted to come to an agreement on a list of 'safe countries of origin' to which failed asylum seekers and unlawful residents in a member state could be summarily returned without concern for the safety of the returnee. Some member states already use such lists. It might be necessary to gauge to what extent this aspect of returns policy puts migrants in the EU, who will be returned, in danger.

- *Workers' rights*

The European Commission's ten year review of the Barcelona Process, released in 2005, noted that discussion at the Social Affairs Working Groups (established in some Euro-Mediterranean Association Agreements) has concentrated on living and working conditions of migrant workers, gender equality, employment policy, and the fight against poverty and social exclusion. As the report notes, "improving the living and working conditions of migrant workers from partner countries and ensuring their smooth social integration is an issue of significant mutual concern." The ILO Convention concerning migration for employment (revised 1949) set the standard, in Article 6, that receiving states should apply "treatment no less favourable than that which it applies to its own nationals". The principle of equal treatment is also respected under a number of the Euro-Mediterranean Association Agreements, which contain provisions relating to working conditions and social security. However, the trend within the EU member states to impose selective entry, based on the requirements of their internal economies might also be questioned here. Perhaps it might be necessary to include a criterion taking into account the selectivity of intake of economic migrants.

- **Educational rights**

It might be advisable to monitor to what extent migrants receive educational treatment no less favourable than that which the receiving country in the EU applies to its own nationals (see e.g., the recent national controversy in Germany over the Ruetli School in Berlin in 2006: high percentage of disadvantaged Turkish and Arab students).

Although the proposed checklist of sub-areas/actions/priorities is not exhaustive, it could nevertheless be a good starting point for the establishment of a benchmarking system aimed at measuring progress in protection of migrant rights (or sub-components of these rights).

Remarks and recommendations: The task of elaborating a benchmarking system to measure progress in the field of migration, discrimination, racism and xenophobia is feasible despite the mentioned difficulties. Firstly, agreement should be reached on the appropriate international legal sources, the credible appropriate primary sources and on the selected set of migrants and minority rights areas/priorities/actions (or its components). Experts could then proceed to establish surveys with appropriate questions related to each component or subcomponent and a scale for scores (indicators) measuring progress in such areas/actions/priorities.

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Appendix

Articles of Human Rights Instruments listed in table 1 on which Reservations or Declarations have been made by the countries under analysis

International Covenant on Economic, Social and Cultural Rights, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966; entry into force on 3 January 1976, in accordance with article 27.

Article 23

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

International Convention on the Elimination of All Forms of Racial Discrimination, adopted and opened for signature and ratification by General Assembly resolution 2106 (XX) of 21 December 1965; entry into force on 4 January 1969, in accordance with Article 19.

Article 22

Any dispute between two or more States Parties with respect to the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall, at the request of any of the parties to the dispute, be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.

Convention on the Elimination of All Forms of Discrimination against Women, adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979; entry into force 3 September 1981, in accordance with article 27(1).

Article 2

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

- (a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- (b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women; (c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

- (d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- (e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- (f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- (g) To repeal all national penal provisions which constitute discrimination against women.

Article 9

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband. 2. States Parties shall grant women equal rights with men with respect to the nationality of their children.

Article 15

- 1. States Parties shall accord to women equality with men before the law.
- 2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.
- 3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.
- 4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

Article 16

- 1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:
 - (a) The same right to enter into marriage;
 - (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
 - (c) The same rights and responsibilities during marriage and at its dissolution;
 - (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
 - (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
 - (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;

(g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

(h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

Article 29

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted and opened for signature, ratification and accession by General Assembly resolution 39/46 of 10 December 1984; entry into force on 26 June 1987, in accordance with article 27 (1).

Article 20

1. If the Committee receives reliable information which appears to it to contain well-founded indications that torture is being systematically practised in the territory of a State Party, the Committee shall invite that State Party to co-operate in the examination of the information and to this end to submit observations with regard to the information concerned.

2. Taking into account any observations which may have been submitted by the State Party concerned, as well as any other relevant information available to it, the Committee may, if it decides that this is warranted, designate one or more of its members to make a confidential inquiry and to report to the Committee urgently.

3. If an inquiry is made in accordance with paragraph 2 of this article, the Committee shall seek the co-operation of the State Party concerned. In agreement with that State Party, such an inquiry may include a visit to its territory.

4. After examining the findings of its member or members submitted in accordance with paragraph 2 of this article, the Commission shall transmit these findings to the State Party concerned together with any comments or suggestions which seem appropriate in view of the situation.

5. All the proceedings of the Committee referred to in paragraphs 1 to 4 of this article shall be confidential, and at all stages of the proceedings the co-operation of the State Party shall be sought. After such proceedings have been completed with regard to an inquiry made in accordance with paragraph 2, the Committee may, after consultations with the State Party concerned, decide to include a summary account of the results of the proceedings in its annual report made in accordance with article 24.

Article 21

1. A State Party to this Convention may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under this Convention. Such communications may be received and considered according to the procedures laid down in this article only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be dealt with by the Committee under this article if it concerns a State Party which has not made such a declaration. Communications received under this article shall be dealt with in accordance with the following procedure;

(a) If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation or any other statement in writing clarifying the matter, which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending or available in the matter;

(b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

(c) The Committee shall deal with a matter referred to it under this article only after it has ascertained that all domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged or is unlikely to bring effective relief to the person who is the victim of the violation of this Convention;

(d) The Committee shall hold closed meetings when examining communications under this article; (e) Subject to the provisions of subparagraph

(c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for the obligations provided for in this Convention. For this purpose, the Committee may, when appropriate, set up an ad hoc conciliation commission;

(f) In any matter referred to it under this article, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;

(g) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered by the Committee and to make submissions orally and/or in writing;

(h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report:

(i) If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report.

In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when five States Parties to this Convention have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received under this article after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

Article 30

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may, at the time of signature or ratification of this Convention or accession thereto, declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by paragraph 1 of this article with respect to any State Party having made such a reservation.

3. Any State Party having made a reservation in accordance with paragraph 2 of this article may at any time withdraw this reservation by notification to the Secretary-General of the United Nations.

Convention on the Rights of the Child, adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989; entry into force on 2 September 1990, in accordance with article 49.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.
2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others; or
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.
2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

Article 17

States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

To this end, States Parties shall:

- (a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;
- (b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;
- (c) Encourage the production and dissemination of children's books;
- (d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;
- (e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.
2. States Parties shall in accordance with their national laws ensure alternative care for such a child.
3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

- (a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

- (b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;
- (c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;
- (d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;
- (e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted by General Assembly resolution 45/158 of 18 December 1990; (not yet entered into force).

Article 4

For the purposes of the present Convention the term "members of the family" refers to persons married to migrant workers or having with them a relationship that, according to applicable law, produces effects equivalent to marriage, as well as their dependent children and other dependent persons who are recognized as members of the family by applicable legislation or applicable bilateral or multilateral agreements between the States concerned.

Article 18

1. Migrant workers and members of their families shall have the right to equality with nationals of the State concerned before the courts and tribunals. In the determination of any criminal charge against them or of their rights and obligations in a suit of law, they shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law.

2. Migrant workers and members of their families who are charged with a criminal offence shall have the right to be presumed innocent until proven guilty according to law.

3. In the determination of any criminal charge against them, migrant workers and members of their families shall be entitled to the following minimum guarantees:

- (a) To be informed promptly and in detail in a language they understand of the nature and cause of the charge against them;
- (b) To have adequate time and facilities for the preparation of their defence and to communicate with counsel of their own choosing;
- (c) To be tried without undue delay;
- (d) To be tried in their presence and to defend themselves in person or through legal assistance of their own choosing; to be informed, if they do not have legal assistance, of this right; and to have legal assistance assigned to them, in any case where the interests of justice so require and without payment by them in any such case if they do not have sufficient means to pay;

- (e) To examine or have examined the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them;
 - (f) To have the free assistance of an interpreter if they cannot understand or speak the language used in court;
 - (g) Not to be compelled to testify against themselves or to confess guilt.
4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.
5. Migrant workers and members of their families convicted of a crime shall have the right to their conviction and sentence being reviewed by a higher tribunal according to law.
6. When a migrant worker or a member of his or her family has, by a final decision, been convicted of a criminal offence and when subsequently his or her conviction has been reversed or he or she has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to that person.
7. No migrant worker or member of his or her family shall be liable to be tried or punished again for an offence for which he or she has already been finally convicted or acquitted in accordance with the law and penal procedure of the State concerned.

Article 92

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention that is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.
2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of the present article. The other States Parties shall not be bound by that paragraph with respect to any State Party that has made such a declaration.
3. Any State Party that has made a declaration in accordance with paragraph 2 of the present article may at any time withdraw that declaration by notification to the Secretary-General of the United Nations.

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