



LUND
UNIVERSITY

Human Rights Studies

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MRS200

Spring 2007

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Punching below its weight?

The European Union's use of Human Rights Conditionality in the
Enlargement and the European Neighbourhood Policy

Abstract

The international role of the European Union has often been described as the one of a "normative power", which has the weight to influence the minds and practices of other peoples by its mere attractiveness. However, Human Rights Watch's 2007 World Report concludes; that even if the European Union has the credibility and the power to 'fill the leadership void' in terms of human rights advocacy in the world, it is for the moment 'punching well below its weight'. This study takes a closer look at the most powerful instrument that the Union possesses for promoting human rights on its borders, namely conditionality. It does so by comparing EU's human rights policies towards Turkey, through the accession negotiations, and Morocco, through the ENP. What are the EU's motives for engaging in these countries? How can we make sense of some of the similarities and differences in the European approach? And, most importantly, can these policies be effective in practice?

The conclusion suggests that EU's power is rather limited and depends upon what is seriously offered in return for compliance, as well as the will to, and need for reforms in the concerned countries. Moreover, whenever there are competing European self-interests, the politics of values appears to fall short.

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Introduction

Human Rights Watch's annual world report in 2007 was named: "Filling the Leadership Void: Where is the European Union?" It concluded that ever since the United States began its so-called 'war on terrorism', the European Union is the only collection of states that is powerful and credible enough to take the lead in defending these values worldwide.¹ The report concludes, however, that even if the European Union has the credibility and the power to take lead, it is for the moment 'punching well below its weight'. How then could the European Union take on this task more vividly?

The most powerful instrument that the EU possesses for promoting these values is Enlargement, or more accurately human rights conditions of a future membership. The newly established European neighbourhood policy (ENP) essentially aims at copying these effects in the relations to the Union's surrounding neighbours, even though the carrot is rather flavourless.² The aim of this study is to compare EU's human rights policies towards Turkey, through the accession negotiations, and Morocco, through the ENP. What are the EU's motives for engaging in the human rights situations of these countries? How can we make sense of some of the similarities and differences in the European instruments? And, most importantly, can these policies be effective in practice?

Turkey and Morocco are both Mediterranean countries bordering to the current Union. Ankara is located 2514 km from Brussels, Rabat 2072 km. Morocco applied for membership in the European Communities in 1987, but was turned down on a geographical basis.³ Turkey also applied the same year, was granted candidate status in 1999, and was accepted to begin accession negotiations in 2005. But as you will see, these negotiations are 'open ended' and highly political. The back-up plan for Turkey, that of a 'strategic partnership' is not very different from what is offered to Morocco through the ENP. In terms of human rights, Turkey and Morocco have similar records and challenges. They hold equally unflattering positions in the Reporters Without Borders yearly ranking of 2006,⁴ Freedom House labels them both as 'partly free'⁵ and Human

1 Roth, K. Human Rights Watch World Report 2007. p1

2 Kelley, J. (2006)

3 D@dalos - A chronology of European integration 1947-2001 (II)

4 Reporters sans frontières - Annual Worldwide Press Freedom Index - 2006

5 Freedom House – Freedom in the World 2007. p. 9-10

Rights Watch included them both on its 2005 list over countries using torture.⁶ Therefore, comparing them as subjects for the EU's approach on human rights is not unfounded.

Methodologically, this comparative study is based on text interpretations of a wide range of sources. The material used ranges from legal documents of the European Union, Commission Communications and statements by EU officials to newspaper articles. The reason for this is to paint a broad picture, which includes the policies in theory, as well as in practice. The essay is divided into three parts. The first part investigates what comprises 'European Values' and compares the different motives for convincing or coercing others to adhere to them. The second part takes a closer look at the most important method in use for fulfilling these motives, namely 'Conditionality'. The second parts also compares the European approach towards Turkey and Morocco in practice, by considering the human rights dialogue in the field of press freedom. The final part tries to answer my key question: Can these policies be effective in elevating the respect of fundamental freedoms and Human Rights in Turkey and Morocco by generating domestic political reforms? What are the main challenges for succeeding? For this task, I use a fairly simple theoretical model developed by Frank Schimmelfennig for assessing the effects of conditionality. His main point is that the benefits gained from compliance must defeat the domestic political costs, and the conditions set must be clear, determinate, consistent and trustworthy.⁷

This essay will not try to make a prognosis for whether or not Turkey will eventually accede to the Union, carry out a geo-philosophical discussion regarding the borders of Europe, or even make a comprehensive list of tensions between EU and the two compared countries. It should rather be seen as a way of investigating if the European Union actually does have any considerable weight to 'punch with'. The conclusion suggests that EU's power is rather limited and depends upon what is seriously offered in return for compliance, as well as the will to, and need for reforms in the concerned countries. Moreover, whenever there are competing European self-interests, the politics of values appears to fall short.

⁶ Torture Worldwide (Human Rights Watch, 27-4-2005)

⁷ Schimmelfennig F (2007) p133

1. 'European Values' and motives for advocacy

The international role of the European Union has often been described as the one of a "normative power" that has the weight to influence the minds and practices of other peoples, by its mere attractiveness.⁸ In order to prepare the ground for this essay, I will first investigate what comprises these 'European' (as in EU) values and norms, and explore some of their internal and external dimensions. Article 6(1) of the EU Treaty (TEU) states as follows:

The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States.

Compliance with these values and norms is, at least in theory, required for a state to gain and maintain its full rights as an EU member.⁹ However, these values were of limited, if any, concern when the early treaties of the European Community were drafted. The Europeans had to twiddle their thumbs until the mid 1970's, before the European Parliament, the European Commission and the EU Council of Ministers accepted an encouragement from the Court of Justice of the European Communities (ECJ), and pledged to respect these values with reference to the constitutions of member states.¹⁰ The recognition of fundamental freedoms and human rights as a cornerstone of the European project had to wait until the 1990's, and the fall of Communism in Eastern Europe. Such considerable developments presented a need for distinguishing the Western European block, when there no longer was any Iron Curtain who could do the job.¹¹ The prominence of common values in the Union's core documents were however not apparent until 1999 and the Treaty of Amsterdam.

In 1996, ECJ declared that the Union as an institution was unable to ratify the European Convention for the Protection of Human Rights and Fundamental Freedoms from 1950.¹² Despite such a decision, TEU expressly refers to the Convention as a canon of

8 Haglund (2005) p. 6

9 Treaty on European Union, art. 49 and 7 respectively.

10 EU Commission: Justice and Home Affairs - The rising prominence of fundamental rights in the European Union Treaties

11 Haglund (2005) p. 8

12 Commission of the European Communities - The rising prominence of fundamental rights in the European Union Treaties

European values.¹³ The ECJ's decision from 1996 also spurred the member states to adopt their own EU Charter of Fundamental Rights at the Nice Summit in 2000. The not yet ratified European Constitution holds this Charter as its second chapter.¹⁴

The notion of a common set of values is important in the course of European integration. A shared 'European Identity' does seem to comprise a basis for generating the trust that institutional integration requires. However, the confirmation of this identity is essentially conducted in the Union's external relations. 'Promoting development and consolidation of the values set up in the treaty'; is one of the objectives set out for the crafting of a common foreign and security policy.¹⁵ The same goes for the seemingly separated domain of development cooperation.¹⁶ Since 1992 the European Community has also included a 'clause defining respect for human rights and democracy as **essential elements** of the relationship' in each and every of its agreements with third countries.¹⁷ These clauses have first and foremost referred to the UN Universal Declaration from 1948, which is remarkable since not all of its provisions are binding under customary international law.¹⁸ In 2001, the European Commission adopted a communication that sought to clarify the Union's role in promoting human rights and democracy in third countries. The Union's aim, according the communication, is to 'uphold the universality and indivisibility of human rights - civil, political, economic, social and cultural - as reaffirmed by the 1993 World Conference on Human Rights in Vienna'. It also recognized the Union's potential impact due to its composition:

Uniquely amongst international actors, all fifteen Member States of the Union are democracies espousing the same Treaty-based principles in their internal and external policies. This gives the EU substantial political and moral weight. Furthermore, as an economic and political player with global diplomatic reach, and with a substantial budget for external assistance, the EU has both influence and leverage, which it can deploy on behalf of democratisation and human rights.¹⁹

Further, the communication referred to the EU Charter adopted in Nice 2000 as the standard for the Commission's external work in order to guarantee coherence in the field

13 Treaty on European Union Article 6(2)

14 Haglund (2005) p. 11

15 Treaty on European Union Article 11

16 Treaty establishing the European Communities Article 177

17 COM(2001) 252 p 4

18 Bartels, L. (2005). p. 93

19 COM(2001) 252 final p 3-4

of human rights. This is remarkable since the treaty is by no means binding to any member states until the Constitution is ratified.

Is the spread of **European values** considered intrinsic? This is of course a critical question. I will argue that the export of these values, however intrinsic the values may be, more often is legitimised by their instrumental potential in achieving specific foreign policy aims.²⁰

1.1. Enlargement

From the EU's own perspective, enlargement, or the promise of future membership, has been its so far most successful foreign policy instrument.²¹ The former president of the European Commission, Romani Prodi, described it as the EU's greatest contribution to "sustainable security and stability" on the European continent.²² The Commission, in its Enlargement Strategy paper for 2006-2007, also claimed that;

EU enlargement has helped respond to major changes such as the fall of dictatorships and the collapse of communism. It has consolidated democracy, human rights and stability across the continent. Enlargement reflects the EU's essence as a soft power, which has achieved more through its gravitational pull than it could have achieved by other means.²³

Independent actors, such as Human Rights Watch, have also validated (with some disinclination) the positive influence of the European Accession Process on the respect for human rights in candidate countries.²⁴

But what are the driving forces behind this great contribution to the continent? The economic benefits for 'Old Europe', in terms of international competitiveness and as a response to demographic changes, should of course not be underestimated. However, the Treaty of Maastricht, and the later adoption of the Copenhagen Criteria for membership in 1993, marked a shift in the basis of accession from strictly economic criteria to an emphasis on political values.²⁵ TEU in its present wording gives "any

20 Haglund (2005) p15. Fischer (2004).

21 Cremona (2004) p. 4

22 Prodi R. (2002)

23 COM(2006) 649

24 Roth, K. Human Rights Watch World Report 2007. p. 28

25 Üçer, E (2005). p 198.

Tallberg, J (2004). p.30

European State which respects the principles set out in Article 6(1)” (see above) the right to apply for membership in the Union.²⁶ It is simply not enough to be a European State with a functioning market economy. You also have to uphold a good record of human rights, fundamental freedom and democracy, rule of law. Promoting these values, and setting them as requirements for joining the club, is connected to a notion that like-mindedness is a pre-condition for integration.

1.1.1. The significance of Turkey

There is a deep division between and within EU member states of whether or not Turkey should be allowed full membership into the Union. In fact, member states make no secret about such a division. There is, nevertheless, a consensus saying that it would be very much in line with European self-interest if Turkey saw a further democratisation and increased the respect for human rights to people within its territory. EU appreciates Turkey’s capacity to contribute to regional and international stability, due to its internal characteristics and geographical position.²⁷ The German Foreign minister in 2006, Frank Walter Steinmeier and his Turkish counterpart Abdullah Gül, made a joint statement with regards to contemporary qualms for a ‘clash of civilizations’, saying that;

With great concern we now see how the ditch between the "west" and the Islamic world appears to widen ever further. Some see a "conflict of the civilizations" in the making. This situation worries us deeply. Because in such a conflict there would be no winners. We are therefore firmly committed to contest this development together.²⁸

The European Commission confirms this view of Turkey as a mediator between “East” and “West”, but from less of a security perspective:

Turkey is at present going through a process of radical change, including a rapid evolution of mentalities. It is in the interest of all that the current transformation process continues. Turkey would be an important model of a country with a majority Muslim population adhering to such fundamental principles as liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law.²⁹

26 Treaty of the European Union, Article 49

27 SEC(2004) 1202

28 Steinmeier, F. W and Gül, Abdullah (2006). **The author’s translation.**

29 SEC(2004) 1202

To sum up arguments put forward by the advocators of a Turkish membership; washing away the label of a being a Christian club would prove Huntington wrong and, with a bit of luck, would create more influence and credibility for the Union in interacting with Middle Eastern countries.

1.2. European Neighbourhood Policy

The European Neighbourhood Policy was launched in 2004 as a framework for co-operation between the enlarged Union and the countries surrounding it.³⁰ It does for the moment cover Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, the Palestinian Authority, Syria, Tunisia and Ukraine. Excluded are countries currently in the process of accession negotiations and notably the Russian Federation.³¹ Enlargement is in a number of ways the rationale behind launching the new neighbourhood instrument. Firstly, the enlargement has obviously redrawn the borders of the Union and hence changed its geopolitical situation.³² This brought fear of new ‘dividing lines’ between the Union and its new neighbours, which the ENP instruments seeks to prevent.³³ Secondly, it was a response to the EU’s relative weakness in previously promoting reform processes in neighbouring countries. Accordingly, ENP – documents much rather refers to the successes of enlargement than previous development policies directed towards the concerned countries.³⁴ Presuming that the promise of future membership is “the most powerful stimulus for reform” the Union can think of, Romani Prodi asked in 2002;

why should a less ambitious goal not have some effect? A substantive and workable concept of proximity **would** have a positive effect.³⁵

The self-interests for bringing the neighbours to an arm’s length, and more actively engage in their reform processes, were already confessed on the drawing board;

“..stability, prosperity, shared values and rule of law along our borders are all fundamental for our own security.”³⁶

30 Kelley, J. (2006) p30.

31 Commission of the European Communities - The Policy What is the European Neighbourhood Policy.

32 Cremona, M. (2004) p.2

33 COM(2004) 373 p. 3

34 Kelly, J. (2006) p. 30

35 Prodi, R. (2002) p. 4

36 Solana, J. and Patten C. (2002) § 3

Also among the European interests is the need for addressing issues such as illegal migration, terrorism, political extremism and international organized crime. A sustained economic growth in the EU also requires new markets. Promoting certain values, stability and prosperity among the European neighbours is generally legitimised by its instrumentality; “by helping our neighbours, we help ourselves”.³⁷

1.2.1. The significance of Morocco

Morocco is often perceived as a relatively western orientated Arab country from the view of Washington or Brussels. It has seen a slow but continuous progress on ‘top-down’ political reform during the last fifteen years.³⁸ Since the attacks on Casablanca in 2003 it has keenly joined in on the fight against terrorism³⁹ Morocco has also been co-operative in the establishment of a Common European Foreign Policy and has contributed to the KFOR and SFOR missions on the Balkans within the scope of the European Security and Defence Policy. Even though Morocco is not a part of the African Union, it has been recognised by the EU as a possible link for Europe to gain more leverage in the settlements of Sub-Saharan conflicts.⁴⁰

On top of this is the European interest of more effectively managing migration flows into Europe. In this case, Morocco plays the double role of being a country of origin, as well as a transit country for migrants stemming from poor and tense areas in Sub-Saharan Africa. In July 2006, Morocco subsequently hosted the Euro-African Ministerial Conference on Migration and Development. The so-called ‘Rabat Action Plan’ was adopted, which traded ‘African cooperation in helping to restrict migration in return for European development assistance’.⁴¹

37 Landaburu, E. (2006)

38 Carnegie Endowment for International Peace. An Islamic Party Faces the Challenges of Democracy and Development. Event, Monday, May, 08, 2006.

39 SEC(2004) 569

40 ENPI - Morocco strategy paper 2007-2013. p.10

41 Noll, G. (2006)

2. Conditionality

So far, this paper has focused on Union's motives for promoting human rights as a European value, through Enlargement and the ENP. If this overture primarily dealt with the aims, the second part will take a closer look at the most important instrument that EU possesses for succeeding with these aims, namely Conditionality. This chapter will outline some of the similarities and differences in human rights conditionality, as it appears in the Enlargement negotiations and the ENP. Does the absence of the tastiest carrot necessarily lead to a softer look on Human Rights issues in neighbourhood countries that have no foreseeable prospect of membership?

2.1. Enlargement and Conditionality

The use of conditionality is 'the heart of the European Union's enlargement'⁴² and serves a double interest. Firstly, there is the one of protecting the 'club' and its achievements. By upholding a certain level of like-mindedness, both politically and economically, the risk of compromising future effectiveness of the Union is lessened. Secondly, it is a foreign policy instrument, which is obtaining its muscle from the EU's attractiveness in the eyes of its closest neighbours.⁴³

But Conditionality is limited in time and space. Once an applicant country advances into full membership, the impact of conditionality is in essence lost. In theory, of course, already acceded member states are required to uphold this like-mindedness, and accordingly adhere to the conditions set up for entrance.⁴⁴ In practice, however, the conditions set on applicant states are far more rigorous than the once set on member states.⁴⁵ In contrast to the statute of Council of Europe, the Treaty of the European Union falls short of excluding members when they are not upholding a certain Human

42 Rehn, O (2006)

43 Prodi, R. (2002)

44 Treaty of the European Union, article 7

45 Smith, K (2005) p. 109

Rights standard.⁴⁶ What are then the criteria that have to be fulfilled in order to join the Union?

'European Identity' was the only condition formally set out in the Rome Treaty of 1957.⁴⁷ Shared values as a condition for accession is, however, not entirely new. In 1962 Falangist Spain was rejected accession to the EEC on the basis of Human Rights violations and a lack of democracy. In fact, the European Parliament in its so-called Brickelbach report, stated that a non-democratic country could not be accounted for as 'European', thereby ruling out possible accession.⁴⁸ In 1967, the Community froze its association agreement with Greece due to the coup d'état. The relationship was neutralised in 1974, and in 1975 Greece handed in its application for membership. The Commission recommended the Council to give a positive answer to the request, "due to Greece's return to a democratic form of government".⁴⁹

But even if a common set of values proved important already in the 1960's and 1970's, in the first waves of enlargement the overriding focus of societal harmonisation was laid on markets.⁵⁰ The aforementioned Opinion on the Greek application is in substance far more concerned of "Coordination of economic and monetary policies", "Taxation" and "Free movement of capital", than of the death penalty. Andrew Williams suggests that the prominent doctrine of that time was the one of "absolute non-intervention". This rendered any involvement with the internal structure of a foreign state, both politically and legally illegitimate.⁵¹

The end of the Cold War, the 1980's and the fall of the Soviet Union came with a redrawing of the European map. The waterproof division between "East" and "West" was discontinued. In 1991 the Community's foreign ministers made a joint statement saying that, for them to recognize any of the new European states as sovereign, depended upon these states to respect the provision of the UN Charter, the Helsinki Act of 1975

46 Nowak, Manfred. "Human Rights 'Conditionality' in Relation to Entry to, and Full Participation in, the EU" in Alston, Phillip ed.(1999). p690.

47 Treaty establishing the European Economic Community Article 237

48 Bartels, L (2005). European Parliament Brickelbach Report January 15 1962

49 Bartels, L (2005) Bartels p. 51.

COM (76) 30 final.

50 Barnes, I and Randerson, C (2006) p.354.

51 Williams, A. (2004) p. 47

and the Charter of Paris of 1990.⁵² This was an early sign on how the European Community would position itself towards the Eastern European countries in the transition phase from their Communist era.

In 1993, the European Council meeting in Copenhagen, finally adopted the famous ‘Copenhagen Criteria’, which still form the basis for accession to the European Union.

Membership requires that the candidate country has achieved (1) stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities, (2) the existence of a functioning market economy as well as the capacity to cope with competitive pressure and market forces within the Union. (3) Membership presupposes the candidate's ability to take on the obligations of membership including adherence to the aims of political, economic and monetary union.⁵³

The third criterion obliges applicants to enact the full **acquis communautaire**, that is the body of Community legislation and judgments of the European Court of Justice by which all EU member states are bound. So what are we to make out these formulations? Barnes and Randerson speak of the “Vagueness of the Copenhagen criteria”, since it gives no definitions to Human rights or democratisation.⁵⁴ This gave the Commission some space for its own interpretation. The results of the Commission’s further elaboration was first presented in the ‘Agenda 2000’ document adopted in 1997. This document also set out ‘good neighbourliness’ as a fourth criterion for membership.⁵⁵ The Copenhagen Criteria in large corresponds to TEU 6(1). The only clearly substantial exception is minority rights, which holds a very ambiguous role in the area of European values in general, and in the criteria for accession in particular. If we are to understand it historically, one could of course look at the context of when the criteria were first adopted in 1993. At the time, horrific wars were raging on the Balkans, clearly with an ethnic excuse. There is, however, a great sense of disagreement among member states of whether or not minority rights should be included among the ‘common values’. This is manifested by the exclusion of such a principle in TEU 6(1). For an instance, Turkey has been criticised by the Commission for not adhering to the European Framework Convention for the Protection of National Minorities. This is while France has a general reservation to the minority

52 Bartels, L. (2005) p. 51

53 European Council in Copenhagen, June 21-22 1993: Conclusions of the Presidency.

54 Barnes, I and Randerson, C (2006) p. 355

55 Agenda 2000 p. 56

protection article of the International Covenant on Civil and Political Rights, and indeed has no intention whatsoever of ratifying the mentioned Framework Convention⁵⁶.

2.1.1. Accession Partnerships

The Accession Partnerships are in essence tangible action plans for the concerned government, saying where to it should direct its efforts in order to meet the Copenhagen Criteria. They are decided upon by the European Council and contain principles, priorities, intermediate objectives and conditions for the reform process in candidate countries. A 'Partnership' is regularly revised and constitutes a corner stone in the Commission's work to assess a country's progress.⁵⁷

2.2. Conditions on Turkey

The relationship between the European Union and Turkey has been a bumpy ride for a little more than forty years. In 1964, the parties signed an Association agreement with a clause making future Turkish membership possible. Ankara nonetheless had to wait until 1999 when the Helsinki Council "[welcomed] the recent positive developments in Turkey", and stated that

Turkey is a candidate State destined to join the Union on the basis of the same criteria as applied to the other candidate States.⁵⁸

An accession partnership was established in 2001 and in October 2005, Turkey finally opened up negotiations with the Commission. The accession partnership has been revised three times and constitutes the most important yardstick for the Commissions to assess the reform progress in Turkey.

2.2.1. Open-ended negotiations and the larger acquis

When the EU leaders agreed to open up negotiations with Turkey, they did so with a visible recollection of dubious public opinions in most Western European countries. The establishing Framework document, states that negotiations with Turkey will be "an open-

56 Nowak, Manfred. "Human Rights 'Conditionality' in Relation to Entry to, and Full Participation in, the EU" in Alston, Phillip ed.(1999). p689.

<http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=157&CM=&DF=&CL=ENG>

57 European Council Decision 2001/235

58 European Council Helsinki, December 10-11 1999: Conclusions of the Presidency. § 12

ended process, the outcome of which cannot be guaranteed beforehand”.⁵⁹ This clause gives verification of how political the EU-Turkey negotiations are. Some high-level politicians of member states have been involved in developing an alternative model of a “strategic partnership”, which would grant Turkey a special relation to the Union, but without recognition of a full membership. The Negotiation Framework from 2005 also provides this emergency exit:

[If] Turkey is not in a position to assume in full all the obligations of membership it must be ensured that Turkey is fully anchored in the European structures through the strongest possible bond.⁶⁰

A constantly ongoing debate related to the question of enlargement is the assumed discrepancy between “deepening” and “widening” European integration. A deepened integration requires trust among member states, which in turn seems to require like-mindedness. The treaty of Maastricht and the subsequent establishment of a European Union marked a “deepened” institutional co-operation. The *acquis communautaire* has swiftly expanded since then, thereby raising the bar for fulfilment of the third Copenhagen Criterion. If this criterion has to be fully met, acceding to the European Union after 2004 is an exceptionally demanding task.⁶¹

2.2.2. Cultural and geographical issues

Does Turkey fulfil the most fundamental of all conditions, the one of ‘European identity’? Asking such a question could of course ignite an interesting geo-philosophical discussion about the borders of Europe. Is Europe in essence an idea, or simply a geographical area? Even if the independence war after the collapse of Ottoman Empire was fought against Western states, the agenda of revolutionist leader Kemal Atatürk was to create a secular and modern, in many ways Western, state. From the accessions to Council of Europe in 1949, NATO in 1951 and OECD in 1961, one could question if the Turkish nationalist movement was much of a dissociation from the European way?⁶²

This discussion may be important with regards to the political game that eventually will determine the outcome of the “open-ended negotiations”, but the question appears already decided upon by the mere opening of negotiations. Turkey is, as the Helsinki

59 EU – Turkey Negotiation Framework (2005) p2

60 ibid

61 Barnes, I and Randerson, C (2006)

62 Üçer, E. (2006)

Council of 1999 made clear; “a candidate State destined to join the Union on the basis of the same criteria as applied to the other candidate States”.⁶³

There are no historical, religious and cultural conditions for accession to the European Union. The early rejection of Spain in 1967 because of lacking a ‘European Identity’, would rather suggest that eventually fulfilling the political criteria for accession is what in essence defines the label ‘European’.

2.3. Freedom of expression in Turkey

Turkey holds an unflattering 98th place in ‘Reporters sans frontières’ Worldwide Press Freedom Index Ranking of 2006.⁶⁴ During this year, more than 50 people were indicted for statements, articles or speeches that touched upon controversial topics such as the life’s work of Kemal Atatürk, the army’s political influence or the Armenian genocide.⁶⁵ This could be illustrated by the destiny of Hrant Dink, editor of the Armenian weekly newspaper **Argos**. He received a six-month suspended sentence in 2005 for portraying Turkish ‘blood’ as ‘dirty’. The sentence was imposed under the notorious article 301 of the Turkish Criminal Code, which reads:

1. Public denigration of Turkishness, the Republic or the Grand National Assembly of Turkey shall be punishable by imprisonment of between six months and three years.
2. Public denigration of the Government of the Republic of Turkey, the judicial institutions of the State, the military or security structures shall be punishable by imprisonment of between six months and two years.
3. In cases where denigration of Turkishness is committed by a Turkish citizen in another country the punishment shall be increased by one third.
4. Expressions of thought intended to criticize shall not constitute a crime.⁶⁶

Apart from Hrant Dink’s suspended sentence, he received several death threats from ultranationalists, one of which was realised in broad daylight on January 19, 2007.⁶⁷

63 European Council Helsinki, December 10-11 1999: Conclusions of the Presidency. § 12

64 Reporters sans frontières - Annual Worldwide Press Freedom Index - 2006

65 Human Rights Watch. Turkey: Country Summary January 2007

66 Amnesty International Public Statement (2005): Turkey: Article 301 is a threat to freedom of expression and must be repealed now!

67 BBC News Friday January 19 (2007): Turkish-Armenian writer shot dead

Press freedom has been of quite extensive concern for European officials. The Commissioner for Enlargement in 2006, Olli Rehn, said that he expected ‘the government to take the initiative to change [article 301] without delay’⁶⁸. The first EU Accession Partnership held as a short-term priority for Turkey to:

Strengthen legal and constitutional guarantees for the right to freedom of expression in line with Article 10 of the European Convention of Human Rights. Address in that context the situation of those persons in prison sentenced for expressing non-violent opinions.⁶⁹

The Union’s efforts have been reinforced by diplomatic contributions from the Council of Europe Commissioner for Human Rights.⁷⁰

From Ankara, the response to Brussels and Strasbourg has been conforming, at least in words. The leading AKP party claims that:

The freedoms of thought and expression shall be built up on the basis of international standards, thoughts shall be freely expressed, and differences shall be regarded as an asset.⁷¹

Prime Minister Recep Tayyip Erdogan and Foreign Minister Abdullah Gül have in different contexts during 2006 promised to reconsider the wording of the Turkish Criminal Code. Representatives of Turkish civil society have also been invited to discussions regarding the wording of a future law, which would be more in harmony with Turkey’s international obligations.⁷² However, it is uncertain whether or not these efforts will have any effect in practice or if they are but plain lip service.

2.4. Conditionality and the ENP

The success of Conditionality in the enlargement process has been dependent upon the prospects of future membership. With exception for countries like Ukraine, for which it could be springboard into future accession negotiations, this incentive is lacking in the Neighbourhood policies. Therefore, before investigating the use of conditionality it must be clarified what the EU has to offer instead⁷³.

68 Rehn, O. (2006)

69 Enlargement - Turkey accession partnership 2001. § 4.1

70 Hammarberg, T (2006). Human rights development in Turkey. Letter addressed to Mr Mr. Abdullah Gül Turkish Deputy Prime Minister and Minister of Foreign Affairs

71 Turkish Justice and Development Party (AK PARTİ) Party Programme. (2007) AKP Party Programme

72 Rehn, O (2006). Hammarberg, T (2006).

73 Kelley, J (2006) p.37

Romani Prodi said in 2002 that “ENP offers everything but institutions”. What everything in this particular case comprises is primarily a move beyond co-operation into actual integration, bringing

neighbouring countries fully into the internal market and other relevant EU policies.⁷⁴

This wording is similar to the definition of a ‘strategic partnership’, which was discussed earlier as an alternative to full membership for Turkey.

Besides economic and financial integration, the ENP carrot includes for an example “closer links” concerning culture, education, environmental policies, technique and science, as well as financial assistance in order to move ahead with the reform process.⁷⁵ But does the carrot appear as lucrative as intended, if the integration excludes the possibility for neighbours to influence the rules for the programmes of which they are a part? This question was in way answered by Prodi, as he did not close the door for establishing new institutions with the surrounding neighbours.⁷⁶

When the European Neighbourhood Policy instrument was drafted, the ambition was to develop what Prodi characterized as “Copenhagen proximity criteria”. These would set out clear benchmarks as conditions for further integration. In the finally adopted Strategy paper for the ENP, such ambitions were lessened and replaced by a gradual approach.⁷⁷

The ambition and the pace of development of the EU’s relationship with each partner country will depend on its degree of commitment to common values, as well as its will and capacity to implement agreed priorities⁷⁸.

This language would suggest that the ambition of ENP in the sphere of values, is rather about making common values more common, than trying to impose a certain set of European standards. This is of course a modified truth. The direction of movement is outspokenly “approximation with EU legislation”. However, there is no doubt whatsoever that the tone is softer. As the values cannot be imposed, they have to be

74 Solana, J. and Patten C. (2002)

75 ENP – EU/Morocco Action Plan 2004

76 Prodi, R. (2002)

77 Kelley, J. (2006)

78 COM(2004) 373 final European Neighbourhood Policy: Strategy Paper

convinced.⁷⁹ This is logically due to the smaller incentives, and the ENP's design of a joint ownership. With such an arrangement, it is indeed a lot easier to use the carrot instead of the stick. The EU Commissioner for External Affairs and Neighbourhood policies, Benita Ferrero Waldner, also confirmed this 'Rewarding' version of Conditionality:

It's true that there's an element of conditionality involved. But it is positive conditionality, meaning that we will offer more (financial assistance, technical dialogue, or transfer of best practice) as progress is made⁸⁰.

2.4.1. Association Agreements and Action Plans

In order to understand the human rights dialogue between EU and Morocco it has to be noted that the ENP builds upon previous 'Association Agreements', which comprises the legal framework for European engagement. The EU – Morocco Association Agreement entered into force in 2000 and falls within the broader context of the 'Barcelona Process', launched in 1995 for advancing relations between the Union and its Mediterranean neighbours.⁸¹ The Association agreement holds a general human rights clause in art. 2 with the wording;

Respect for the democratic principles and fundamental human rights established by the Universal Declaration of Human Rights shall inspire the domestic and external policies of the Community and of Morocco and shall constitute an essential element of this Agreement.⁸²

Since this is the only legal framework, this is subsequently the only definite human rights condition for the EU-Moroccan relationship.

But the Association Agreement is elaborated through the so-called 'Action Plans', which is the ENP - equivalent of the 'Accession partnerships'. These are designed in a similar manner with short-, medium- and long-term priorities for political reform, 'whose fulfilment will bring the partnering country closer to the Union'.⁸³ A fundamental difference is the aforementioned 'Joint Ownership'. This reveals that they are developed in dialogue with each and every country comprised by the ENP. This gives an opportunity for individual states to move beyond earlier association agreements, such as the 'regional'

79 Verheugen, G. (2003)

80 Ferrero Waldner, B. (2006)

81 ENPI - Morocco strategy paper 2007-2013. p. 3

82 Euro-Mediterranean Agreement (2000), art. 2

83 European Neighbourhood Policy Strategy paper (2004). p. 3

Euro-Med agreement, in to more individual relationship with EU. This particularized approach is pursuant to the important concept of ‘differentiation’, which emerged in the late 1990’s in the Enlargement process. Candidate countries had previously been dealt with group wise by the Union. This ‘one-size-fits-all’ policy was considered ineffective and unfair but proved difficult to alter in practice, as can be noted by the simultaneous accession of ten countries in 2004.⁸⁴ Besides, ‘differentiation’ also aims at creating a wider imbalance between the united EU Member States one the one side, and the lonely neighbour on the other.⁸⁵

2.5. Freedom of Expression in Morocco

Morocco holds an equally unflattering 97th place in the ‘Reporters sans frontières’ ranking of 2006.⁸⁶ Media criticism of authorities is often quite frank, but is severely restricted by a press code that threatens with imprisonment for anyone who is disrespectful of ‘Islam, the institution of the Monarchy, or the territorial integrity’.⁸⁷ In 2005, the weekly magazine *Al Ousbouia Al Jadida* published an interview with Nadia Yassine, an unofficial spokesperson of the Moroccan Justice and Charity party, where she said that the ‘monarchy did not suit Morocco’ and that its institution was collapsing. Accordingly, the weekly’s editor, Abdelaziz Koukas, was charged for ‘damaging the monarchic regime’ and was sentenced to at least three years in prison and a noticeable fine.⁸⁸ These rules also comprise foreign media seeking accreditation in the country. For an instance, Lars Björk, a Swedish photographer was arrested in the Western Saharan capital El Aaiún in February 2007, after photographing a demonstration in support for the pro-independence movement Polisario. He was said to lack the formal accreditation and was subsequently expelled to Agadir.⁸⁹

The 2004 EU Action Plan for Morocco at least suggests that the topic has been touched upon in bilateral talks. One short-term priority reads:

84 Kelley, J. (2006) p. 34

85 Magen, A. (2006). p. 416

86 Reporters sans frontières - Annual Worldwide Press Freedom Index - 2006

87 Human Rights Watch. Morocco: Country Summary January 2007

88 Reporters sans frontières June 15 (2005): Journalists working in Western Sahara face assaults, arrests and harassment

89 Reporters sans frontières February 22 (2007): Swedish photographer expelled from Western Sahara a day after his arrest.

- Exchange experience and know-how in relation to development of the Press Code.⁹⁰

These wording can clearly illustrate the softer approach that the design of a 'Joint Ownership' appears to require. Nevertheless, the 2006 progress report indicates that there is an amendment to the Press Code in the working, which at least would save journalists from imprisonment.⁹¹

2.6. The Alternative method: Socialization

The idea of Socialization in international politics is that creating close links with the government, civil society and the private sector of another country will eventually lead to change in that country's behaviour, at least if there is an imbalance of power in your favour. This softer concept is less controversial than conditionality, since it preserves the autonomy of the foreign country. Socialization should not be seen as something fundamentally different from Conditionality in this case, since they are both used simultaneously and somewhat intertwined in the Enlargement process and the European Neighbourhood Policy. This essay will not touch upon the subject any further, but it could be held in mind for making the picture more complex.⁹²

90 European Neighbourhood Policy - EU – Morocco Action Plan 2004

91 ENP Morocco progress report 2006. SEC(2006) 1511/2

92 Magen, A (2006) p. 416-417. Kelley, J (2006) p.49

3. Challenges to effectiveness

For this part a fairly simple model for assessing the effectiveness of political conditionality will be used. Frank Schimmelfennig gives certain criteria that have to be fulfilled in order for Conditionality to be effective. The benefits gained from compliance must defeat the domestic political costs, and the conditions set must be clear, determinate, consistent and trustworthy.⁹³ In other words; the incentives for Europeanising the reform process must be more lucrative than the domestic risks are frightening. Moreover, the European Union must be credible and consistent in what it is demanding. This model will be used as a disposition when trying to identify some of the main challenges for the Union to increase the enjoyment of Human Rights in the Turkish and Moroccan societies. The list of challenges included in this chapter should not be seen as exhaustive or undisputed. It might be fairly skewed what is defined as a challenge or an incoherence.

3.1. The intensity and scope of the rewards for compliance

Schimmelfennig's article investigates the successes and shortcomings of Western European organizations', such as the EU, OSCE, Council of Europe and Nato, use of Conditionality on countries applying for membership. He concludes that the successes of Conditionality depend upon the attractiveness of the membership, which has to be perceived as invaluable in terms of military or economic self-interest. In Eastern Europe the EU and Nato have been able to combine their attractiveness by negotiating membership simultaneously.⁹⁴

3.1.1. Turkey

Following the 2002 general elections in Turkey, the climate for moderate political reform was uniquely hospitable. This could be illustrated by the concentrated ratifications of international human rights instruments: International Convention Against Every Form Of Racial Discrimination (Sep 16 2002), International Covenant on Civil and Political Rights (Sep 23 2003), International Covenant on Economic, Social and Cultural Rights (Sep 23 2003)⁹⁵, Protocol No. 6 to the European Convention for the Protection of Human Rights

93 Schimmelfennig, F. (2007). p.133

94 Schimmelfennig, F. (2007) p.131

95 Bayefsky.com: Turkey – Ratification History

and Fundamental Freedoms concerning the Abolition of the Death Penalty (Nov 12 2003).⁹⁶

These examples of ratifications mirror the 2001 Accession Partnership priorities in the field of human rights. For an instance; ‘Abolish the death penalty, sign and ratify Protocol 6 of the European Convention of Human Rights’⁹⁷ was stated as a mid-term priority. Turkey’s decision to comply and hence abolish the death penalty, saved the life of PKK leader Abdullah Öcalan, whose penalty was transformed into life imprisonment⁹⁸.

How are we then to understand these reforms? From the EU point of view we could certainly highlight the promise made by the Helsinki Council in 1999 and the eventual establishment of an Accession Agreement in 2001. These gave clear indications to Turkey that membership simply depended upon the Turkish performance to meet the Copenhagen Criteria. However, this image could be balanced by domestic Turkish politics in early days of the 21th century. The 2002 elections were held with the backdrop of a severe earthquake in 1999, and an equally severe economic crisis in 2001, the latter of which held centrality in the election campaigns. If there was a consensus on any issue among Turkish parties, it was the need for reform. This served a convenient linkage to the debate about an eventual EU membership and the political transformation that it would require.⁹⁹ In 2002 there also proved to be a strong popular opinion, generally exceeding 60%, in favour of a future accession to the Union. In short, moderate political reform came with multiple layers of rewards. Firstly, it mirrored the conditions set from Brussels; secondly, it was in line with popular opinion, and thirdly; it provided a possible path out of the domestic economic crisis.¹⁰⁰

3.1.2. Morocco

In the Southern Mediterranean countries, the ‘scope and intensity of inclusion’ through the ENP has been disappointing. The incentives offered in practice do not mirror the ones set out in Actions plans, and especially not the ones asked for by the neighbours

96 Council of Europe: Turkey - Treaties signed and ratified or having been the subject of an accession as of 26/5/2007

97 Enlargement - Turkey accession partnership 2001

98 The Economist: The wrongs and rights of minorities Mar 17th 2005

99 Senem, A. and Çarkoğlu, A. (2006) p.9

100 Çarkoğlu, A. (2003)

themselves. A greater access for agricultural products into the European market and a softer regime with regards to ‘work visas’ are a couple of rewards that have been lacking in the eyes of the Moroccan government. Besides, the recent enlargement of the Union has brought a general shift in Brussels’s focus – emphasising the prosperity of Eastern Europe rather than that of the Southern Mediterranean countries.¹⁰¹

Hence, Schimmelfennig’s prognosis for the ENP in achieving political reform is unsurprisingly quite muted. Moroccan officials has nevertheless indicated an eagerness to deepen the integration with the European Union, especially in the economical sphere. However, the vagueness of what the Union in fact offers, has **not** lead Moroccan officials to restructure like there was no tomorrow.¹⁰²

3.2. The domestic political costs for compliance

The costs for steering the reform process to align with the European Union’s wishes and demands varies among countries, and is largely dependent upon the political system of the candidate or neighbour. In countries where a majority of the power is concentrated to the executives, the costs of compliance are indeed a lot higher than in a multi-party state, taking into account the revolutionlike transformation that such an adoption would require.¹⁰³ It is one of the necessary elements of politics that the ones in power are reluctant to give it up. In an ‘unfree’ or ‘partly free’ country, risking your place in office is obviously a huge step to take, compared to a ‘free’ society where your authority is threatened on daily basis.

Judith Kelley argues that respect for Human rights and fundamental freedoms in Eastern European states, that gained membership in the EU in 2004, were notably higher in 1993, than the enjoyment in ENP countries 2003.¹⁰⁴ This indicates a lower starting point in terms of ‘shared values’ for the ENP countries today, compared to previous candidate countries ten years ago. Accordingly, the political costs for complying are higher.

101 Magen, A (2006) p.413

102 Kelley, J. (2006) p. 51

103 Schimmelfennig, F. (2007) p.130

104 Kelley, J. (2006) p. 43

3.2.1. Turkey

The EU Human Rights report from 2006 gave a mixed grade to the Turkish reform progress:

Political transition in Turkey is ongoing and the country continues to sufficiently fulfil the Copenhagen political criteria; however, the pace of change has slowed in 2005 and implementation remains uneven.¹⁰⁵

Why did the reform process slow down simultaneously as the negotiations were initiated? One explanation could lie in the tough approach from EU leaders while eventually deciding to open up negotiations in Paris 2004. The Turkish Prime Minister Recep Tayyip Erdogan could not understand why EU did not greet Turkey with open arms. He was evidently disappointed after the summit, especially due to the clause labelling the negotiations as 'open-ended' and the tough conditions set on the Turkey in solving the issue of Cyprus.¹⁰⁶ European leaders, echoing sceptic public opinions, also began stressing the painful history of the Armenian genocide. Paradoxically, the grave between Europe and Turkey appeared deeper and wider than ever, turning up the costs for building bridges to an unprecedented level. From the Turkish point of view, the official direction is still towards Brussels, but in 2005 political reform 'became luxurious items on the Agenda'. Clashes with Kurdish guerrilla PKK, the neighbouring war in Iraq and domestic politics, not least concerning the 2007 elections, took precedence before efforts to meet the Copenhagen criteria.¹⁰⁷ Mentioned in the EU Progress reports, and which also became painfully obvious in the 2007 elections, is the political role of the Turkish military. The Nobel Prize Laureate in literature 2006, Orhan Pamuk, told German newspaper Die Welt in 2005;

I do not see the AKP [Erdogans party] as a danger for the Turkish democracy, unfortunately it is rather the military, which at times prevents a democratic development..¹⁰⁸

In the case of Turkey, the main challenge for international actors, primarily the European Union, is apparently to deal with the roughly independent army, that has appointed itself

105 EU Human Rights report 2006 p.68

106 Watt, N. Europe offers wary hand to Turkey - Hopes and fears as EU sets date for accession talks. The Guardian Friday December 17, 2004

107 Kınıkloğlu, S. Turkey's impending disorientation . Turkish Daily News Feb 07, 2006

108 Alanyali, I. Meine Großmutter stiftete zehn Lira. Die Welt Oct 20, 2005. **The Author's translation**

the guardian of Turkish secularism¹⁰⁹. How could the Union address military leaders that are in a doubtful level of loyalty towards Ankara? What side effects would come with a tougher approach from the political leadership?

3.2.2. Morocco

As for the Mediterranean countries some concern have been brought forward of whether a rapid democratisation really is in line with European interests. There is an assumed discrepancy between long-term democratisation and short-term stability. A rapid democratisation might open up for extremists parties. The 2006 election in the Palestinian territories serves as a deterring example, where Islamist Hamas succeeded in the most European of all occurrences, namely a fair election.¹¹⁰

As been noticed before, Morocco is often perceived as an ideal Muslim country in eyes of 'Western' policy makers. It was the first Arab country that officially admitted state involvement in Human Rights abuses during the 60's, 70's and 80's. More than 20 000 cases have been investigated and victims or their families have had the chance to testify in public hearings. A new Family code, that recognises a wider scope of rights to women, has also been adopted. However, the reforms have always been top-down and dependent upon the endorsement of the King.¹¹¹ This poses a limit on how far the reform process will range, and ties it to **Sa Majesté le Roi**, Muhammed VI, in person. The question is whether the passed reforms will be enough to create 'an institutional ground' for further and more thorough democratic reforms, or if the aforementioned limits set on freedom of expression are fixed.

3.3. The credibility of the actor that is setting the conditions

Even though the European Union is striving for coherent policies in all areas, reality is often distorted by competing self-interests, differences in opinion among and within states, as well as negative side effects by the methods in use.

109 BBC News Saturday April 28 2007: Army 'concerned' by Turkey vote

110 Kelley, J. (2006) 46

111 Carneige Endowment for International Peace. Is There Still a Political Reform Agenda in the Middle East? Tuesday, February 6, 2007

3.3.1. Competing national interests

Challenging to European efforts is the existence of competing national interests among EU member states. Given that 46 % of the Union's 2005 budget was reserved for agriculture,¹¹² it is hardly surprising that the Union is reluctant to allow greater access for Moroccan agricultural products into the European market. Recalling the promise of 'everything but institutions' makes the Moroccan disappointment understandable. In terms of human rights, this part highlights three specific issues that limit the EU's credibility in promoting Human Rights in Morocco.

First, there is the ever-occurring dispute over Western Sahara, which has been claimed by the Moroccan government since 1976. These claims were met by armed resistance from the Sharawi pro-independence movement Polisario. In 1991 a cease fire was established and later diplomatic efforts resulted in the 'Baker Plan' and the UN peace keeping force Minurso. The UN ambition is to let the Sharawi people themselves decide whether or not they should enjoy independence or be granted official international status as a part of Morocco. Such a referendum, echoing the Sharawi people's right to self-determination, has proved impossible due to severe resistance from the Moroccan government. There has also been some differences in opinion regarding who should be allowed to vote.¹¹³ The European Union has in its Common Foreign Policy rhetoric remained committed to the UN plan, which was reiterated by a statement in the General Assembly's Fourth Committee in 2005:

[The European Union] supports efforts to find a just, lasting and mutually acceptable political solution, which will allow for the self-determination of the people of Western Sahara, as envisaged by the Security Council.¹¹⁴

With this statement considered, it is remarkable that the European Parliament agreed to sign a Fisheries Partnership Agreement with Morocco in May 2006 that grants fishers from European countries quotas outside the coast of Western Sahara. All proposed amendments to the agreement that would except the waters south of the 27.4 degree line, failed. The agreement is the most valuable of its kind and is especially lucrative for

112 BBC News Friday 2 December 2005: Q&A: Common Agricultural Policy

113 Zoubir, Y H. "Western Sahara" The Oxford Companion to the Politics of the World, 2e. Joel Krieger, ed. Oxford University Press Inc. 2001.

114 EU Presidency Statement – Question of Western Sahara (11 October 2005: New York). Fourth Committee (Special Political and Decolonization Affairs) http://www.europa-eu-un.org/articles/en/article_5123_en.htm

Spanish and Portuguese fishers¹¹⁵. Geography may therefore be a more important reason than ideology for why the Swedish government was the only spirited opponent of the agreement. This is an example of where a European self-interest beats European Values as a priority in the bilateral relationship with a third country.

The second issue is the one of fighting illegal immigration from northern and Sub Saharan Africa into Europe. The aforementioned 'Rabat Plan' from 2006 decided upon joint European and African efforts to tackle the most delicate side-effect of European attractiveness. Professor Gregor Noll, claims that this summit could be remembered as the day when African governments traded their citizens 'right to leave' for conditional development assistance. This is remarkable since this specific right to 'vote with your feet' has previously been strongly defended by the Western block during the Cold War.

As a result, the Mediterranean "Berlin wall" made of water and razor wire will persist, and proliferate in the African continent. Poverty in Africa will persist, and so will violations of human rights. The only thing that will diminish as a result is the exit options of Africans.¹¹⁶

The third issue I wish to highlight in the European Neighbourhood policy is the one of historical ties. When accession negotiations began with Eastern European countries in the middle of the 1990's, the European Union could start off from a relatively clean sheet. The Iron Curtain had rendered it impossible to engage in the internal structures of, for an instance, Poland or Czech Republic. The relations with the Southern Mediterranean countries were categorically different. The European Communities established its first Co-operation agreement with Morocco in 1976.¹¹⁷ Accordingly, there have been several of opportunities in the past for promoting European Values. Therefore, one could ask if the European Union really offers anything new to the Southern Mediterranean countries, and if the 'sudden' idea of engaging more deeply in the reform process will have any fair chance of succeeding.

3.3.2. Keeping the deal??

Historical relations are also infecting the EU credibility towards Turkey. As has been noted, the possibility of an eventual membership in the Union was first seen in 1964. The

115 European Parliament Press Service, May 16 2006: Morocco Fishing Agreement gets Parliamentary approval

116 Noll, G. (2006)

117 EU Commission - The EU's relations with Morocco - Overview

EU closed the door in 1987 and there are no guarantees saying that history won't repeat itself:

EU–Turkish relations have tended to follow the pattern of a ritual dance, with the prospect of Turkish accession to the Union periodically pulled out of the conjuror's hat only to disappear almost immediately back up his sleeve. This is a good trick to begin with, but becomes progressively less so as it is repeated again and again. This pattern of hope, disappointment and rejection has become a dominant feature of Turkey's relationship with the EU, and in the past two years the cycle seems to have repeated itself yet again.¹¹⁸

There seems to have been some intended ambiguousness in the European approach to Turkey. But for how long can this limbo be effective? If the European Union lacks a level of trustworthiness in what it is offering in return for a Europeanization of the internal political structure, how is it then to succeed?

Given the consensus among EU member states on having a stable and democratic Turkey, at least strongly anchored to the Union,¹¹⁹ and given the perception of the Enlargement as its most successful foreign policy instrument, one could wonder if closing the door would serve European self-interests.

3.3.3. The inherent contradictions of Conditionality

A general dilemma when applying conditions in the realm of international integration is how to reward compliance in certain areas, while there is simultaneous non-compliance in others. This requires the EU Commission and member states to rank the values it is promoting. Should positive developments in terms of minority rights be considered more important in fulfilling the Copenhagen Criteria than ensuring Children's or Women's Rights? This is of particular concern in the execution of a new neighbourhood policy. Integration amounting to the 'degree values are shared' overlooks the problem that the sharing of some values may increase simultaneously as the sharing of others may decrease.

118 Redmond, J. (2007) p. 306

119 EU – Turkey Negotiation Framework (2005) p. 2

Another dilemma is the way ‘Accession’ or ‘Association’ talks are conducted. The Commission’s interlocutor is generally the executive powers of the concerned state, a conduct which rather endorses than opposes top-down reforms¹²⁰

Conclusion

Promoting human rights as a European values through the Enlargement and the European Neighbourhood Policy is in general legitimised by an enlightened self-interest. First, like-mindedness is considered a precondition for integration and second, shared values is seen as a guarantee for stability and security. In the case of Turkey, EU members often articulate the importance of avoiding a ‘clash of civilizations’. In the case of Morocco, engaging in the political reform process is in general motivated by controlling migration into Europe.

For the promotion of human rights as a European value, the most powerful and successful instrument that the Union possess is the use of conditions for granting a specific reward, ultimately membership. In the case of Turkey, the conditions are set out in the so called ‘Copenhagen Criteria’ from 1993, and specified through the regularly revised ‘Accession Partnerships’. As for Morocco and the European Neighbourhood Policy, the aim was originally to create similar ‘Copenhagen **proximity** criteria’, which would have to be met in order for a neighbourhood country to move ‘fully into the internal market and other relevant EU policies’. However, due to the lack of strong incentives and the joint character of the bilateral ‘Action Plans’, this ambition was given up for a gradual approach. The degree of commitment to shared values will instead match the degree of integration. In other words, the approach towards Morocco is unmistakably softer.

Following the Turkish elections in 2002, an intensive reform process was initiated in the country. Was the prospect of an EU membership and the conditions set for it in any way behind this? Well, first there was the ‘promise’ given in 1999, saying that Turkey’s accession depended upon its ‘own merits’. Second, the Turkish economic crisis in 2001

120 Barnes, I and Randerson, C (2006). Baylis, J. and Smith, S. ed. (2001) p. 173

created space for reforms, and finally the public opinion was strongly in favour of a move to the west. The later scepticism in Europe characterised by the ‘open ended clause’ in the 2005 negotiation framework, and newly articulated in the French election campaign 2007 has severely shaken the trustworthiness of what EU really offers Turkey in exchange for human rights compliance. This is also reflected in the decline of popular support in Turkey. One could wonder if the ‘fear of the Turk’ is in line with European self-interest.

As for the European Neighbourhood Policy, the most important task ahead for the European Union must be to paint a clear and trustworthy picture of what ‘everything but institutions’ really means. It is evident that what is asked for in neighbouring countries, in exchange for compliance with the priorities set out in the action plans, is commonly in conflict with European interests. This is particularly true when regarding the Moroccan wishes for a better access for agricultural products into the European market. The Kingdom of Morocco, is a relatively western oriented Arab country. King Muhammed VI (1999-) has shown a keen interest in elevating respect for certain human rights. But there are set limits; regarding the monarchy, religion and the territory; for how thoroughly the reform process can evolve in a foreseeable future. The European Union could perhaps, at best, tip the balance in favour of likeminded reformists. But as for the right to self-determination of the Sharawi people in Western Sahara, or the ‘right to leave’ for individuals within Moroccan territory, conflicting European policies is rather more likely to decrease respect for these ‘**European values**’.

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