New Paradigms for the EU-South Mediterranean: Rethinking Conditionality?

Rosa Balfour
Head of the Europe in the World Programme
European Policy Centre, Brussels

Framing EU-South Mediterranean Relations after the Arab Spring

"Dignity" was one of the words that featured in the chants of the protestors who toppled their regimes at the beginning of 2011 in Tunisia and Egypt; political pluralism and empowerment and freedom of expression and association were amongst the many demands. The EU has addressed these challenges to authoritarianism by claiming to change its mode of engagement and to establish priorities that reflect the demands of each country. At the same time it has reviewed its long-term programmatic policies, such as the European Neighbourhood Policy (ENP), with a strong focus on revisiting the guidelines and principles of conditionality – the key means for engagement.

It is questionable whether the focus on conditionality is appropriate. Not only is it notoriously hard for the EU to deliver on the conditions it sets, but the premises upon which conditionality is based do not reflect the post-Arab Spring context as they rely on asymmetrical relations between the EU and North Africa and the Middle East and on the assumption that the European model is attractive and relevant to these societies. If the EU is committed to changing the nature of its relations with its southern neighbours, it needs to think more deeply about how to establish an equal dialogue with the Arab world based on the realities of interdependence and on common interests.

Conditionality Revisited

The core of the EU's response to changes in North Africa and the Middle East can be found in the 2011 "Partnership for Democracy and Shared Prosperity," the ENP review, and certain decisions about financial allocations towards the region, all of which focus strongly on redefining conditionality. This process of revision will not be exhausted with the ENP. The EU's institutions have also taken over the European co-presidency of the Union for the Mediterranean (UfM), and some revision of the multilateral initiatives to manage relations in the new and heterogeneous regional context can be expected. But the focus in 2011 was on the ENP and on the system of conditionality governing it.

"Deep democracy" has become the overall aim of revised EU conditionality (free and fair elections; freedom of association, expression and assembly and a free press and media; the rule of law administered by an independent judiciary and the right to a fair trial; the fight against corruption; and security and law enforcement sector reform and the establishment of democratic control over armed and security forces). The means to achieve this is to offer a more attractive package of incentives in terms of assistance, trade and mobility to those who embark on a reform path – "more for more." Another pillar of the revised ENP includes a Civil Society Facility (CSF) that will be available regardless of government-to-government relations and thus will not be subject to the conditional method.

Additional incentives (known as the "3 Ms" – more money, market access and mobility) are on offer only to those countries moving on a concrete path of reform. The European Neighbourhood Policy Instrument (ENPI) has increased its resources to €6.9 billion. The SPRING programme (Support for Partnership, Reforms and Inclusive Growth) com-

plements this with additional funds of €65 million in 2011 and €285 million in 2012. Support will be tailored to the needs of each country, based on an assessment of the country's progress in building democracy and applying the "more for more" principle. Tunisia and Egypt, for example, are to receive additional financial resources (€160 million and €449 million for 2011-2013 respectively).

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A Deep and Comprehensive Free Trade Agreement (DCFTA) is the long-term incentive on offer by the EU, an upgrade compared to the previous Association Agreements (AA). DCTFAs will be offered only to those countries moving towards "deep democracy," while the AAs will remain in place for those countries still unwilling to reform. In December 2011 the EU Foreign Ministers agreed to start negotiations for DCFTAs with Tunisia, Egypt, Morocco and Jordan. Given that half of the exports of these countries goes to Europe, DCFTAs can indeed be considered an appetising incentive.

However, the timeframe for negotiating them will be long: it took about fifteen years for nearly all the EMP partners to negotiate AAs, due to numerous technical and political obstacles that forced the EMP to repeatedly delay the original aim of creating a Free Trade Area. DCFTAs are thus long-term objectives, even if Morocco and Tunisia's advancement in bilateral economic relations might make the prospect more tangible for them. The Commission has committed to work on lifting the protectionist barriers that have so far limited market access for the countries in North Africa and the Middle East; indeed, an agreement for a partial liberalisation of trade in agriculture and fisheries with Morocco was approved last February.

"Mobility partnerships" are the final leg of this "more for more" package, intended to make population movement easier for some citizens from the region. Given the emigration pressures in these countries, augmented by the economic downturns resulting from the Arab Spring, and the demands on the part of Europe to cooperate in preventing irregular migration, incentives in the field of mobility and migration management are clearly an important area. Tunisia and Morocco have been designated as the first countries to benefit from these advantages.

Even in this field many points remain to be clarified. First of all, compared to the visa facilitation and liberalisation prospects offered to the countries of Eastern Europe, mobility partnerships are a far weaker offer. Only some EU Member States will use them bilaterally, presumably with countries with which they enjoy special relations, contacts and proximity. Also, it is unclear how many citizens will be eligible, or which categories. Usually, mobility partnerships are limited to rather small groups, such as groups of academics, cultural representatives, etc. Finally, there are indications that strings will be attached. Third countries' citizens will be offered legal channels to the EU Member States if their governments cooperate in preventing and reducing irregular migration. The question will be how to identify the benchmarks for an incentive-specific type of conditionality. In light of the tensions in the Schengen system and in the European public debate over migration issues, it cannot be ruled out that the requirements put on the countries in North Africa and the Middle East will be demanding (Pascouau: 2012).

The two Communications on the Partnership for Democracy and Shared Prosperity and the ENP review focus mostly on the positive side of conditionality, while negative tools are explained only by reference to the sanctioning regime that has been progressively put in place in an attempt to curb the repression of the uprising in Syria. An unpublished letter sent to the national Foreign Ministers in February 2012 and forwarded to the European Parliament is more comprehensive and answers many of the questions regarding the "middle ground" – in other words, the departing point for the "more for more" principle to be applied and the other side of the coin: "less for less." This also reflects the ways in which the EU intends to strengthen its differentiated relations with the countries in the region.

As things stand today, the countries that remain stable and choose not to embark on reforms will remain at pre-Arab Spring levels of relations with the EU. In other words, the EU does not want them to be negatively affected by the changing relations with the other countries. If the commitment towards political reform is absent, the EU should use en-

gagement "at some level" through existing tools, such as the ENP Action Plans, and should try to draw countries into more institutionalised relations with the EU. Libya is one country with no formal agreements with the EU, as a Framework Agreement was in the process of being discussed when the events of the Arab Spring changed the situation. Algeria, too, is not yet party to the ENP. Negative measures, from suspending talks or cooperation to suspending assistance or agreements and the full range of sanctions, would thus be limited to grave and persistent cases of violations of basic rights, as in the Syrian example.

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This greater differentiation is supposed to be accompanied by a search for policies more capable of addressing local situations than in the past. The EU-Tunisia Task Force, which met for the first time in September 2011, was the first example of an EU attempt to put political dialogue on a different footing, to bring together different stakeholders relevant to EU-Tunisia relations, including other international donors, and to take into account the requirements and needs of Tunisia rather than follow the EU's tools-based approach. Another task force between the EU and Jordan was also created, following the announcement in Amman of a set of constitutional reforms. A second generation of ENP Action Plans currently being developed, the creation of the European External Action Service (EEAS) in Brussels, the strengthened EU Delegations in the region, and the recent introduction of human rights strategy papers could all be useful tools to enhance the EU's understanding of local conditions and tailor its policies accordingly. Aid, too, will be guided by greater differentiation between countries with the aim of developing more tailor-made approaches to assistance. Furthermore, conditionality will be monitored more strongly with regard to direct budget support, which makes up about half of the EU's assistance to North African and Middle Eastern governments, by strengthening the evaluation and monitoring system, including through dialogue with partners.

One important shift is towards a more vigorous engagement with civil society, regardless of the state of relations with the government. The Civil Society Facility (CSF) and the European Endowment for Democracy (EED) represent an attempt to reach out towards forgotten, marginalised or new political actors in the region and a departure from paying lip service to the previous regimes' policies towards organised society.

Problems of Conditionality

The initiatives developed over the past year show that the EU has been engaged in a general process of sharpening both ends of the conditionality spectrum, taking existing policies and types of relations as its starting point. The exercise of addressing some of the pitfalls of past practices and developing new methods was needed in itself and is producing results that may have the potential to modify the EU's forms of engagement with the rest of the Arab world.

However, this instrument-led approach does not necessarily address the key problems nor is it always understandable to partners. There are doubts regarding conditionality that need to be raised. Firstly, there is something paradoxical in the fact that these new forms of positive conditionality are to be applied to the countries that have been undergoing radical change, such as Tunisia, or have been making the greatest efforts at reform from above, for example Morocco. In contrast with the EU's past dealings with authoritarian rulers or with its relations with "status quo" countries such as Algeria, the EU is now demanding reform from countries that are already reforming. For example, the EU sent an Election Monitoring Observation Mission to monitor the elections in Tunisia in October 2011 and in Algeria in May 2012, initiatives with only one precedent in the region (the Palestinian elections in 2006).

While positive conditionality has been clarified and given the ultimate aim of supporting the democratisation of the country, the negative tools are limited just to responding with sanctions to severe and persistent cases of basic human rights abuses, such as regime-led killings of civilians. But the conditionality

regime to be applied to countries that are less willing to submit to it remains unclear.

Secondly, to be of interest, the incentives need to be delivered. The EU's track record has not been spotless, a problem compounded when the Member States are needed to lift protectionist barriers, spend more resources on the Arab countries, or expand the quotas of immigrants allowed to enter Europe from the region. The irony of the "more for more" approach is that neither the High Representative nor the Commission is responsible for delivering these incentives: all three fields are ones in which the Member States are the decision-makers. The new positive tools of the EU's renewed conditionality thus suffer from a credibility problem before they can even be implemented. Without the endorsement of the Member States, the whole "new" response to the Arab Spring would crumble.

Even if the incentives are delivered, not all countries will find them of interest. Energy-exporting countries, such as Algeria and Libya, have had limited engagement with the EU also because of the unattractiveness of what is on offer. Trade relations are tilted in favour of these countries, which are the only net exporters in the region towards the EU. Indeed, no part of the review of the ENP addresses the question of how to engage with or have an impact on countries that are reluctant to forge or uninterested in stronger relations with the EU. This applies to Syria and to other countries in the Levant, where European influence is weaker and internal politics complex.

With the aim of putting the relationship on a somewhat more equal footing, the new policies introduce the notion of "mutual accountability," whereby the EU, too, can be made to keep its promises. But whereas the EU has tools and procedures to use negative conditionality should it want to (even if, in practice, it rarely does so), there are no mechanisms for the EU's partners to hold it similarly accountable for delivering on its promises.

It is also questionable whether the focus on conditionality is relevant in itself. Sovereignty has always been an important principle in the post-colonial Arab world, seen as part of national identity, and the notion of "dignity" – personal and national – has been a recurring theme in revolutionary North Africa and the Middle East.

The more democratic the new governments, the more assertive they are likely to be about their identity, their relations with Europe and their position in the world – with positions that might not be to the liking of European capitals. This has been evident in relations with Egypt, where the EU and the US hope to ensure that Cairo will maintain constructive relations with Israel and continue its role in the Israeli-Arab conflict, even as Egypt itself has been increasingly suspicious of the role of external actors, which it accuses of interference.

Indeed, much of the post-Arab Spring EU rhetoric has emphasised the modesty of the EU's positioning and its "listening mode" towards the new emerging actors. In Ashton's words, "Our response […] is built on the need to acknowledge past mistakes and listen without imposing. We are doing exactly that and it requires perseverance and sustained commitment. Success should translate into what I have called 'deep Democracy'" (Ashton, 2011). This partly reflects a *mea culpa* on the part of EU institutions for failing to grasp the dynamics in the Arab world and for the complicity of European governments in supporting the regimes in the region. So far this modest ambition has translated to reactive political positioning following developments and requests coming from the countries. But how to square this with the revision of conditionality?

Conclusions: Rethinking Political Conditionality?

Major efforts have been made to fine-tune the mechanisms through which conditionality can be applied, to clarify the principles upon which it is based, the expectations from processes of political reform, the recognition that democracy cannot come about overnight, and the offer of a mix of incentives. But the new guidelines on the use of political conditionality do not reflect a deeper analysis of whether the EU has the conditions of leverage, influence, incentives and relevance needed to exercise it. Translating a concept developed in different contexts (development cooperation and enlargement) into foreign policy raises the question of whether conditionality is the "right" approach for North Africa and the Middle East. Two arguments need to be examined.

On the one hand, political conditionality has few and limited chances of bringing about change because of its problems of delivery and implementation. Conditionality requires an asymmetry of leverage and influence tilted in favour of the EU. However, EU influence in the region is by no means comparable to that of a traditional relationship between donor and benefi-

ciary, nor to the case of EU enlargement. Even assuming the EU could agree on a few common political goals, it continues to be reluctant to use its economic weight to achieve them. Also, the EU's attraction and influence in the region vary enormously from country to country. Against a backdrop of Europe's global decline and changing power dynamics in the region, with other actors, such as Turkey, Saudi Arabia and Qatar, trying to acquire a more important role and other global powers, such as China and Japan, securing economic ties, the EU does not seem likely to strengthen its influence in the years to come. Furthermore, Islamist-influenced governments are likely to broaden their views on international relations, looking for partnership and cooperation beyond the traditional allies in the North and West (Kausch, 2012), and will need to be accountable to their electorates. Beyond the issue of conditionality, the EU and the US will need to find ways to manage the likelihood that the more democratic the countries in the region become, the less pro-Western they may be.

On the other hand, few countries can live in isolation: internal developments do have an impact on third countries, making it legitimate for the EU to be concerned with political dynamics, especially in neighbouring countries with which it has closer human, cultural and economic ties than is generally assumed. In democracies, external assistance does require accountability to national parliaments and auditing bodies. Indeed, all international actors put some conditions on their external policies and expect certain results from them. The EU would be chastised by European public opinion were it to repeat policies resembling those that supported Ben Ali and Mubarak. In many ways, the revision of conditionality seems to reflect an internal demand for a redefinition of "ethical" standards for engagement, following the exposure of contradictions in the EU's relations with dictators.

There is no clear-cut answer to these dilemmas. But they do suggest that one priority should be to rethink the types of relations between the two shores, and not just the forms, methods and tools for exercising political conditionality. A more equal relationship could be a first step, moving away from the enduring "unacknowledged cultural legacy of colonialism" (Halliday 2005) and understanding the national "dignity" that moved so many in North Africa and the Middle East to get rid of their perennial leaders. Interdependence, rather than conditionality based on an asymmetry of power, and reference to universal principles, rather than to standards of democracy, make it legitimate to support them abroad, notwithstanding the accusations of double standards that the EU often encounters. And identifying common interests and concerns that reflect the demands of the people in this common Mediterranean space may be a way to establish a new dialogue with a changing Arab world.

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