



# “Mixed Signals” Still? The EU’s Democracy and Human Rights Policy Since the Outbreak of the Arab Spring

Daniela Huber

## Abstract

For the last two decades, the EU has sent mixed signals concerning democracy and human rights to its Mediterranean neighbourhood. Has this changed since the outbreak of the Arab Spring? After observing the EU’s response to the revolutions in two key countries, Tunisia and Egypt, this paper finds that signalling to Tunisia has become more coherent, while it remains ambiguous towards Egypt - a trend reinforced by US foreign policy in the region. In order to send a coherent message, the EU has to outline more concretely, what are the benchmarks and rewards for progress. For signalling to be effective, bilateral and multilateral dialogues are key. While bilateral dialogue platforms do exist, they should meet more frequently and at the highest levels. A multilateral dimension is conspicuously missing in the array of instruments set up by the EU in response to the Arab Spring, but would be crucial not only in order to understand the different democracy languages spoken, but notably also to anchor reform and set regional standards for it.

**Keywords:** *European Union / European Neighbourhood Policy (ENP) / Democracy / Human rights / Mediterranean countries / North Africa / Arab revolts / Tunisia / Egypt*

## “Mixed Signals” Still? The EU’s Democracy and Human Rights Policy Since the Outbreak of the Arab Spring

by Daniela Huber\*

### Introduction

The Arab Spring is not only decisively changing the Middle East, but has also forced Europeans to rethink their approach towards the region. Two months into the Arab Spring, Commissioner for Enlargement - Štefan Füle - felt obliged to admit that “Europe was not vocal enough in defending human rights and local democratic forces in the region. Too many of us fell prey to the assumption that authoritarian regimes were a guarantee of stability in the region.”<sup>1</sup>

To be sure, in the past two decades, the European Union (EU) did in some respects try to foster reform in the region. With the introduction of the Euro-Mediterranean Partnership (EMP) in 1995, democratic reform became a common objective and the association agreements signed in the EMP’s framework included a clause which made democratic principles and human rights an ‘essential element’ of these agreements, even though this clause has never been evoked in the Mediterranean context. In 1995, the EU established the European Initiative (later Instrument) for Democracy and Human Rights (EIDHR), which runs democracy assistance programmes in all regions of the world, including the Middle East. In 2004, the European Neighbourhood Policy (ENP) was launched, which mirrored the enlargement process, without the perspective of becoming a member state. In the ENP action plans, at least on paper, democratic reform was a central objective, besides others such as economic liberalization and cooperation with the EU on central issues such as migration. Frontrunners were to be rewarded with an advanced partnership status and additional aid through a newly established Governance Facility. From 2005 onwards, the EU also established subcommittees on human rights, democratization and governance under the umbrella of the association councils with ENP partners to discuss democratic reform. With all these measures, the EU was sending a message to the authoritarian regimes in the neighbourhood, namely that democracy and human rights were important determinants of their mutual relationship, specifically, if the regimes wanted to enter into closer relations with the Union.

At the same time, this signalling was decisively disturbed by contradictory messages coming from the EU or its member states. The EU often remained silent when human rights and democratic freedoms were violated in the Mediterranean partner countries, specifically when it came to Islamic actors, and cooperation continued unabated. The

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<sup>1</sup> Štefan Füle, *Speech on the Recent Events in North Africa* (Speech/11/130), 28 February 2011, <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/11/130>.

EU also signalled that the fight against terrorism and illegal migration, as well as energy issues were on top of its priority list. The most striking example of this was the launch of negotiations on a ‘framework agreement’ with the Libyan regime outside of the EU’s principled framework of association agreements. Besides, some EU member states engaged in dubious practices themselves in order to stop irregular migration, surely not providing a good example of human rights respecting democracies.<sup>2</sup> A further ambiguous signal sent by the EU to the region was the introduction of the Union for the Mediterranean,<sup>3</sup> where the democracy agenda was entirely neglected in contrast to the Eastern pendant - the Eastern Partnership - in which democracy constitutes one of the four platforms.<sup>4</sup>

What were the autocratic regimes in the Middle East to make of such ambiguous signals sent by the EU? The American scholar Kathryn Sikkink has pointed out that policy-makers use signals to make sense of their relationships. Public naming and shaming, private diplomacy, as well as aid or cooperation measures are all cues sent to partner governments about the dynamics of their mutual relations. “Making sense involves interpreting these cues by linking them to existing, well-learned cognitive structures, such as dominant foreign policy frameworks and perceptions of state identity.”<sup>5</sup> For the autocratic regimes in the Mediterranean, as their record indicates, continued cooperation with the EU despite their lack of reform indicated a green light from the Union for their violations of human rights and democratic freedoms. The regimes preferred to remain in the security framework of common strategies against illegal migration and terrorism,<sup>6</sup> which fitted their interests and ideology, rather than entering into the uncharted waters of the EU’s democracy framework.

With this ambiguous policy, the EU lost much credibility and sympathy among the peoples in the region, which Füle acknowledged in the above quoted speech, and which the EU has now to restore. Thus, the crucial question is whether the EU’s signalling has decisively changed since the Arab Spring. Is the EU now sending more coherent messages? To tackle this question, this paper examines the EU’s signalling towards Tunisia and Egypt, two key cases of the Arab spring, and then concludes by advancing policy recommendations on how more effective signalling could take place.

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<sup>2</sup> Notably Italy’s practice of returning illegal migrants to Libya caused international outcries and was repeatedly criticized as violating international human rights and refugee protection instruments. See for example, European Parliament, *Resolution on Lampedusa* (P6\_TA(2005)0138), 14 April 2005, <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P6-TA-2005-0138+0+DOC+XML+V0//EN>; Human Rights Watch, *Italy/Libya: Forced Return of Migrants Violates Rights*, 8 May 2009, <http://www.hrw.org/news/2009/05/07/italylibya-forced-return-migrants-violates-rights>; European Court of Human Rights, Judgment of the Grand Chamber on the *Case of Hirsi Jamaa and Others v. Italy* (Application No. 27765/09), 23 February 2012, <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=901565&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>.

<sup>3</sup> Nathalie Tocci and Jean-Pierre Cassarino, “Rethinking the EU’s Mediterranean Policies Post-1/11”, in *IAI Working Papers*, No. 1106 (March 2011), <http://www.iai.it/pdf/DocIAI/iaiw1106.pdf>.

<sup>4</sup> Besides economic integration and convergence with EU policies; energy security; and contact between people.

<sup>5</sup> Kathryn Sikkink, *Mixed Signals: U.S. Human Rights Policy and Latin America*, Ithaca and New York, Cornell University Press, 2004, p. 102-103.

<sup>6</sup> George Joffé, “The European Union, Democracy and Counter-Terrorism in the Maghreb”, in *Journal of Common Market Studies*, Vol. 46, No. 1 (January 2008), p. 147-171.

## 1. The EU’s reaction to a transforming Tunisia

Tunisia was one of the first Mediterranean countries to enter into an Association Agreement (1998) and Action Plan (2005) with the EU. The country is relatively dependent on trade with the EU, with 64.5% of Tunisian imports coming from and 72.1% of its exports going to the EU.<sup>7</sup> In 2008, it opened its market for industrial goods from the EU (and vice versa). Nonetheless, the former Tunisian President Ben Ali was reluctant to enter into the democracy framework of the EU. He resisted the implementation of a human rights and democracy subcommittee, which met for the first time only in 2007. Since the subcommittee was initiated, the EU started to point out various problems, especially regarding freedom of expression and association, the right to fair trial, conditions of detention, and shortcomings in elections.<sup>8</sup>

These shortcomings notwithstanding, the EU started negotiations with Tunisia on an advanced status in 2010. Tunisian human rights activists asked the EU to stall these negotiations in view of the political repression which they faced by the government. Ben Ali’s regime passed a constitutional amendment which made it a criminal activity to incite “foreign parties not to grant loans to Tunisia, not to invest in the country, to boycott tourism or to sabotage Tunisia’s efforts to obtain advanced-partner status with the EU.”<sup>9</sup> The EU did refer to this constitutional amendment in the subcommittee,<sup>10</sup> but negotiations for advanced status continued nonetheless. EU signalling was thus highly ambiguous and made it possible for Ben Ali to ignore the EU’s demands for political reform.

Popular uprisings started in December 2010, with President Ben Ali being ousted in mid-January 2011. In February 2011, High Representative Ashton visited Tunisia, promising €17 million in additional aid, which was viewed as “ridiculous” by the Tunisian Minister of Industry Mohamed Afif Chelbi in face of the unfolding events. The EU’s response was not seen as a wholehearted support of democracy in the region. However, the EU soon became more supportive of the Arab Spring. Most importantly from the perspective of signalling, the EU in its communication on a “Partnership for Democracy and Shared Prosperity” spelled out that it was now going to offer “more for more,” i.e. increased financial support, mobility, and access to the EU Single Market for democratically advancing partner countries only. The SPRING programme (Support for Partnership, Reform and Inclusive Growth) was launched in September 2011, allocating €350 million in 2011 and 2012 to the region. The ENP’s budget was raised by €1 billion on top of the already envisaged €5.7 billion between 2011 and 2013; the European Investment Bank increased its €4 billion of funding available to the region by €1 billion; and the European Bank for Reconstruction and Development’s lending

<sup>7</sup> European Commission, *Trade: Tunisia (Bilateral Relations)*, <http://ec.europa.eu/trade/creating-opportunities/bilateral-relations/countries/tunisia>.

<sup>8</sup> European Union, *EU Annual Report on Human Rights 2008*, November 2008, p. 71, [http://eeas.europa.eu/human\\_rights/docs/report08\\_en.pdf](http://eeas.europa.eu/human_rights/docs/report08_en.pdf); European Union, *Human Rights and Democracy in the World. Report on EU Action July 2008 to December 2009*, May 2010, p. 123, [http://eeas.europa.eu/human\\_rights/docs/2010\\_hr\\_report\\_en.pdf](http://eeas.europa.eu/human_rights/docs/2010_hr_report_en.pdf).

<sup>9</sup> “No to Opposition”, in *The Economist*, 29 July 2010, [http://www.economist.com/node/16705491?story\\_id=16705491](http://www.economist.com/node/16705491?story_id=16705491).

<sup>10</sup> European Union, *EU Annual Report on Human Rights and Democracy in the World in 2010*, September 2011, p. 104, [http://eeas.europa.eu/human\\_rights/docs/2011\\_hr\\_report\\_en.pdf](http://eeas.europa.eu/human_rights/docs/2011_hr_report_en.pdf).

mandate was extended by €2.5 billion annually.<sup>11</sup> The EU is also developing new tools, namely the Civil Society Facility (€22 million for 2011-13), approved in December 2011, and the European Endowment of Democracy (EED), which is currently in the making. Notably missing in this array of new measures, however, was a multilateral dimension to support and foster transition processes in the Southern neighbourhood.

Tunisia was one of the first countries to benefit from these new measures. In September 2011, the first task force meeting between Tunisia and the EU took place and negotiations for a privileged partnership started. Furthermore, the EU initiated talks for a “Mobility Partnership” mainly aiming at granting visas to Tunisian students, researchers and businesspeople. In December 2011, the EU started trade negotiations to establish a deep and comprehensive free trade agreement (DCFTA) with Tunisia. While the outcomes of these negotiations still remain to be seen, it seems that the EU is moving forward in sending a clear message of support for Tunisia’s transformation.

## 2. The EU’s response to the Arab Spring in Egypt

While Tunisia is relatively dependent on the EU economically, Egypt is a different case, since the US represents its major ally and aid provider. Cairo is thus less responsive to EU pressure and support. It concluded an Association Agreement with the EU only in 2004, and the Action Plan in 2007. The first meeting of the human rights and democracy subcommittee was cancelled by Egypt, after the European Parliament adopted a critical resolution on the human rights situation in the country. The meeting was then convened in June 2008. In these meetings, the EU expressed concerns about electoral shortcomings and freedom of expression, the arrest of political opponents including the Muslim Brotherhood, and the continuous state of emergency. But while democracy signals were conveyed, cooperation continued unabated. Egypt’s profile as a major EU partner in the region was even raised with the introduction of the Union for the Mediterranean, where the country held the first co-presidency together with France. For former President Mubarak, this signalled that lack of progress in democratic reform did not impinge on the priority which Egypt enjoyed in relations with the EU.

Also since the Arab Spring, Egypt remains a hard case for a value-based European foreign policy. Besides Saudi Arabia, it is the strategic key country and ally of the West in the region, making the US and EU afraid of a shaky transition process there, not least since the Salafists have won a comparatively big share in the recent parliamentary elections. In addition to this dilemma, the Egyptian army, which presides over the transition process, is still relatively uncooperative: while Tunisia invited an EU election observation mission to its constituent assembly elections, Egypt rejected the EU’s offer of electoral support for its parliamentary and presidential elections. The army even moved forward in alienating state-supported Western NGOs working in Egypt, including not only the German Konrad Adenauer Foundation, but also the two American party institutions: the National Democratic Institute (NDI) and the International Republican Institute (IRI).

<sup>11</sup> Stefan Füle, *One Year After the Arab Spring* (Speech/12/33), 24 January 2012, <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/12/33>.

It is notable that the EU’s public monitoring of the situation in Egypt has become denser with declarations issued almost monthly, outlining reforms to be taken or criticizing some violations of human rights and democratic freedoms. Nonetheless, cooperation between Egypt and the EU is moving forward. Even though Egypt is lagging behind Tunisia, the EU has also entered into negotiations for a DCFTA with Egypt in December 2011. Although a mobility partnership or advanced partnership are not yet envisaged, this still sends ambiguous signals to Egypt, as well as to other states in the region which seek closer cooperation with the EU and might observe the Egyptian and Tunisian cases as examples of future EU behaviour.

This mixed signalling is further complicated by the US, which represents the major power in the region. Similar to the EU, the US has sent supportive messages to Tunisia since the Arab Spring,<sup>12</sup> but its signalling towards Egypt remains ambiguous, too. In December 2011, Congress passed a requirement prohibiting the release of the 1.3 billion USD annual military aid to Egypt, unless Secretary of State Clinton certifies that Egypt is transiting to civilian government, holds free elections and respects freedom of expression, association, and religion. The Egyptian crackdown on civil society sparked an outcry in Congress and was followed by a phone call by President Obama to the Egyptian Chairman of the Supreme Council of the Armed Forces, Mohamed Tantawi, in which he emphasized the role of civil society in a democratic society.<sup>13</sup> Nonetheless, in March 2012, Secretary of State Hillary Clinton waived the new legal conditions set up by Congress “on the basis of America’s national security interests,” as a spokesperson of the State Department pointed out.<sup>14</sup> Since not even parts of the massive military aid were conditioned, the message received by the Egyptian army’s leadership must have been: business as usual.

### 3. Policy recommendations

As revealed by this overview, the democracy and human rights message is not only hard to hear, but also hard to send. This applies, first and foremost, to key states like Egypt, where the West often finds itself in a dilemma between strategic interests and democratic values. This dilemma, however, does not necessarily lead into a *cul-de-sac* as the following policy recommendations show.

Firstly, clear democracy messages arrive best when public diplomacy is combined with private diplomacy at the highest levels, and when this is also supported by conditioning aid or advanced partnerships. This means that the EU should continue to issue public monitoring statements and the democracy and human rights subcommittees should

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<sup>12</sup> An array of State Department, Congressional or business delegations has visited the country, new programmes for economic growth, investment, the private sector, and democratic governance have been implemented, and Tunisia - as the only Mediterranean country besides Lebanon - is now part of USAID’s Transition Initiatives.

<sup>13</sup> The White House, *Readout of the President’s call with Egyptian Field Marshal Tantawi*, 20 January 2012, <http://www.whitehouse.gov/the-press-office/2012/01/20/readout-president-s-call-egyptian-field-marshal-tantawi>.

<sup>14</sup> US Department of State, *US Support for Egypt*, Press Statement by Victoria Nuland, 23 March 2012, <http://www.state.gov/r/pa/prs/ps/2012/03/186709.htm>.

meet more frequently and at the highest levels. Furthermore, as the European Parliament already demanded, the EU has to outline clearly on what bases advanced partnerships are granted in order to send a clear message to all partner states. In this way, the EU would communicate clearly which reform steps have to be taken and which are the concrete benchmarks allowing for a closer partnership. In addition, it would also bind the EU itself to its promise of “more for more.”

Secondly, the lack of a multilateral dimension in the EU’s response to the Arab Spring is puzzling in light of the EU’s own experiences and capacities. It is precisely in the area of multilateralism that the EU has a comparative advantage and can make a difference. In the framework of the Eastern Partnership, the EU in cooperation with the Council of Europe is conducting multilateral workshops, seminars and meetings at different levels (ministries, judges, authorities, civil society) to discuss electoral standards, judicial reform, fight against corruption, etc. The southern pendant, the Union for the Mediterranean, does not have any such instrument. In face of the revolutions in the region, this gap is unfortunate, specifically also from a viewpoint of signaling, for which such forums have multiple advantages.

They are important for setting up a common frame of reference when it comes to democracy. Newly emerging research in wake of the Arab Spring has put the finger on the different “democracy languages” spoken.<sup>15</sup> While the EU conveys a fuzzy understanding of democracy<sup>16</sup> with a liberal or procedural tilt, the revolutions have spoken more of rights - civil rights, human rights, social rights - notably not seeing these rights confined to nation states only, but transcending them and pertaining above all to peoples. By involving all levels of the political system into dialogue, the EU can listen to the different democracy languages spoken and better correspond to them. In this way, such dialogues can provide orientational frames for the EU, partner governments, and civil society.

In addition, the EU needs to include the Arab League into such dialogue. This would be a crucial move, since many Arab states represented in the League, notably the Gulf countries, will play an important role for the fate of the revolutions. The Arab League would also be an important venue, where the EU together with frontrunner governments and civil society could initiate a dialogue on improving the regional human rights framework. The Arab League’s Charter on Human Rights, adopted in 2004, does not entirely conform to international human rights standards,<sup>17</sup> the Arab Human Rights Committee established in 2009 is not obliged to issue public reports on member state’s compliance with the Charter, and there is no Arab Court of Human Rights. Making the human rights regime more effective would be an important anchor for political reform in

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<sup>15</sup> Michelle Pace and Oz Hassan, *A Fusion of Horizons? US and EU Democracy Support in the Newly Emerging Middle East and North Africa*, paper presented at the 53rd ISA Annual Convention “Power, Principles and Participation in the Global Information Age”, San Diego, 1-4 April 2012.

<sup>16</sup> Milja Kurki, “How the EU Can Adopt a New Type of Democracy Support”, in *FRIDE Working Papers*, No. 112 (March 2012), <http://www.fride.org/publication/998/how-the-eu-can-adopt-a-new-type-of-democracy-support>.

<sup>17</sup> It makes the equality of men and women subject to interpretation through the Sharia, grants some social and economic rights to citizens only, does not prohibit degrading punishment, and permits - if so determined in national law - limitations of freedom of thought and religion, as well as the death penalty against persons under the age of 18.

transforming countries like Tunisia and provide a standard for reform for the remaining autocracies.

Due to the ambiguous signals the EU has sent in the past, it has often been perceived as an actor of double-standards in the Arab world. In face of changing realities, the EU has acknowledged its “errors of the past,”<sup>18</sup> and has improved its bilateral record in order to regain credibility and standing, but it can do more, specifically in the area of multilateralism, which besides the EU’s democratic and human rights values are one of the most important sources of its soft power.

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<sup>18</sup> Štefan Füle, *Arab Spring* (Speech/12/66), 3 February 2012, <http://europa.eu/rapid/pressReleasesAction.do?reference=SPEECH/12/66>.



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