

Power to the People?

Reactions to the EU's response to the Arab Spring

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Tahrir Square, Cairo, Egypt, 1 February 2011. © Oxfam/Omar Karim Kamel

In response to the Arab Spring, the EU has promised to shift away from business as usual to ensure that support for human rights and democracy will be central to its co-operation policy with the Arab neighbourhood. Enabling civil society to function, to advocate for citizens' priorities and rights and to hold governments and donors to account, is pivotal. Regional consultation on EU policies appears to have been either insufficient, without impact, or too late. Furthermore, double standards in the past have undermined the EU's credibility in the Arab world and have created a mistrust of its intentions. While supporting necessary reform in the region, the EU must avoid taking the driving seat, which would risk delegitimising transitions led by the people. It needs to ensure that civil society representatives, especially womens' organisations and youth, have a statutory, meaningful and timely role in dialogue with governments, and it also needs to press for civil society consultation in the transition processes. Without genuine dialogue with civil society and legitimate governments, the EU's concept of 'More for More' will not succeed.

Past EU co-operation in the region has enabled people to claim certain rights

The EU has a long history of co-operation with the Arab region. Its economic and security interests in the region are considerable. In line with the European Consensus on Development, respect for human rights and democracy have been explicit values within EU development policies. Past EU co-operation in the region, especially in health and education, has achieved successes and enabled people to claim certain rights.

However, the EU's relations with the region have largely failed to support human rights and democratisation, which have too often been sacrificed to preserve an alleged 'stability' under dictatorial regimes in the name of the fight against extremism, terrorism, and migration. Overly friendly ties with authoritarian regimes, including those of Mubarak, Ben Ali, and Gaddafi, have embarrassed the EU and its member states since the Arab Spring. Civil society has not been taken seriously enough to date as a formal partner in dialogue in a region where it has been so marginalised by repressive regimes.

In its new approach, the EU has promised to do better from now on. However, with a lot of trust to be restored, its new policies have been received with scepticism by many of Oxfam's partners and allies in the region. The EU, as an entity founded on democratic and human rights principles, does need to press for democratic reform. There is, however, resistance from civil society to donor interference in directing and therefore possibly delegitimising the democratic process (which also undermines the principle of ownership), along with a general desire for reduced dependency on the West.

The EU's relations with the region have largely failed to support human rights and democratisation

This briefing note is a response to the EU's new approach to the changing neighbourhood in the Arab region under the revised European Neighbourhood Policy (ENP). It focuses on democratic reform and human rights (civil, political, social, and economic) and is timed to coincide with the seminar in Brussels on 15 November 2011 organised by the Polish EU Presidency and titled 'New European Neighbourhood Policy - In Search of a Successful Transition Model'. It also provides a reaction to the financial decisions adopted on 27 September 2011 by the European Commission (EC) to release the first tranche of additional bilateral funds and the creation of the new Civil Society Facility (CSF) for direct support to civil society. The main bilateral aid package adopted by the Commission is known as 'Strengthening Partnership for Reform and Inclusive Growth (SPRING)', and this targets not only democratic reform and human rights, but also inclusive economic growth. SPRING funding amounts to €350m (€65m for 2011 and €285 million for 2012) and that of the CSF to €22m for 2011 (though with no specified allocation for 2012).

The EU has promised to do better from now on

The focus of this paper is on the southern neighbourhood (as per SPRING), not the eastern.¹ The paper makes a modest attempt to include voices from Arab civil society in affected countries through Oxfam partners from Egypt as well as from Morocco, Tunisia, and (although it is outside the ENP) Yemen.² The paper analyses what the new policy entails from a civil society perspective, and to what extent it responds to the current protests and demands for people-driven reform in the region.

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More for More: the policy

The EU emphasises the need to 'deepen democracy'

The EU's new response to a changing neighbourhood demonstrates a clear emphasis on the first pillar of its new response, 'deepening democracy'. Under this umbrella, there are three other pillars of bilateral support: a) sustainable economic and social development, focusing on inclusive growth, job creation, and building cross-regional free trade and sector co-operation); b) 'regional partnership', focusing on institution-building, dialogue on migration, and specific partnerships such as education; and c) simplified policy and programme frameworks, including more focused action plans. Additional reallocated funding of €1.2bn for the four pillars under this new ENP response is envisaged up until 2013, in addition to expanded funding through the European Investment Bank (EIB) and European Bank for Reconstruction and Development (EBRD).

The five elements contributing towards 'deep and sustainable' democracy fail to refer to gender and women's rights

The reformed policy includes a strong cross-cutting core principle – dubbed 'More for More' – and an increased differentiation between countries. This essentially means 'carrots' or incentives in the form of more aid, more economic integration, and more political co-operation in return for more democratic reform in respect of five elements that contribute towards 'deep and sustainable democracy': (i) free and fair elections; (ii) freedom of assembly/expression/association and free media; (iii) rule of law under an independent judiciary and the right to a fair trial; (iv) fight against corruption; and (v) reform of security and law enforcement and democratic control over armed and security forces. Assuming that this last element includes the issue of arms transfer controls, the glaring omission in this list of priorities would be a reference to gender and women's rights, which are so essential in the transition process and yet so under threat. Hiding these issues in the text does not reflect the priority they require.

The EU is ambiguous on what is meant by 'More for More'

The EU is ambiguous on precisely what is meant by 'More for More' and whether the 'offer' of More for More and the negotiations behind it amount to conditionality. Views vary, from a stricter, more traditional view on conditionality to an emphasis on the notion of dialogue and mutual accountability, based on an acknowledgement of the EU's reduced credibility in view of double standards in the past.

The G8 have adopted a similar approach to stimulating reforms, but it should be clarified how they co-ordinate on this with the EU

The Joint Communication of 25 May 2011³ used strict conditionality language, but it is noteworthy that this language was avoided by the Council Conclusions of 20 June 2011,⁴ which state that these additional allocations will 'fully take into account partner country needs, their readiness to engage in reforms and their progress towards deep and sustainable democracy...'. Both state that for countries where reform has not taken place the EU 'will' or (in the later document) 'may' reconsider or even reduce funding and support. The Action Fiche⁵ for the recent adoption of SPRING pursued an emphasis on results rather than on conditions, but left performance assessment firmly in the hands of the European External Action Service (EEAS) and the Commission.

The G8 Deauville partnership established by the G8 on 27 May 2011 has adopted a similar approach to More for More, though with different language.⁶ This grouping should co-ordinate with the EU on the implementation of such an approach.

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More for More: civil society reactions

There has been no formal regional consultation with civil society on the EU's new policies

Civil society in the region has found it hard to engage in the articulation and development of the new policy. There has actually been no formal regional civil society consultation on the drawing up of the SPRING proposal and, though welcome, the ENP review process was largely Brussels-based. Considerable uncertainty about what is really behind the policy framework, the extent of conditionality, and the process for adoption of decisions has called into question the EU's good intentions, and there is fear of the 'devil in the detail'. There is a big assumption, or a leap of faith, that all will become clear and amicable in country-level discussions. Meanwhile at the country level – with the exception of Tunisia – SPRING funding is delayed, with no allocations so far for 2011. Nor has CSF yet been harnessed in the region, although a tender for technical assistance is planned in Morocco. Communication with civil society on the process and on participatory planning has been insufficient or lacking altogether. This comes against a backdrop where, despite efforts to reach out to civil society in recent years, there is a feeling that consultation does not have much impact or create real change, and it is not institutionalised. In the words of one Moroccan partner, 'It provides just a register for our concerns without any commitment to take on board recommendations from civil society, and information sharing from the EU is limited.'

It is unclear according to which criteria eligible countries are selected

The countries seen as possible initial candidates for 2011 funding at the time that SPRING was adopted were Egypt, Tunisia, Morocco, and Jordan. More generally, this presents a concern as to how eligible countries are selected in a transparent manner, together with a need for more clarity on how past and future performance is assessed in candidate partner countries.

Incentivising democracy and human rights: carrots and sticks?

Donors are entitled to set certain limited conditions on aid, but Oxfam believes that they currently attach too many conditions, and that too often these are the wrong type of conditions to achieve poverty reduction and relief. In the context of the Arab Spring, and the pursuit of democratic standards long denied to the people of the region, some donor conditions could be appropriate, although conditionality alone is not a panacea.

Economic policy conditions such as trade liberalisation or privatisation are not acceptable

These conditions should be mutually agreed between donors, government, and civil society, and should focus on a) accountability conditions, especially those that strengthen democratic accountability within recipient countries, and b) outcome-based conditions that deliver poverty reduction, tackle inequality (including gender inequality), and help people achieve their human rights and protection under all areas of human rights and international humanitarian law. However, donors are not entitled to attach economic policy conditions such as trade liberalisation or privatisation to their aid.

Oxfam partners consider the five reform criteria under More for More to be basically conditions, despite the policy being presented as an offer, or 'carrot', rather than being imposed. However, despite reservations as a matter of principle, given the legacy of oppressive regimes, the notion of conditionality is not rejected as a concept by partners, and carrots are largely seen by most as being better than sticks. As the Association Marocaine de Lutte Contre la Violence à l'égard des Femmes (AMVEF) in Morocco says, 'We need to set conditions now because we don't know what new regimes will be like and we might get new forms of authoritarianism.'

Some EU officials think that More for More will not work at the country level

Similarly, Selim Ben Hassen, president of Byrsa Mouvement Citoyens in Tunisia, explains, 'More for More is a good concept in the current situation – we are not sure whether the revolution will succeed in Tunisia as many from the former regime have occupied a big place in politics since 14 January.' However, as the Arab Institute for Human Rights, points out, 'Conditionality must be a matter of dialogue so that human rights and democracy must not be understood as conditions from abroad but as a process originating fully from the Tunisian people.'

Core considerations must be transparency and consultation with civil society

Nevertheless, partners have concerns. The fear is that More for More is patronising to governments and civil society and may be counter-productive in terms of fostering partnership for reform. Even some EU officials express a fear that the concept will not work at the country level. On the other hand, More for More is a break from the past in that it prioritises political dialogue – hitherto weak – and gives more prominence to civil society. Core considerations must therefore be transparency and how these proposals are presented, negotiated, and implemented in consultation with civil society groups. Criteria require negotiated benchmarks. Assessment of progress must also include civil society: this is a major concern as, according to the Action Fiche for the adoption of SPRING, this assessment role is officially given only to EEAS and the EC.⁷

In monetary terms, More for More is unlikely to have much leverage

Partners in Egypt, Morocco, and Tunisia also consider that the current proposed criteria, while broadly appropriate, lack at least one essential criterion – gender equality and non-discrimination. There are real fears of democracy and legal reform being regressive, due to a patriarchal approach under the influence of conservative elements.

As regards whether More for More represents meaningful incentives for democracy, it is worth noting that the Democracy Facility launched under Commissioner Chris Patten's tenure in 2003 also incentivised reform, but was not seen as a success.⁸ The shift to carrots rather than sticks is also therefore not altogether new – although arguably the right reform sticks were not there previously. Kamal Lahbib of Forum des Alternatives Maroc (FMAS) summarises views from the Morocco perspective: 'More for More is not actually so new. In Morocco, what is new is now a tougher approach on reforms by the EU in an attempt to make amends for its past support for dictatorial regimes about which civil society has protested.'

Using economic and political integration as incentives should be preceded by an analysis of the impact on poverty

In monetary terms, More for More is unlikely to have much leverage when compared with large co-operation programmes. As for using better economic and political integration as incentives, an analysis of

the impact on poverty of any proposed reforms and an inclusive and transparent approach are key concerns. Improved migration partnership (if genuine), visa availability, and education opportunities are seen by partners as significant incentives.

There is a need to review EU member states' arms export control policies in the region

Finally, this incentivised approach needs to be set in the context of the recent and current context of 'Arab revolts' and the killing and wounding of peaceful demonstrators who are asking for their fundamental rights.⁹ Within the political dialogue attached to the SPRING programme, pillar one under 'deepening democracy' lists security law enforcement as a reform criterion and outlines enhanced political and security co-operation; this would imply the need to review EU member states' arms export control policies in the region, given the direct link to human rights abuse.

One of Oxfam's partners in Tunisia, Liberté et Equité, states: 'On July 2011 in Al-Kasba [Tunis], policemen used teargas grenades against demonstrators and wounded several of them. There are rumours that a European country would be willing to sell teargas grenades to Tunisia soon. How can one deliver virtuous speeches within the UN and in practice support regimes which blatantly commit human rights abuses?'

There is a need to engage in a frank and structured dialogue with countries in the region on the (lack of) national systems of arms control and ultimately on their engagement in the ongoing negotiations for an international and legally binding instrument, the Arms Trade Treaty, which will hopefully regulate conventional arms trade and prevent human rights abuses.

Economic conditionality

The inconsistent interpretation of More for More, taken together with the track record of the EU on turning a blind eye to dictatorship, creates a fear that agendas additional to democracy and human rights are at play. As Kamal Lahbib of FMAS says, 'Business always prevails and the EU knows that business cannot prevail in an undemocratic environment.' There is concern that inappropriate reforms for liberalisation of economies and services will be pushed. Indeed, there are fears that additional performance criteria may be applied not just to economic reform, but also to reform related to security, energy, migration, and other issues.

More fundamentally, the Arab NGO Network for Development (ANND) points out that the Joint Communication of 25 May 2011 is a 'non-consensus document', in other words not an agreed road map for reform and development. The ANND considers that 'support for economic growth should be rooted in support of peoples' choices of a revised economic model ... trade and investment deals established with the previous regimes need to be revised in order to serve a development vision and not the concentration of economic powers in the hands of the few'.¹⁰

At the same time, in the Foreign Affairs/Trade Council meeting of 26 September 2011, the EU selected the same four countries initially proposed for SPRING (Egypt, Jordan, Tunisia, and Morocco) for moving forward on negotiations for Deep and Comprehensive Free Trade Ar-

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The EU selected countries for moving forward on negotiations for Deep and Comprehensive Free Trade Areas with no mention of the legitimacy of governments or the views of civil society

eas, but with no mention of the legitimacy of these governments or the views of civil society.¹¹ It re-emphasised the importance of using ‘trade and investment instruments as part of the EU’s efforts to support democratic and economic transition in the region’. The 25 May Joint Communication makes clear reference to promoting these free trade areas and also to the creation of an enabling environment for investment – with a significant emphasis on foreign direct investment and direct investment from EU SMEs. Trade must be driven by development needs and a poverty perspective. While investment has a key role and has suffered a lot from the perceived increased levels of risk, it must be clear, however, that investment prioritises support to domestic business development and governments maintain the ability to regulate investment in the public interest.

Mutual accountability

Dialogue between the EU and southern neighbourhood governments has also met with their rejection of any notion of conditionality, especially by the transitional authorities in Egypt, on the basis that this smacks of double standards and external interference. While the idea behind the safer language of mutual accountability is laudable as a way to overcome past errors and to forge partnership, more clarity is needed on what exactly is meant: otherwise there will be no shift in the balance of power between the giver and receiver. The role of civil society also needs to be factored as a third party into this mutual accountability. As the Arab Institute for Human Rights in Tunisia stresses, ‘This concept must not stay at the level of rhetoric but must have real content based on principles of equality and shared responsibility involving government, civil society, and the EU in dialogue and negotiation.’

There are well justified fears that this approach represents a compromise to please all parties and is, therefore, at best too vague to be meaningful or, worse, is a cover for other agendas. The need for very specific types of conditionality remains, as described above. Furthermore, partners stress the need for the EU to practice what it preaches and to get its own house in order – especially in respecting the right to migration and asylum.

Support to civil society and non-state actors

Specific instruments to directly support civil society and non-state actors have also been proposed – in particular the Civil Society Facility (CSF) and a proposed European Endowment for Democracy (EED).

Civil Society Facility

Through the adoption of the CSF, the EU claims to want to promote a role for a thriving civil society that is free to express concerns, contribute to policy-making, and hold governments to account, ensuring that economic growth becomes more inclusive, benefiting poor and marginalised people. The EU states that its aim is to support civil society organisations (CSOs) to develop their advocacy capacity, their ability to monitor reform, and their role in implementing and evaluating EU programmes.

Investment in this direction is clearly appreciated, but partners also raise concerns. First and foremost, the rhetoric needs to be turned into reality. The EU has expressed its support for dialogue with civil society before but – despite its efforts in this regard – it is not seen as having had enough impact, and this on top of damaged credibility from the past.

The Civil Society Facility is appreciated but is too slow, with no clear reference to supporting women

Also, the process around designing the CSF has not been clear to CSOs, especially those from the region, in particular since consultation was closed in Brussels in June 2011. Highlighting the role of the CSF in promoting the role of women's organisations is one aspect that is lacking. Slow disbursement is also a concern: the call for proposals at country level may not be made until the end of 2011, and then funding will take many months to come. There has, however, finally been a regional call for proposals (for two or more countries) on 1 November 2011.¹² The CSF also needs to be explicitly linked to enabling CSOs to engage in all stages of SPRING co-operation as well as dialogue with governments. Lastly, as stressed by Kamal Lahbib of FMAS in Morocco, 'The CSF has to come with more flexible procedures that allow rapid response in times of unforeseen urgent situations – we have asked repeatedly before and will not stop asking.' The total budget for the CSF is €22m for 2011 and, despite expectations, no allocation has yet been announced for 2012–13. It is likely to be similar to that of 2011, which is modest given that organisations from any country in the region can apply for funding.

European Endowment for Democracy

The EED is intended to support the further emergence of civil society together with political actors, non-registered NGOs, and trade unions. The EED is envisaged as an independent instrument separate from other EU co-operation instruments. This idea, in part spearheaded by the Polish EU Presidency and now being processed by an EEAS/Commission taskforce, appears to be still a long way off from any agreement, and civil society in the region has little knowledge of

the initiative. The key concern voiced is about its added value in relation to other existing instruments, in particular the European Instrument for Democracy and Human Rights (EIDHR). It is claimed that the EED will be much faster than existing alternatives. The EIDHR could alternatively be reinforced, but the EIDHR traditionally takes many months to process calls for proposals.

Human rights dialogues

As part of the new ENP response, 'partnership with societies', under the same pillar one as above (though not strictly in support of civil society alone), the 25 May Joint Communication states the EU's aim to reinforce human rights dialogues as a means of 'monitoring commitments in this area'. There are several existing mechanisms for such dialogue, including at the EU/partner level, the Council level, and the European Parliament level. These mechanisms need to be transparent, less technical, and reform-led, and to involve more consultation with civil society. Little reference was made to this mechanism in the EU's Council Conclusions of 20 June 2011 in response to the changing conditions of the neighbourhood.

Egypt: a case study

Oxfam's partners and networks in Egypt point to a historical lack of genuine, serious consultation with the EU in their bilateral co-operation programming,¹³ claiming that this was normally offered too late in the process to be meaningful – indeed, it is described as 'cake decoration'. They also question its impact. The Progress Report on Egypt for 2009,¹⁴ in particular, is cited as being heavily watered down, presenting significant gains on human rights issues without explaining the very negative bigger picture, and making no reference to explicit civil society views. Subsequent opportunities for consultation on progress in both 2010 and 2011¹⁵ were turned down by some civil society actors, seeing this as waste of time as they felt their views were not being heard. Indeed, some partners have suggested that it would have been better not to have published anything at all in 2009. In terms of donor influencing of government policy, whether with More for More or any other approach, there is an entrenched cynicism based on past experience.

Much concern is voiced as to whether aid should be given at all to a transitional government under the SCAF, given the host of human rights abuses

Much concern is voiced as to whether aid of any description should be given to a transitional authority under the Supreme Council of the Armed Forces (SCAF), given the host of human rights abuses, regressive laws, and ongoing corruption that are being witnessed. The majority view is that any support provided to the transitional government should at most be short-term, used to help alleviate poverty, or in support of democratic reform processes such as institution-building; and also that it should be disbursed to NGOs. Prior to the election of a legitimate government, the case is stronger for linking aid more forcefully to pressing for accountability for the human rights abuses increasingly evident under SCAF. Involvement in long-term programming is primarily the prerogative of a legitimately elected government that can be held to account by its parliament and citizens. In the long term, and when a democratically elected government is in place, donors should, however, aim at long-term predictable aid, with budget support as a key mechanism for achieving this.

In view of the fear of conditionality or pressure towards inappropriate economic and social reforms under More for More, there is criticism among Oxfam partners of past economic and social reforms under donor support, although this is not restricted to the EU. This paper does not set out to review EU policies in this regard, but merely reports comments made by partners. Examples shared include the restructuring of the textile industry, in which the EU has been a donor.¹⁶ In this process, as reported by the Centre for Trade Union and Workers Services, employment rights were seriously abused in order to meet the requirements of the free market. The main concern in the health sector has been about proposals that reached the last parliament for a highly controversial Health Insurance Law. According to Alaa Shukrallah of the Development Support Centre, and a member of the Egyptian National Committee on the Right to Health, this 'promised to be against the interests of the poor and was not sufficiently challenged by donors in the health sector, including the EU.'

Beyond the conditionality debate, mobilising and empowering different actors in building up democratic institutions is crucial if progress is to be achieved. The Egyptian Initiative for Personal Rights (EIPR) recalls the Industrial Modernisation Centre funded by the EU, which, although an economic entity, might offer pointers for the establishment of an institutional framework for social dialogue on democracy for all stakeholders.¹⁷

The CSF is seen as having important added value for support to new and emerging civil society organisations and groups, organising youth or marginalised groups as a way to build democratic civilian structures that can hold the government accountable. Understanding the process and timetable has been a key concern among partners, however. A particular issue raised is how emerging youth organisations have a vital role and need support – though not necessarily financial, and perhaps through intermediaries. Training on networking and coalition-building is a key need, as is awareness-raising generally on the role of civil society, perhaps through teacher training. Further suggestions for the CSF include supporting the establishment of groups to engage on the drafting of a new NGO law,¹⁸ or the farmers' union and its engagement in national policy and regional and global linkages, or the efforts of the newly created women farmers' union.

While aid provision linked to an assessment of progress based on human rights and democracy is supported by partners, it must however be accompanied by strong diplomacy, especially before the election of a legitimate government, and in consultation with civil society. There is serious concern about current human rights abuses and restrictions on civil society in Egypt that are in many ways worse than during the Mubarak regime.¹⁹ In particular, partners refer to:

- The lack of progress in terms of ending the emergency law, which was a key demand of the revolution – instead, the law has been reactivated and amended for the worse;
- Condemnation of ongoing military trials for civilians, which by the SCAF's own admission amount to 12,000 in number;²⁰
- Stopping the smear campaign against NGOs receiving foreign funds and the unprecedented accusations of high treason, never witnessed even under the former regime;
- Freedom of information and independence of state media;
- Addressing threats to women's rights.

Example 1: Women's rights under threat

Conservative elements in Egypt have been strengthened as a result of the revolution, threatening to undermine women's rights. As the Egyptian Association for Family Development stresses, 'This had led to pressure to remove past gains, for example in child custody laws due to their association with Suzanne Mubarak.' The NGO Al Karma reiterates the need for 'conditionality to focus on political rights of women now, even though to be accompanied later with poverty reduction conditions given the widespread extreme poverty'. In addition, the removal of the quota system for women in Parliament (64 seats out of 444) is another indicator of regressive trends.

Example 2: Freedom of association getting worse not better

Recently, the New Women Foundation (NWF) won the Nelson Mandela Award in recognition of its freedom of association campaign. The Ministry of Social Solidarity, however, rejected the award, saying that advocacy for an NGO law that conforms to international standards falls outside the activities of civil society.²¹ As described by Nawla Darwish of NWF, 'The authorities act with an authoritarian logic, dictating to NGOs ... in clear violation of Article 22, paragraph 2, of the International Covenant on Civil and Political Rights.'²² A submission to human rights rapporteurs by 36 rights organisations laments, 'It was expected after the revolution that the GoE would take measures including legislative measures to free NGOs from the tight grip of the state – instead, we have been dismayed by the tendency of the GoE and SCAF to place additional restrictions on the work of NGOs.'²³ The same group published a protest against the smear campaign against civil society groups and restrictions on freedom of association, claiming that the 'current administration is using the same methods as the Mubarak regime to confront their critics'.²⁴

Yemen: a special case

Yemen²⁵ is mentioned here because it is experiencing the longest Arab Spring and has seen very little progress; this is exacerbated by a hunger crisis. On top of this, Yemen is the poorest country in the region, with high illiteracy and acute gender inequality. Poverty was a particularly strong trigger for the uprising.

Yemen falls outside the ENP, but the EU should ensure additional support equivalent to that for ENP countries

Unfortunately, Yemen falls outside of both the neighbourhood and the ENP. The EU's extended support in solving food insecurity and preventing a widespread humanitarian crisis is an immediate need – and the latest announcement on 20 September 2011 is welcome of an additional €5m.²⁶ But more can be done, and Oxfam hopes that new allocations will reflect the country's humanitarian and poverty reduction needs. The EU also needs to ensure that additional support, equivalent to that for ENP countries, is available to Yemen. Oxfam acknowledges that incentivising democratic reform and the concept of More for More – more aid for more reform – is complex and challenging in Yemen at this time. The concept should be pursued in the medium term if consistent with the approach recommended for ENP countries.

Meanwhile, additional aid can be given through different channels on a case-by-case basis where the funding will improve the lives of poor people or promote democratic reform or improvement in human rights. Where donors decide to suspend aid in response to ongoing human rights abuses and lack of reform, they should ensure that this is not at the expense of the poor, especially given the humanitarian emergency, and in this case they should seek viable alternative channels to address urgent humanitarian needs. Most importantly at the current time, the EU should seek to strengthen funding to civil society, especially womens' organisations, in a way that improves their potential for advocacy and engaging in dialogue, as envisaged by the CSF under the ENP.

Yemen does benefit from a number of existing instruments, including the EIDHR and the Non-State Actors – Local Authorities (NSA-LA) instruments. The concern that the Yemeni government and CSOs cannot absorb more aid and that existing instruments – although numerous – are therefore adequate needs to be challenged in pursuit of more creative approaches. Key social welfare funds such as the Social Welfare Fund and the Social Fund for Development continue to be able to absorb large and effective amounts of funding. In terms of civil society capacity, the EU needs to look forward rather than back – hundreds of thousands of Yemenis have mobilised themselves on the street and present a new map for EU civil society engagement. As one of Oxfam's partners stresses, 'There are all forms of violence against women who are active politically and involved in human rights – they need more protection or the opportunities for change will be destroyed. We must build while we can on what is happening and strengthen the space for civil society and freedom of speech.'

Accompanying diplomacy has also fallen short, with European donors failing to help establish an inclusive process for transition. Such a process, one that helps bring together all sections of Yemeni society, would only help bolster the EU's stated aim of democracy.

Conclusions and recommendations

Civil society's role must be integral to negotiations. The EU is not perceived as having reached out to civil society in affected countries when designing the new neighbourhood policy and in communicating on the process. It has to restore trust and cultivate a genuine role for civil society that has impact.

Incentivising democratic reform and human rights through the use of carrots is not rejected by partners as a concept: indeed, this reform focus is necessary if social and economic justice is to be fostered. The use of 'carrots' is seen as a form of conditionality, even though this is additional aid, but broadly better than sticks. However, it will appear patronising and will not be accepted at the country level if the precise criteria are not negotiated, and unless it is accompanied by a genuine shift to more balanced power relations. Expectations of the degree of leverage from proposed incentives are also modest, especially with the discredited image of the EU and other donors previously allied to dictators. The interests of elements of the old regimes in Egypt and Tunisia remain entrenched.

Oxfam has formulated the following recommendations to the EU based on consultation with its partners:

Overall principles to aid

Ensure that additional EU aid to Egypt and other countries enables genuine participation of citizens in the reform process. The EU must take care not to take over the driving seat and thereby delegitimise a transition led by the people. Its approach should not lead to restricting people's ability to influence policy on democratic reform and economic and social justice. The central dialogue should be the one between society and the state rather than between donors and the state.

Clearly communicate to civil society at country level the policy framework and key dates, and schedule rapid consultation on reform criteria and benchmarking, the SPRING programme, and the use of the CSF. To date, information has been largely unavailable.

Negotiate at country level the criteria under More for More for assessing democratic reform, agree benchmarks, and include additional criteria such as non-discrimination and gender equality.²⁷ Insist on principles of inclusion of civil society and transparency from all sides. Demystify mutual accountability, which must be based on balanced power relations, including civil society. Without these considerations, the More for More approach is unlikely to succeed.

Speed up pending decisions regarding SPRING allocations for 2011. Regarding undemocratically elected transitional governments, utilise SPRING but aim to limit funding temporarily (until a democratically elected government is in place) to short-term aid, targeted at supporting poverty reduction, democratic reform, and human rights, and in a manner that is inclusive and transparent. Adopt diverse means of disbursing funds, including to NGOs. Exceptional loan

agreements during transitions must have the support of the people in view of the legacy they create. In the long term, and when a democratically elected government is in place, donors should, however, aim at long-term, predictable aid, with budget support as a key mechanism for achieving this.

Withhold endorsement of any national-level economic plans submitted by Egypt and other unelected governments until a legitimate government is in place.²⁸ Strong public diplomacy is also required now over growing concerns of human rights abuses, particularly in Egypt, including the use of an expanded emergency law.

Explicitly delink More for More from any form of conditionality for liberalisation of the economy and services.

Review EU member states' arms export control policies in the region, given the direct link to human rights abuse.

Ensure that the people of Yemen receive equivalent support to other countries experiencing the Arab Spring, even though Yemen falls outside the ENP. This requires creative approaches reflecting the context of ongoing mass protest – through technical support, strong diplomacy, and diverse ways of funding. Linkage of aid to reform should be flexible given the humanitarian emergency.²⁹

Demonstrate a consistency at country level, regionally, and globally on making democratic reform and human rights an important element of all EU co-operation programmes.

Civil society – especially women and youth

Ensure that civil society representatives, especially womens' organisations, have a formal *statutory* role in EU-government dialogue in its current and future co-operation (including SPRING). Consultation must be formalised, timely, and not cosmetic and after the event.

Press now for political participation and representation of civil society, especially of women and youth, in the transition process and democratic reform. Publicly acknowledge the crucial role of women in any transition process and the fact that the rights they have gained may now be threatened under the influence of conservative groups, as is the trend in Egypt.

Prioritise progressive civil society legislation and compliance with international conventions on human rights, especially CEDAW and international humanitarian law. This is to inform policy and practice.

Strengthened instruments and mechanisms

Using affirmative action, prioritise use of the CSF for women's organisations and community-based organisations with a track record in promoting gender equity, as well as youth groups, and for technical and financial assistance (including advocacy staff costs).

Women's organisations are facing the greatest challenges, and youth groups represent a huge resource of the will to act but lack sufficient direction. Funds could be channelled through 'intermediary' European or other NGOs, given the concerns of some partners of being associated with foreign funding.

Explicitly link the Civil Society Facility to supporting CSOs to participate in the development and implementation of SPRING-funded initiatives, the revised Action Plans, as well as ongoing EU co-operation programmes. Where CSF funding is not yet available, SPRING funds should be used to the same ends if disbursement is quicker.

The various human rights dialogues within the EU need to demonstrate greater transparency and more consultation with civil society, and specifically need to address reforms more than technicalities. They should monitor ratification and compliance with all relevant international and regional agreements, and commit to promoting gender equality. A specific area of commitment is also in developing arms transfer controls at national, regional, and international levels.

Ensure that any moves on the European Endowment for Democracy demonstrate added value, especially in terms of rapid response. If not, the EIDHR should be reinforced and should include specific priorities given to Arab countries.

Notes

- ¹ The neighbourhood totals 16 countries: Southern: Algeria, Egypt, Israel, Jordan, Libya, Morocco, Occupied Palestinian Territories, Syria and Tunisia. Eastern: Armenia, Azerbaijan, Belarus, Georgia, Republic of Moldova, and Ukraine.
- ² Oxfam partners consulted include: Egypt: Development Support Centre, Egyptian Initiative for Personal Rights, Better Life Association for Comprehensive Development, New Women Foundation, Centre for Trade Union and Workers' Services, Hisham Mubarak Law Centre, Al Karma, Egyptian Association for Family Development, Arab Programme for Human Rights Activists; Morocco: Association Marocaine de Lutte Contre la Violence à l'Égard des Femmes, Forum des Alternatives; Tunisia: Byrsa Mouvement Citoyens, Arab Institute for Human Rights. Yemeni partners are not listed for their own security.
- ³ Joint Communications, European Commission and High Representative of the Union and Foreign Affairs and Security Policy: a) 'Partnership for Democracy and Shared Prosperity with the Southern Mediterranean', 8 March 2011, and b) 'A New Response to a Changing Neighbourhood – A Review of European Neighbourhood Policy', 25 May 2011.
- ⁴ EU Council Conclusions on the European Neighbourhood Policy, 3101st Foreign Affairs Council Meeting, Luxembourg, 20 June 2011.
- ⁵ Action Fiche for Neighbourhood CSF 2011, http://ec.europa.eu/europeaid/documents/aap/2011/af_aap-spe_2011_enpi.pdf (accessed 11 November 2011)
- ⁶ Deauville Partnership Foreign Affairs Ministers' Meeting Communiqué – New York, 20 September 2011, <http://www.diplomatie.gouv.fr/en/IMG/pdf/ONU-2.pdf> (accessed 11 November 2011)
- ⁷ Action Fiche for the Southern Neighbourhood region programme. Support for SPRING, http://ec.europa.eu/europeaid/documents/aap/2011/af_aap-spe_2011_enpi-s.pdf (accessed 11 November 2011)
- ⁸ http://www.ecdpm-talkingpoints.org/799/#_ftn1 gives an outline of the Democracy Facility, which is also considered a precursor to the Governance Facility established in 2006. The 2003 Communication of the European Commission on 'Reinvigorating EU actions on Human Rights and Democracy with the Mediterranean Partners' resulted in the launch of the Democracy Facility, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52003DC0294:EN:NOT> Further information is provided at: www.fride.org/download/BO_survey_ENG_may06.pdf (all accessed 11 November 2011)
- ⁹ In Tunisia, more than 300 civilians were killed by police and security forces during peaceful protests, including one woman and a baby. In Yemen, Human Rights Watch has confirmed 219 deaths in attacks by security forces and pro-government gunmen on largely peaceful protests that began in February 2011. More than 1,000 protesters have been injured by live gunfire or by teargas. Human Rights Watch (2011) 'Yemen: Protester Killings Show Perils of Immunity Deal', 20 September 2011, <http://bit.ly/q0mMG7> (accessed 11 November 2011)
- ¹⁰ 'More for More as the EU's response to the Arab Spring: A Letter for Civil Society Groups in the Arab Region to EU Officials. What does More Stand for and How to Ensure Economic Policy is not Exercised', October 18 2011, co-ordinated by the Arab NGO Network for Development (ANNND).
- ¹¹ Council of the EU, press release, 26 September 2011, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/124745.pdf (accessed 11 November 2011)
- ¹² <https://ec.europa.eu/europeaid/online-services/index.cfm?ADSSChck=1320660477708&do=publi.detPUB&searchtype=QS&orderby=upd&orderbyd=Desc&nbPubliList=25&page=1&aoref=131140>
- ¹³ EU programming in Egypt in the NIP 2011–13 amounts to €449m, a slight increase on the previous period, and covers three areas: a) democracy, human rights, and justice; b) economic reform; and c) sustainable development and human and natural resource management.
- ¹⁴ 'Country Progress Report 2009: Egypt', 12 May 2010, http://ec.europa.eu/world/enp/pdf/progress2010/sec10_517_en.pdf (accessed 11 November 2011)
- ¹⁵ See 'Joint Staff Working Paper: Impact of the ENP in 2010: Country Report Egypt', 25 May 2011.
- ¹⁶ The NIP 2007–10 makes reference to successful budget support from the EU, which led to inter alia the restructuring of the textile industry.
- ¹⁷ For further information, see: <http://www.imc-egypt.org> (accessed 11 November 2011)
- ¹⁸ The current NGO Law 84/2002 puts civic associations under the control of the state and security apparatus, who can intervene even in such details as selection of board members, and approval for registration is needed from the Ministry of Social Solidarity. The law is formulated in vague terms, giving ample room for the state to dissolve NGOs. Any grant, domestic or foreign, requires the approval of the Ministry of Social Solidarity.
- ¹⁹ For more discussion of the negative trends, see S. McInerney (2011) 'SCAF's assault on Egypt's civil society', *Foreign Policy*, 2 October 2011, http://mideast.foreignpolicy.com/posts/2011/09/28/scaf_s_assault_on_egypt_s_civil_society (accessed 11 November 2011)

November 2011)

- ²⁰ See statement by Ragia Omar, 'Statement on Military Trials of Civilians', 10 November 2011, <http://www.meanwhileinegypt.org/> (accessed 11 November 2011)
- ²¹ Letter received by NWF from Ministry of Social Solidarity, 15 June 2011.
- ²² 'No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.'
- ²³ Letter of 22 August 2011 to Special Rapporteur (SR) on the Rights to Freedom of Peaceful Assembly and Association Maina Kai, SR on the Rights to Freedom of Expression, Mr La Rue, SR on Situation of Human Rights Defenders, Margaret Sekaggya, in the Office of the United Nations High Commissioner for Human Rights, Geneva, and to SR on Human Rights Defenders in Africa, Lucy Asuagbor, and SR on Freedom of Expression in Africa, Pansy Tlakula, in the African Commission for Human and Peoples Rights, Banjul.
- ²⁴ 'Successors of the Mubarak regime redouble their assault on civil society and the freedom of association', press release from 36 rights organisations, 24 August 2011.
- ²⁵ Syria is not examined in this paper largely because Oxfam does not have a programme there – although having a programme in a country is not essential to Oxfam's legitimacy to speak out.
- ²⁶ The EU informed Oxfam that it has given in 2011 a total of €20m humanitarian aid from ECHO, €20m development aid from DEVCO and over €5m from specific instruments. These are €1.05m EIDHR, €0.8m Instrument for Stability (for migrants to Yemen), €0.45m Non-State Actors, and €3 m for ERASMUS, which appears to also include Iraq and Iran. Additional funds are on line for support to migrants.
- ²⁷ There will be other criteria. One area is for the EU to include in the criteria being negotiated is both the development of national mechanisms to control arms transfers in Arab states (including parliamentary scrutiny) and licensing authorities, and also a formal commitment to support a strong and effective Arms Trade Treaty, which will be adopted at the United Nations in July 2012.
- ²⁸ The G8 meeting with Arab governments in New York on 20 September 2011 welcomed the economic plan submitted by Egypt and made no reference to legitimacy of the government, or consultation around this document. Deauville Partnership Foreign Affairs Ministers' Meeting Communiqué – New York, 20 September 2011, <http://www.diplomatie.gouv.fr/en/IMG/pdf/ONU-2.pdf> (accessed 11 November 2011)
- ²⁹ The Under Secretary-General for Humanitarian Affairs, Valerie Amos, has compared malnutrition rates in Yemen to those of Somalia, with acute malnutrition reaching 30 per cent in some areas. Emergency Relief Coordinator's Key Messages on Yemen, 29 September 2011, Issue Number 2.

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