



The Centre for the Study of European Politics and Society

“From the EMP to the ENP: A new European pressure for democratization? The case of Morocco”

Elena Baracani*

baracani@cires-ricerca.it

This working paper was presented at the conference “Europeanization and Democratization: The Southern European Experience and the Perspective for New Member States of the Enlarged Europe”, held at the University of Florence on 16th-18th June 2005.

* The author is a third year Ph.D. Candidate in Political Science at the University of Florence (Italy), and junior researcher at the Interuniversity Research Centre on Southern Europe ([CIRES](#)), in the Department of Political Science and Sociology of the same university. She is currently working at a Research Project on “*Evaluating EU promotion of democratic rule of law in Romania, Serbia-Montenegro, Turkey, Ukraine and Morocco*”, under the direction of Professor Leonardo Morlino.

The Centre for the Study of European Politics and Society

Humanities Building 72, Room 116-117
Ben Gurion University of the Negev
Beer Sheva 84105, Israel

Tel: 972-8-647-7064
Fax: 972-8-647-7610
Web-Site: <http://hsf.bgu.ac.il/europe>
E-mail: europe@bgu.ac.il

Abstract

At the beginning of the XXIst century the European Union is one of the most important international actor in the field of democracy promotion toward third states, and it is widely recognized that it has succeeded in favouring a fast democratization of candidate countries, through the main instrument of conditionality and the incentive of membership. In this working paper I will compare the European Union strategy of democracy promotion in the framework of the Barcelona process, with the same strategy in the context of the new European Neighbourhood Policy, to delineate main similarities and differences, and to assess whether it is possible to talk of a new European pressure for democratization in the Southern Mediterranean. The analysis take into consideration the particular case of Morocco, a North African country that has experienced some political liberalization, and that has always sought a closer relation with the European Union, although its little chance of ever joining the Union. The paper argues that, notwithstanding the rhetoric of the European Neighbourhood Policy, the Union's seems intentioned to continue its traditional policy towards the Southern Mediterranean, limited to achieving partial political reform rather than a genuine democratization.

Table of contents:

INTRODUCTION	3
1. The European Union Democracy Promotion in the Southern Mediterranean	4
1.2. The Euro-Mediterranean Partnership (EMP)	4
1.2. The European Neighbourhood Policy (ENP)	6
2. The case of Morocco	8
2.1. Four phases of political liberalization	8
2.2. Next democratic challenges	11
2.3. European Union – Moroccan relations	13
CONCLUSION	16
APPENDIX	18
Table 1: The European Neighbourhood Policy (ENP)	18
Table 2: Next democratic challenges for Morocco (source: International Monitors)	19
Table 3: MEDA commitments for Morocco (euro million)	19
Table 4: ENP Report on Morocco (2004) – Democracy and Rule of Law Shortcomings	20
Table 5: ENP Action Plan for Morocco (2004) – Democracy and Rule of Law Priorities	20
Table 6: ENP Report on Morocco – Human Rights and Fundamental Freedoms Shortcomings	21
Table 7: ENP Action Plan for Morocco – Human Rights and Fundamental Freedoms Priorities	21
REFERENCES	22

INTRODUCTION

The European Union is based on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, which should be developed and consolidated in the framework of the Union's external relations.¹ Indeed, at the beginning of the XXIst century the European Union is one of the most important international actor in the field of democracy promotion toward third states, and it is widely recognized that it has succeeded in favouring a fast democratization of Greece, Spain and Portugal in the middle 1970s and early 1980s, and more recently the Central Eastern European countries, through the main instrument of conditionality and the incentive of membership. Nowadays, the European Union continues to adopt this strategy of democracy promotion, based on conditionality and the incentive of membership, towards the candidate (Turkey and Croatia) and potential candidate (Albania, Bosnia-Herzegovina, FYROM and Serbia-Montenegro) countries.

This study will compare the European Union strategy of democracy promotion in the framework of the Barcelona process, with the same strategy in the context of the new European Neighbourhood Policy, to delineate main similarities and differences. In both cases, and differently from the pre-accession policy, the incentive of membership cannot be offered, so the strategy will vary according to the different instruments (example, socialization and conditionality) used to promote democratic reforms.

Then, focussing on the case study of Morocco, I will start to assess whether it is possible to talk of new European pressure for democratization in the Southern Mediterranean. The analysis will be based on the political priorities listed in the December 2004 Action Plan, that the EU has agreed with Morocco in the framework of the European Neighbourhood Policy. In particular, I will compare the political priorities listed in this document and dealing with democracy, the rule of law, human rights and fundamental freedoms, with the political problems underlined by the international monitors.

Morocco is a particular case to study the evolution of the European Union democracy promotion strategy in this geographical area and its impact on the process of political change. Differently from other North African countries, at the domestic level there are some positive signals that the political system is breaking with the practices of the past. And at the international level, and notwithstanding its little chance of ever joining the Union, the country has always been seeking a closer relations with the European Union.

In the first part of the paper I will discuss the main features of democracy promotion in the framework of the Euro-Mediterranean Partnership and its limits in fostering political change in the authoritarian regimes of the southern Mediterranean region. Then, I will describe the new features of the European Neighbourhood Policy, through which democracy could be promoted. The second part will focus on the case of Morocco, in particular on its relationship with the European Union, after having briefly summarized the country political liberalisation and the next challenges to address to make progress in the democratization process.

¹ See articles 6(1) and 11(1) of the Treaty on European Union (TEU), articles 177(2) and 181a(1) of the Treaty establishing a European Community (TEC), and articles 2 and III-193 of the Treaty establishing a Constitution for Europe signed in Rome on 29 October 2004.

1. The European Union Democracy Promotion in the Southern Mediterranean

In 1972 the European Economic Community (ECC) started its Global Mediterranean Policy (GMP), under which cooperation was limited to economic and financial aid in the form of bilateral financial protocols. In the 1980s, the European Union members devised a Renovated Mediterranean Policy (RMP), continuing with the policy of development assistance and increasing the aid package associated with the fourth generation of financial protocols. It is worth mentioning that the RMP started to emphasize the importance of human rights, with a new provision enabling the European Parliament to freeze the budget of a financial protocol when faced with serious human rights violations.² Then, the Lisbon summit of 26–27 June 1992 approved the proposals for a Euro–Maghreb Partnership, shifting the emphasis from development co-operation to partnership. In comparison to the RMP, the Euro–Maghreb Partnership’s political dialogue became more explicit, with more reference made to democracy and respect for human rights,³ even if it was limited to a “regular exchange of information and greater mutual consultation on political and security matters”.

1.2. The Euro-Mediterranean Partnership (EMP)

The Euro-Mediterranean Partnership (EMP) inaugurated at the Barcelona conference of 27-28 November 1995 may be seen as the evolution of the Euro–Maghreb Partnership. Indeed, the Barcelona declaration reiterates with more emphasis the tone of the political dialogue initiated with the Euro–Maghreb Partnership. In the Barcelona Declaration, the Euro-Mediterranean partners establish three main objectives of the Partnership: (1) the definition of a common area of peace and stability through the reinforcement of political and security dialogue (Political and Security Chapter); (2) the construction of a zone of shared prosperity through an economic and financial partnership and the gradual establishment of a free-trade area (Economic and Financial Chapter); and (3) the rapprochement between peoples through a social, cultural and human partnership aimed at encouraging understanding between cultures and exchanges between civil societies (Social, Cultural and Human Chapter). The Euro-Mediterranean Partnership comprises the bilateral and regional dimensions. The most important bilateral activity is the negotiation of Euro-Mediterranean Association Agreements (EMAAs). The regional dimension refers to regional co-operation which deals with problems common to different Mediterranean Partners.

The preamble of the Barcelona Declaration states, *inter alia*, that “... *the general objective of turning the Mediterranean basin into an area of dialogue, exchange and cooperation guaranteeing peace, stability and prosperity requires a strengthening of democracy and respect for human rights, sustainable and balanced economic and social development, measures to combat poverty and promotion of greater understanding between cultures ...*”. However, the fullest reference to compliance with democracy, the rule of law and human rights is in the political and security dimension. Here the parties undertake to “*act in accordance with the United Nations Charter and the Universal Declaration of Human Rights, as well as other obligations under international law, in particular those arising out of regional and international instruments to which they are party: develop the rule of law and democracy in their political systems, while*

² See Said Haddadi, “Two Cheers for Whom? The European Union and Democratization in Morocco”, *Democratization*, Vol. 9, No. 1, 2002, p. 152.

³ This partnership put a premium on a common commitment to: (i) respect for international law, the principles of the UN Charter and the Resolutions of the UN Security Council; (ii) respect for human rights and fundamental freedoms in civil, political, economic, social and cultural matters and for democratic values exemplified by free and regular elections; (iii) the establishment of democratic institutional systems guaranteeing pluralism, effective participation by citizens in the lives of their states and respect for the rights of minorities; and (iv) tolerance and coexistence between cultures and religions.

recognizing in this framework the right of each of them to choose and freely develop its own political, socio-cultural, economic and judicial system; respect human rights and fundamental freedoms and guarantee the effective legitimate exercise of such rights and freedoms, including freedom of expression, freedom of association for peaceful purposes and freedom of thought, conscience and religion, both individually and together with other members of the same group, without any discrimination on grounds of race, nationality, language, religion or sex?"

Even if the Barcelona Declaration is not a legally binding document, it may be used to interpret the human rights clauses in the association agreements. Indeed, in conformity with the European Council decision of May 1995,⁴ a "human rights" or "conditionality" clause has been included in all Euro-Mediterranean Association Agreements signed with the Mediterranean partner countries. In addition, Article 3 of the MEDA⁵ Regulation, governing the Euro Mediterranean Partnership, has added a suspension clause to EU cooperation with Mediterranean partner countries.⁶ This article stipulates that "*this Regulation is based on respect for democratic principles and the rule of law and also for human rights and fundamental freedoms, which constitute an essential element thereof, the violation of which element will justify the adoption of appropriate measures*".

The conditionality clause entitles either party to the agreement to take appropriate measures, including suspending the agreement, in the event that the other party fails to comply with specified human rights norms. This clause has been designed to provide a legal basis for the application of sanctions against a country that violates human rights and democratic principles. It was intended to avoid situations in which the European Community might find itself unable to suspend agreements with countries responsible for human rights atrocities.⁷ Although reference to the clause has been raised on a number of occasions since the Barcelona Declaration was adopted, coercive measures have not, to date, been used to sanction abusive behaviours.⁸ Thus, the Barcelona framework seems to be less severe than the previous Euro-Mediterranean regime (RMP), which allowed the European parliament to block aid on several occasions of violation of human rights. Bartels observes that the EU has been less reluctant to take action under the human rights clause in the Cotonou Agreement with the African, Caribbean and Pacific countries, than with its Mediterranean neighbours. It seems that in the framework of the Euro-Mediterranean Agreements, the human rights clause is evolved, being now invoked as the basis for more positive approaches to human rights issues, including political dialogue, monitoring and funding [Bartels, 2004: 369].

It is worth mentioning also that to sustain the objectives of promoting democratization, the rule of law and the protection of human rights in the framework of the Barcelona process, the EU has developed, within the framework of the European Initiative for Democracy and Human Rights of 1994,⁹ the MEDA Democracy Programme (MDP). This programme grants financial support to civil society members and public bodies that engage in the promotion of democracy and democratic institutions. However, as it will be shown in the case of Morocco, the MDP funding has been minuscule.¹⁰

⁴ This decision sets out the modalities and conditions of cooperation with third countries, injecting a clause on respect for human rights and democracy as a major foundation and condition of the EU bilateral trade and co-operation agreements.

⁵ The signing of the Barcelona Declaration took place with the knowledge that funds would be made available through the MEDA I programme (1996–99) to support the implementation of the objectives set for the EMP.

⁶ EU Council (1996): "Council Regulation (EC) No 1488/96 of 23 July 1996 on financial and technical measures to accompany (MEDA) the reform of economic and social structures in the framework of the Euro-Mediterranean partnership", [1996] OJ L 189/1.

⁷ See E. Fierro (2003): *The EU's Approach to Human Rights Conditionality in Practice*, The Hague: Kluwer.

⁸ Sanctions have to be decided by the European Council at a qualified majority, upon a proposal made by the Commission. Such a process has never been completed. The most famous case has concerned the possibility of taking sanctions against the state of Israel to condemn its policy with regard to the Palestinian population in the Occupied Territories in Spring 2002, but no sanction was decided.

⁹ In 2000 the work of the MDP has been transferred to the EuropeAid and Cooperation Office (EACO).

¹⁰ See Said Haddadi, "Two Cheers for Whom? The European Union and Democratization in Morocco", *Democratization*, Vol. 9, No. 1, 2002, pp. 149-169.

All this means that, even if the Barcelona process, at both bilateral and multilateral level, attaches great importance to progress on democracy and human rights, in practice the EU has not shown any determination to see that such undertakings are respected. For example, also Youngs states that the potential of the EMP as regards democracy promotion “was manifestly far from being realized” [Youngs, 2002: 59]. Gillespie and Whitehead explains that EU policy towards the Mediterranean region tends to lead to the accommodation of authoritarian regimes rather than efforts to undermine them, as it is primarily driven by security motives [Gillespie and Whitehead 2002: 198]. In his negative evaluation of the EU approach to democracy and human rights in the framework of the EMP, Ortega has warned the EU that “laxness in this respect may be a policy that gives results in the short term but will in the longer term be a recipe for instability or even terrorism in some cases” [Ortega, 2003: 92]. More recently Youngs has called the Barcelona approach to democracy promotion “democracy by osmosis”. In particular he states that “... the Barcelona Process’s approach to supporting political reform in the Arab world has been based primarily on the notion of democratic dynamics flowing from Europe to the southern Mediterranean through demonstration and example. Policies aimed directly at identifiable democratic progress have been weaker than those aimed more generally at facilitating the osmotic drift of societal and political values. The development of a wide range of social, cultural and economic cooperation has been deemed to provide for the self-enlightenment of Arab actors exposed to European norms” [Youngs, 2005: 2].

1.2. The European Neighbourhood Policy (ENP)

In 2003 the need to make progress on democracy and human rights with Mediterranean countries has been emphasised both in the Commission Communication on human rights and democracy,¹¹ and in the framework of the new European Neighbourhood Policy (ENP). This new policy has been initiated in March 2003 by the Commission¹² to provide a framework for new relationships with the countries of Eastern Europe (Ukraine and Moldova) and Southern Mediterranean (Morocco, Algeria, Tunisia, Egypt, Israel, Jordan, Palestinian Authority, Lebanon and Syria),¹³ that do not have the perspective of membership of the European Union. On 12th May 2004 the Commission presents a ENP Strategy Paper¹⁴ and seven Country Reports.¹⁵ According to the Strategy paper, the European Neighbourhood Policy has two main objectives: strengthening stability, security and well-being for European Union member states and neighbouring countries, and preventing the emergence of new dividing lines between the enlarged Union and its neighbours.¹⁶ These goals are in accordance with those of the European Security Strategy endorsed by the European Council of December 2003.¹⁷ However, ENP partners won’t be offered the incentive of membership to the European Union. In the short term, neighbour countries will have reinforced relations, through the possibility to participate in various EU activities, and through greater political, security, economic and cultural co-operation. In particular, eleven incentives have been indicated (for a complete list

¹¹ See Commission Communication “Reinvigorating EU actions on human rights and democratisation with Mediterranean partners”, COM(2003) 294, 21 May 2003.

¹² European Commission Communication on “Wider Europe Neighbourhood: A new framework for relations with our Eastern and Southern Neighbours” (COM(2003) 104 final, 11.03.2003).

¹³ Southern Caucasus countries (Armenia, Azerbaijan and Georgia) have been added in the scope of this policy from the Brussels European Council of 17-18 June 2004.

¹⁴ European Commission, Communication from the Commission “European Neighbourhood Policy” Strategy Paper, COM(2004) 373 final, 12 May 2004. This document sets out principles and scope, the participation of other neighbouring countries, Action Plans, regional cooperation, and supporting the ENP.

¹⁵ For Moldova, Ukraine Israel, Jordan, Morocco, Palestinian Authority and Tunisia (SEC(2004) 564, 565, 566, 567, 568, 569, 570). These country reports cover progress in implementation of bilateral agreements and related reforms, and reflect the political, economic, social and institutional situation of the countries.

¹⁶ COM(2004) 373 final, p. 3.

¹⁷ Contribute to stability and good governance in our immediate neighbourhood and promote a ring of well governed countries with whom we can enjoy close and cooperative relations.

see table number 1 in the Appendix). Then, in the long term, the Union will offer neighbour countries an increasingly close relationship, going beyond cooperation to involve a significant measure of economic and political integration.¹⁸ In change of the above mentioned offer, the European Union asks neighbours their commitment to common values, principally within the fields of democracy, the rule of law, the respect for human rights, including minority rights, the promotion of good neighbourly relations, and the principles of market economy and sustainable development. Commitments will also be sought to certain essential aspects of the EU's external action, in particular, the fight against terrorism and the proliferation of weapons of mass destruction, as well as abidance by international law and efforts to achieve conflict resolution. The Commission has made explicit the conditionality attached to shared values: increased political, security, economic and cultural cooperation is offered in return for political and economic reform.¹⁹ Some academic literature has noted that the European Neighbourhood Policy seems to be based on the principle of positive conditionality, which means additional benefits for good performance. Thus, if implemented, this principle could encourage reform-willing states to further pursue their reform agenda, and conversely reform reluctant states would at least not benefit from increased aid or trade concessions [Emerson, 2004: 15; Schmid, 2004: 416; Del Sarto and Schumacher, 2005: 22].

The main instrument to realize the ENP are Action Plans, while in the long term European Neighbourhood Agreements should be signed. Guiding principles concerning the drafting of Action Plans are joint ownership and differentiation. The first one means that priorities will be defined together with partner countries, and will thus vary from country to country; while differentiation refers to the fact that priorities will reflect the existing state of relations with each country and its needs and capacities. Action Plans cover two broad areas: first, commitments to specific actions, which confirm or reinforce adherence to shared values and to certain objectives in the area of foreign and security policy; secondly, commitments to actions which will bring partner countries closer to the EU in a number of priority fields. In particular, these documents incorporate a set of priorities in the following key areas for specific action: political dialogue and reform; trade and measures preparing partners for gradually obtaining a stake in the EU's Internal Market; justice and home affairs; energy, transport, information society, environment and research and innovation; and social policy and people-to-people contacts. These priorities for action should constitute benchmarks, which should be monitored in the bodies established by the Partnership and Cooperation Agreements or Association Agreements, and the Commission should report periodically on progress accomplished. A first set of draft Action Plans agreed with the first signatory partner countries²⁰ has been transmitted, in December 2004, by the Commission to the Council. According to the Commission the priorities of these Action Plans have been identified on the basis of the 2004 ENP Commission staff Country Reports and of consultations with the partners.

Meanwhile, in September 2004, the Commission has proposed a regulation laying down the general provisions establishing a new financial instrument, the European Neighbourhood and Partnership Instrument (ENPI),²¹ which will replace existing geographical and thematic programmes.²² Article 1(3) of

¹⁸ Pp. 3 and 5.

¹⁹ P.13.

²⁰ The first Action Plans proposed have been developed with partners with which the EU has Association or Partnership and Cooperation Agreements in force: Jordan, Moldova, Morocco, Tunisia, Ukraine, Israel and the Palestinian Authority.

²¹ European Commission Proposal for a Regulation of the European Parliament and of the Council laying down general provisions establishing a European Neighbourhood and Partnership Instrument, Brussels, 29.9.2004, COM(2004) 628 final.

²² In particular the following regulations will be repealed: Regulation (EEC) No 1762/92 of 29 June 1992 (MEDA) on the implementation of the Protocols on financial and technical cooperation concluded by the Community with Mediterranean non-member countries, Regulation (EC) No 1488/96 of 23 July 1996 (MEDA) on financial and technical measures to accompany the reform of economic and social structures in the framework of the Euro-Mediterranean partnership, Council Regulation (EC, Euratom) 99/2000 of 29 December 1999 (TACIS) concerning the provision of assistance to the partner States in Eastern Europe and Central Asia, and Council Regulation (EC) No 1734/94 on financial and technical cooperation with the West Bank and the Gaza Strip.

this regulation states that the Union seeks to promote commitment to the values of respect for human dignity, liberty, democracy, equality, the rule of law and respect for human rights in partner countries through dialogue and cooperation. Then, according to article 2 the Community assistance will be used also to support measure which pursue the objective of “*promoting and protecting human rights and fundamental freedoms and supporting the democratisation process, including through electoral observation and assistance*”.²³ Finally, article 7(5) contains a suspension clause, as it states that “[i]n the event of crises or threats to democracy, the rule of law, human rights or fundamental freedoms, an emergency procedure may be used to conduct an ad hoc review of strategy papers”. Thus, the positive conditionality does not substitute but complement the principle of negative conditionality enshrined in this suspension clause.

It is clear that in devising this new policy, the Commission has drawn on the experience gained in supporting the process of political transition in the new member states and in candidate countries. Indeed, while for candidate countries political priorities are listed in the Accession Partnerships, in the framework of the ENP, political priorities are listed in Action Plans. Both Action Plans and Accession Partnerships should respect the principles of joint ownership and differentiation. Then, the Commission will report yearly on progress accomplished by the ENP partners and will review the content of the Action Plans, as far as every year the Commission reports on progress accomplished by candidates and may update the priorities contained in the Accession Partnerships. As in the case of the Barcelona process, the main difference with the strategy of democracy promotion in the framework of pre-accession, deals with incentives, as both – the Barcelona process and the ENP – do not foresee the prospect of full EU membership. So, the emerging question is whether the ENP incentives will make neighbours accept this political conditionality [Baracani, 2004].

2. The case of Morocco

2.1. Four phases of political liberalization

Moroccan political liberalization, after its independence in 1956, can be described into four different phases. The first period (1962-1975) was characterized by the adoption of Morocco’s first constitutions, and the struggle between the monarchy and the two major parties that had emerged from the independence movement: the conservative-nationalist Istiqlal and the left-leaning National Union of Popular Forces (UNFP). According to the 1962 Constitution, the National Assembly, composed of a directly elected House of Representatives and an indirectly elected House of Councilors, had the regulatory powers, however these powers were delegated at the king’s pleasure. Furthermore, the king appointed and dismissed the prime minister and the cabinet, could dissolve the parliament, and assume residual powers under emergency laws. The new constitution of 1970 formalized the weakness of the legislature and executive government, establishing emergency legislation. Then, even if the new constitution of 1972 enhanced the powers of the legislative and the executive government, in article 19 it established that the national sovereignty is in the monarchy, claiming divine legitimacy. Following Morocco’s first legislative elections of 1963, some legislators from Istiqlal and UNFP started to question the king’s prerogatives, and asked the king to “reign but not rule”, however, in the end, the king managed to strengthen his control.

During the second phase (1975-1992) Hassan II forged national consensus mainly through the Western Sahara campaign,²⁴ which increased the king’s legitimacy as defender of the country’s territorial integrity.

²³ Article 2(2), point (c), p. 15.

²⁴ In November 1975, king Hassan II ordered the massive, non-violent “Green March” to assert his country’s claim to the formerly Moroccan provinces of the Western Sahara, annexed by Spain in the late nineteenth and early twentieth centuries. The

Then, once political unanimity around the monarchy was secured, it was possible for the king to make some conciliatory gestures. For example in May 1990, Hassan II established the Royal Consultative Council on Human Rights (CCDH) to resolve cases of forcible disappearances and compensate victims of human rights violations.²⁵ Then, in June 1991, 300 political prisoners were released.

The third period (1992-1999) starts with the constitutional revision of 1992 and ends with the death of Hassan II, on 23 July 1999. The 1992 and later 1996 constitutional revisions expanded the powers of the two-chamber parliament²⁶ and made Moroccan law conform to international human rights conventions.²⁷ Nevertheless, the 1993 elections were fraudulent and resulted in the victory of the centre-right. The opposition demanded the King to cancel the elections, but Hassan II refused and appointed a technocratic government headed by Mohamed Karim Lamrani. In the following months, the king created a cabinet-level Ministry of Human Rights in the newly formed government, invited Amnesty International to visit the country, promoted the efforts of the CCDH, and at the World conference on Human Rights Morocco signed the major conventions, which were subsequently ratified. In 1996 the code of penal procedures was revised to state officially that torture is forbidden, to establish legal provisions for arrest and due process, and to set limits on preventive detention. Political alternance was reached in 1998, when the socialist opposition won the elections and formed a coalition government headed by its leader Abderrahmane Youssoufi. It was a symbolic event, as he had previously been imprisoned by the regime and had spent periods of self-imposed exile in protest at the lack of democracy in the kingdom. However, according to Haddadi for example, it was not a real transfer of power from government to opposition, as *real* political power lies outside the realm of political party competition, in the monarch [Haddadi, 2002: 159].²⁸

It seems possible to affirm that a new phase has started with the assumption to the throne of Mohammed VI on 23 July 1999.²⁹ Since the beginning, he showed a will to change the situation of the country.³⁰ However, at the same time, Mohammed VI made clear that he does not intend to follow any European

movement called The Polisario was formed by the help of Algeria and Libya to oppose Moroccan rule and to fight for self determination of the Sahrawi. Now, it is taking place a process of identification for referendum, under the aegis of the United Nations.

²⁵ However, even if the palace provided monetary compensation to victims of human rights violation, it did not allow judiciary procedure or public hearings that could directly link the monarchy to human rights violations. See Susan Slymovic, "A Truth Commission for Morocco", *Middle East Report* (Spring 2001), 12. On recently victims of disappearances and arbitrary detention are presenting testimonies before the Moroccan public in a series of hearings broadcast on national television and radio. These hearings, which do not permit the victims to identify individuals responsible for the violations, are organized by the Equity and Reconciliation Commission established by King Muhammad VI in January 2004 to investigate cases of disappearances and detentions occurred between 1956 and 1999 (*Arab Reform Bulletin*, February 2005, Vol. 3. Issue 1, p. 14).

²⁶ The Chamber of Representatives, or lower house, which is elected through universal suffrage, and the Chamber of Counselors, or upper house, whose members are elected by various regional, local and professional councils (members of whom are elected directly). Following these revisions, the parliament can approve the government, vote on bills and the budget, review the government's general policies, investigate the government's actions through commissions of inquiry and dissolve a government through a motion of censure.

²⁷ Various constitutional articles guarantee "the rights and liberties of citizens", "political equality between men and women", "freedom of worship for all" and "freedom of opinion, expression, association, and public gathering".

²⁸ This author explains that, though the king does not interfere directly in politics, his actions are carried out indirectly via the *makhzen*, which is a network of patronage, grants, arbitration and distribution of rewards. That is why the opposition government and the integrated Islamists are criticized for being "makhzenized". The *makhzen* also extends to the economic field.

²⁹ See Michael Willis, After Hassan : "A New Monarch in Morocco", *Mediterranean Politics*, Vol. 4, No. 3 (1999), pp. 115-28.

³⁰ An example is his speech to Moroccan regional and local administrative bodies at Casablanca on 12 October 1999, in which he introduced a new concept of authority based also on the respect for individual liberties and the rule of law : « *Nous voudrions à cette occasion expliciter un nouveau concept de l'autorité et de ce qui s'y rapporte, un concept fondé sur la protection des services publics, des affaires locales, des libertés individuelles et collectives, sur la préservation de la sécurité et de la stabilité, la gestion du fait local et le maintien de la paix sociale. Cette responsabilité ne saurait être assumée à l'intérieur des bureaux administratifs qui doivent, au demeurant, rester ouverts aux citoyens, mais exige un contact direct avec eux et un traitement sur le terrain de leurs problèmes, en les associant à la recherche des solutions appropriées* ».

models of democratization and that he favours a “strong, democratic executive monarchy”.³¹ For the media, the political parties and the population, an important sign of change was the dismissal of Basri as minister of the interior on 9 November 1999.³² Then, in July 2002 the king expanded the mandate and autonomy of the Royal Consultative Council on Human Rights and in October of the same year Mohammed VI established the publicly funded Royal Institute for Amazigh Culture³³ (IRCAM) to promote this culture in schools, the media, and local government. In the meanwhile, the legislative elections on September 27, 2002, were considered the most transparent in Morocco since 1963, even if the rate of participation was very low: only 51 percent of registered voters and in urban areas only 30 percent. These elections brought to power a coalition of the USFP and the Istiqlal, however the king, decided to appoint as prime minister Driss Jettou, a technocrat with no party affiliation, rather than one from USFP or Istiqlal. Moreover, and even if it decided not to become part of the governing coalition,³⁴ the Justice and Development Party (JDP)³⁵ was the real winner. Indeed, it was the only Islamist party allowed to participate, it tripled its presence, and became the largest party in the Parliament, while presenting candidates in only 56 of the 91 legislative districts.³⁶ This limited participation seems to have been negotiated with the ministry of the interior to avoid that Islamists could establish an Islamic state after winning elections, as in Algeria. It seems also that the leadership of the JDP acquiesced to a royal plan to reduce the number of seats officially won by the party, as its victory could have had destabilizing effect on Morocco [Willis, 2004: 69].³⁷ On May 16, 2003, five synchronized suicide bombings at Casablanca killed forty-five people. Ten days after the terrorist attacks, the parliament passed a new antiterrorist law. According to this law police and security forces have the right to hold suspects without access to a lawyer, to intercept telephone calls, Internet communications, and mail, and to search domiciles and businesses without a warrant. Then, the bill defines terrorism in very broad term, and extends the time limit for incommunicado detention from 3 to 12 days, a provision that makes mistreatment and torture of detainees most likely to occur. Latest political developments deal with the abolition, in June 2004 of the Ministry of Human Rights, created ten years ago by his father, folding human rights responsibilities into the Ministry of Justice. Then, in January 2005 a new code of family law has been approved by the Parliament to improve the status of women and children. In commenting the new political era started with Mohammed VI, Gillespie believes that, notwithstanding some expansion of freedom of expression and public debate, there has been no clear sign of regime change [Gillespie, 2005: 1].

In general, there are two main interpretations of Moroccan political liberalization. While some scholars believe that Morocco is making unprecedented political moves towards democracy, even if under the shadow of the monarch,³⁸ most of them think that involvement of the king in these moves is disruptive of any democratic development. Cavatorta affirms that “[i]n reality, political liberalization has been used to allow the crown to regain a firm hold on power and rebuild its legitimacy” [Cavatorta, 2001: 189].

³¹ Interview in *Le Figaro*, 4 September 2001.

³² The relationship between citizens and the state is characterized by fear of the arbitrariness of authority, which is mainly embodied in the Ministry of the Interior.

³³ Non-Arab Amazigh populations are also known as Berbers, they are the original inhabitants of North Africa and make up around 60 percent of Morocco’s 31 million people.

³⁴ Indeed, at a meeting of its National Council on 20 October 2002, the majority of the JDP’s leaders concluded that the benefits of being the strongest opposition party outweighed any gains to be made by becoming part of a governing coalition.

³⁵ The Islamist organization of *At-Tawhid wa al-Islah* was able to enter the legal political scene by being permitted in 1996 to join the existing political party, the *Mouvement Populaire Démocratique et Constitutionnel* (MPDC). In 1998 the MPDC, dominated by At-Tawhid members, changed its name to the Justice and Development Party (JDP), see M.J. Willis “Between Alternance and the Makhzen: At-Tawhid wa Al-Islah’s Entry into Moroccan Politics”, *Journal of North African Studies*, 1999, 4/3, pp. 45-80

³⁶ See Michael J. Willis, “Morocco’s Islamists and the Legislative Elections of 2002: The Strange Case of the Party That Did Not Want to Win”, *Mediterranean Politics*, Vol.9, No.1 (Spring 2004), pp.53–81.

³⁷ Indeed, one of the tacit conditions for the entry into the political scene of the JDP had been respect for the stability of the existing Moroccan system.

³⁸ For example, defenders of Morocco’s liberalization strategy point to the country’s success in checking Islamist forces.

According to Gillespie and Whitehead, Morocco is the only North African country whose authorities have come to make positive statements on democracy and human rights and it has gone furthest down the road of expanding political pluralism, however power has remained lodged largely in the monarchy [Gillespie and Whitehead, 2002: 194]. Haddadi also explains that the democratic openings in Morocco should be read in the light of the perennial struggle for control over the political system between the monarch and the opposition [Haddadi, 2002: 158].³⁹ In a similar way, according to Maghraoui most of the reforms are initiated and guided by a governing monarchy bent on preserving its political powers and economic interests [Maghraoui, 2004], and he asks Moroccan regime to go beyond this strategy of political control through liberal reform and to embark decisively on the path of genuine democracy [Maghraoui, 2003, p. 74].

2.2. Next democratic challenges

Notwithstanding its long political liberalization, and according to the international monitors and the academic literature,⁴⁰ Morocco has still to address different challenges, if it wants to go on in the democratization process (see table number 2 in the Appendix).

First of all, Morocco should guarantee the respect for the principle of the separation of powers. Indeed, even if the Moroccan constitution posits an elected bicameral parliament independent of the executive and judiciary branches, in practice authority rests with the king, who is head of state, religious leader and head of the military.⁴¹ Consequently the parliament's powers are limited,⁴² and even if since the 1960s Morocco has held regular, relatively open and competitive local and legislative elections, they have been criticised for being a mechanism to co-opt the elite through a process of reward and exclusion, rather than a means of political representation. Then, because of their resignation to play the game of patronage politics with the interior ministry, the main problem of Moroccan political parties is their inability to fulfil the function of political representation. In the same way, even if the constitution stipulates the independence, universal accessibility, and legal accountability of the judiciary, in practice the courts are subject to governmental pressure, and in civil and criminal cases, judicial discretion is the source of abuse and corruption. Most judicial irregularities in non political cases take place in Islamic courts, which handle family matters, and in the communal and district courts, and the courts of first instance where only minor or uncontested infractions are held. These courts are characterized by corruption and inefficiency mainly because of legal ambiguities or vacuity, resource constraints and non reliable investigations. In politically charged cases such as terrorism, corruption of public servants, and offences against the monarchy, Islam, or territorial

³⁹ And that the opposition should be defined in relation to any refusal or questioning of the foundations of the national motto "God, the Country, the King" and the religious status of the king as *Amir Al Mouminin* (Commander of the Faithful), which limits the legitimacy of the Islamists and restricts their politico-religious claims.

⁴⁰ See, in particular, Abdeslam Maghraoui, *Countries at the Crossroad*, Morocco Report, Freedom House, 2004.

⁴¹ Then, according to article 60 of the constitution the king appoints and can dismiss the prime minister and the cabinet, making members of the government responsible to him first and only secondarily to the parliament. Furthermore, the king can dissolve the parliament, legislate during recess and before new elections are held, declare a state of emergency without explanation, and revise the constitution by directly submitting proposed amendments to national referendum. It is also a crime to criticize the king's policies and decision, and members of parliament can lose their immunity for expressing opinions that may be considered disrespectful to the king. The king appoints all high-level officials such as governors, judges, directors of public enterprises, and half of the members of the High Constitutional Council, including its president. Finally the king appoints the heads of the ministries of sovereignty: justice, defence, foreign affairs, religious affairs, secretary general of the government, and the interior ministry.

⁴² Even if the parliament can approve the government, vote on bills and the budget, review the government's general policies, investigate the government's actions through commissions of inquiry and dissolve a government through a motion of censure, the 1996 constitutional amendment has given representatives in the upper house unequal legislative powers to check the lower house and to censure the government. Then, articles 45, 46, 55 and 58 of the constitution allows non-elected entities to enact laws or veto inconvenient texts emanating from the parliament. Moreover, a law passed by the parliament becomes effective only after it has been promulgated by royal decree.

integrity, judges of higher courts may co-operate with the executive. In particular, the minister of justice—a political office—commands not only wide administrative authority to run the justice department, but also extensive judiciary powers, which allow him to interfere in the judicial process.

Different international monitors stress also problems dealing with the protection of human rights, fundamental freedoms, and the discrimination against women and the Berbers.

Although the Moroccan constitution proclaims adherence to international principles regarding human rights protection, it does not stipulate that Moroccan citizens are entitled to inalienable human rights. Indeed, according to article 19 of the constitution, it is the king who protects “the rights and liberties of the citizens, social groups and organizations”, thus, making the enforcement of these rights depend on the king. Another matter is the new terrorist law, adopted after the Casablanca terrorist attacks which calls into question Morocco’s commitment to international human rights conventions.⁴³ The use of torture and mistreatment is also widespread in Morocco, in particular towards detained persons,⁴⁴ and the Sahrawi militants in Western Sahara territory.⁴⁵ Then, another problem is represented by the trafficking of human beings.⁴⁶

Even if the Moroccan constitution provides for freedom of expression, assembly, association and religion, some problems have been reported as regards the real guarantee of these freedoms. Hundreds of publications circulate freely in the country, access to international media, newspapers, television and Internet is unrestricted, and the government tolerates critical editorials and articles. However, journalists observe a general self-censorship on sensitive political issues and freedom of expression can be suspended at short notice. Moreover, the antiterrorist law and the press code permit prison sentences for journalists and publishers whose publications are considered offensive to Islam or the monarchy or regarded as a danger to state security. Meetings and marches take place peacefully without police intervention. However, the law permits the Ministry of Interior to suppress peaceful demonstrations and mass gatherings and throughout 2004 the Government dispersed some peaceful demonstrations led by leftist movement, Islamist activists or unemployed persons. Then, even if the Constitution provides for freedom of associations, a decree states that persons who want to create an organization must obtain the approval of the Ministry of Interior before holding meetings. The Constitution establishes that Islam is the official state religion, but it provides also for freedom of religion. However, the protection of religious freedom is not always consistent and the government imposes certain restrictions. For example, Jewish and Christian communities can openly practice their faith, but proselytizing is not tolerated. Then, the Government continues to forbid the importation of Bibles in Arabic.

As regards discrimination against women, even if the constitution declares political equality between men and women, there is no reference in Moroccan law to equality in civil matters or with respect to education, work and health.⁴⁷ According to the personal status code (Mudawana) – as of September 2003 – women are legal minors, they are denied sovereignty to settle a marriage contract, and their right to divorce is

⁴³ See Abdelsam Maghraoui, “Morocco’s Reforms after the Casablanca Bombing”, *The Arab Reform Bulletin*, vol. 1, no. 2, July 2003 (The Carnegie Endowment for International Peace).

⁴⁴ See for example the International Federation of Human Rights investigation of July 2003, or the U.S. Department of State, Morocco Report on Human Rights Practices, 2004.

⁴⁵ See Morocco/Western Sahara Briefing to the Committee Against Torture (London: Amnesty International, November 2003).

⁴⁶ Morocco is a transit centre for international human trafficking and Moroccan law does not specifically prohibit trafficking in persons. In particular, thousands of youths pay a lot of money for fraudulent work contracts in Europe and hundreds die each year in smuggling attempts. Then Moroccan young women are trafficked to the Persian Gulf states for prostitution.

⁴⁷ See the United Nations Development Program Report and the United Nations Committee on the Elimination of Discrimination against Women.

restricted.⁴⁸ Then, the Statutes of Public Services discriminate against women in matters of family benefits and civil allowances and exclude women from public responsibility in sensitive sectors such as defence, security, intelligence, and telecommunications. Furthermore, the penal code does not adequately protect women against domestic rape, violence and murder, and provisions to protect women in police custody and prisons are routinely ignored.

Concerning discrimination against the Berbers, since independence in 1956, the three Berber dialects (Tarefit, Tamazicht, and Tachlhit) have been marginalized through forced Arabization policies, as the sole official language is modern standard Arabic, which is different from the Moroccan Arabic dialect. A 1997 law outlaws birth registration of children with traditional Berber names. The government also represses the public display of Tifinagh – a modern alphabet of ancient Berber script – monitors Berbers' associations and limits their publications, and bans the meetings and conferences of the most militant groups.

Finally, corruption in Morocco is reported to be pervasive and systematic, it is an integral part of the political, economic, judiciary, and administrative systems that has been normalized and institutionalized during decades of authoritarian rule under Hassan II. Although the government claims an improved commitment to transparency in public affairs and new anticorruption laws have been enacted, the problem of major corruption remains untouched as it has deep political roots and involves powerful entrenched interests such as the armed forces, big business, and the monarchy.

2.3. European Union – Moroccan relations

Relations between Morocco and the European Community (EC) date back to the late 1960s. A bilateral association agreement was signed in July 1969 for a period of five years, to be superseded in 1976 by a cooperation agreement within the framework of the EEC Global Mediterranean Policy (GMP) initiated in 1972. Encouraged by the EC Mediterranean enlargement to include Greece (1981) and later Spain and Portugal (1986), in July 1987 Hassan II decided to submit a formal application to join the EEC. Haddadi notes that the Hassan II's letter to the Danish president of the Council of Ministers requesting EEC membership contained three arguments: Morocco's commitment to develop a liberal economy; its close economic ties with the European Community; and the *democratization* of domestic political life. The author stresses that the discourse on democratization was presented only in terms of the development and consolidation of a multiparty system and the circulation of a local and international press, not referring to issues of human rights. However, this application was rejected on the grounds that Morocco was not a European country [Haddadi, 2002: 151].⁴⁹ In January 1992 Morocco was affected by the content of the new provision, drafted in the framework of the Renovated Mediterranean Policy (RMP), and enabling the European Parliament to freeze the budget of a financial protocol, when faced with serious human rights violations. Indeed, the European Parliament decided to freeze Morocco's fourth financial protocol on the grounds of human rights abuses (making reference to the United Nations Resolution 660 on the Western Sahara)⁵⁰ and the shocking conditions of political prisoners. This decision was followed by the strong reaction of both Morocco and certain EU governments, in particular Spain. According to Haddadi this event shows that applying "negative" conditionality can have an adverse effect on relations with third partners, as well as on EU governments that have special ties with them [Haddadi, 2002: 161].

⁴⁸ By contrast the husband has the right to repudiate the wife, and can marry up to four women simultaneously with the sole conditions that he inform the first wife and pledge equal treatment.

⁴⁹ On the basis of article 237 of the Treaty of Rome.

⁵⁰ See Khadija Mohsen-Finan, "The Western Sahara Dispute Under UN Pressure", *Mediterranean Politics*, Vol. 7, No. 2 (Summer 2002), pp. 1-13.

Since November 1995 Moroccan relations with Europe have been embedded in the Euro-Mediterranean Partnership. Within this framework, in February 1996 Morocco and the EU signed a bilateral association agreement as an endorsement of the Barcelona Declaration, thus expressing their will to work together towards achieving its economic, political and socio-cultural objectives. The Euro Mediterranean Association Agreement (EMAA) with Morocco entered into force on 1 March 2000, making relations between the EU and Morocco become more structured. Even if it has never been applied, the EMMA with Morocco contains – as all other EMAAs – the conditionality clause which reads as follow: “*Respect for the democratic principles and fundamental human rights established by the Universal Declaration of Human Rights shall inspire the domestic and external policies of the Community and of Morocco and shall constitute an essential element of this Agreement*”.⁵¹ Then, within the MEDA Democracy Program (MDP) framework, Moroccan governmental and non-governmental bodies can apply to the EU to fund projects intended to promote human rights and democratic principles,⁵² and Morocco has emerged as one of the principal beneficiaries of MDP funds. However, excluding regional programmes, the MDP for Morocco represents only a minute amount, just 0,3 per cent of the total amount it received from the MEDA I programme for 1996–99 (for MEDA commitments for Morocco see table number 3 in the Appendix).⁵³ Evaluating the impact of the European Union on democratic reforms in Morocco, in the framework of the Barcelona process, Dillman affirms that while Europe has consistently promoted the goals of democratization since the early 1990s, its actual policies have been tenuous regarding political change in Morocco, and it is not clear whether the EU and individual member states want to promote democracy in Morocco, given their interest in stability and fear of Islam [Dillman, 2003: 175 and 193]. In a similar way, according to Haddadi the European Union approach to human rights and democracy in Morocco is still too cautious, worried about upsetting the government and persistent in its attitude of change within continuity [Haddadi, 2004: 87]. In the following paragraphs I am going to discuss whether, in the framework of the new Neighbourhood policy, this European approach to democracy promotion in Morocco has changed.

According to the Commission, Morocco has given the new European Neighbourhood Policy a “*very warm reception and has been very cooperative regarding its implementation*”.⁵⁴ In the ENP Report on Morocco, of 12 May 2004, the Commission staff describes and assesses the current situation as regards the development of the political institutions based on the values of democracy, the rule of law, human rights and fundamental freedoms. It is important to focus on the shortcomings underlined by the Commission staff in this report, to analyse whether and how they have been translated in political priorities in the Action Plan of December 2004.

In the part on “democracy and the rule of law” the Commission Staff reports six shortcomings (see table number 4 in the Appendix). First of all, it is observed that the principle of the separation of powers - enshrined in the 1962 constitution – is not respected in practice, as the sovereign retains a significant number of executive prerogatives and exerts a certain amount of legislative power. Then, it is noticed that Parliament powers are still limited, despite the new ones conferred on it by constitutional amendments of 1992 and 1996. Third, political parties are reported to be highly centralised, and institutionally weak. Fourth, the necessity to ensure the impartiality of judges and improve access to justice, even if some steps have been taken (i.e. in October 2003 a new code of criminal procedure has entered into force). Then, Morocco administrative capacity is defined as poor, despite a wage bill amounting to 12.5% of GDP and,

⁵¹ Article 2 of the EMMA with Morocco.

⁵² For instance, in the period 1996–2000, the EU financed 46 projects in Morocco: 32 centred directly on Morocco, while 14 others involved Morocco indirectly at a regional level.

⁵³ Some projects promoting human rights and democratic principles can also be funded from the MEDA programme. Said Haddadi (2001: 161) analysis all the projects financed by the EU in Morocco (MDP – direct and regional – and some MEDA projects) and makes a list in terms of volume of funding: at the top is the building of a pluralist civil (46%), followed by democratization and the rule of law (37%), and target groups (17%).

⁵⁴ Commission Staff ENP Working Paper on Morocco, SEC(2004 529), p. 5.

according to the Commission staff, it is due to the Moroccan centralised and hierarchical civil service in which the system of pay is based on seniority with no relation to skills. Finally, it is remarked that corruption is a serious problem and one of the main causes of the country's economic backwardness, in particular the Commission staff quotes "Transparency International", which ranks Morocco 70th out of 133 countries in its corruption perceptions index in 2003.

In the part on "human rights and fundamental freedoms" (see table number 6 in the Appendix) the Commission staff reports several shortcomings: the unequal implementation of human rights legislation, the lack of ratification of some international human rights protection instruments,⁵⁵ partial implementation of the October 2002 two new laws concerning the right of association and public assembly,⁵⁶ the legislative limits to the freedom of the press, the definition of torture in the criminal law which is not in conformity with that required by the United Nations Convention to which Morocco is party, discrimination against women, non-compliance with child labour laws, limits to the rights to form and join trade unions for certain categories of workers (agricultural labourers and magistrates), and not recognition of the Berber speaking community's cultural and linguistic rights.

Before analysing the political priorities listed in the agreed Action Plan of December 2004, which should have been drafted on the basis of this Commission staff report, it is important to notice the differences between this document and the international monitors' reports on the political situation in Morocco. In particular, the Commission staff does not report the fact that elections are a mechanism to co-opt elite, rather than a sincere means of political representation. Furthermore, the Commission staff reports the weakness of political parties, but it does not mention that they use to play the game of patronage politics with the interior ministry, rather than fulfil their function of political representation. Moreover, the Commission does not speak about the necessity to guarantee judiciary independence and legal accountability, preferring to write about the necessity to ensure impartiality and to improve access to justice. Finally and concerning corruption, the Commission staff does not report that it involves powerful entrenched interests such as the armed forces, big business, and the monarchy, preferring to talk of the government initiatives to fight corruption, even if these initiatives have still to be implemented. Differently from this part on "*democracy and rule of law*", the part on "*human rights and fundamental freedoms*" of the Commission report, complies much more with the international monitors' assessments, even if the tone of the Commission's requests is very soft, for example it asks the country to "*examine the possibility to withdraw the reservation to the international conventions on human rights*" or to "*take into consideration the possibility to sign the optional protocols to the international conventions on human rights*". Thus, as regards the evaluation of the political situation in Morocco, the Commission staff report has been much more moderate and soft in comparison with the international monitors.

In the Action Plan for Morocco, in the part on democracy an rule of law (see table number 5 in the Appendix), the Commission does not develop in priorities the absence of a real guarantee for the principle of separation of powers and the limited parliament powers.⁵⁷ It only translates into priorities the necessity to improve access to justice and administrative capacity, and to fight corruption. Concerning the human rights part, the Action Plan lists several priorities (see table number 7 in the Appendix) in order to comply with the international conventions on human rights protection, to guarantee the freedom of association

⁵⁵ The two Optional Protocols to the International Covenant on Civil and Political Rights (respectively on the right of individual communication and on abolition of death penalty); the Optional Protocol to the Convention against Torture; ILO Convention No. 87 on the freedom of association and protection of the right to organise; reserves to the Convention on the elimination of all forms of discrimination against women (CEDAW) for the articles concerning the status of women, divorce and nationality; optional protocol to CEDAW; International Criminal Court statute.

⁵⁶ And the limited impact of NGO associations' on major political decisions and their lack of funding and capacity.

⁵⁷ As regards the weakness of political parties, the only priority deals with the exchange of experiences and expertises in the framework of the evolution of the regulation on the political parties.

and expression, and to strengthen the protection for women, children and other social rights. However, it does not contain any priority to resolve the problem of the unequal implementation of human rights legislation.

Comparing these Action Plan priorities with the Commission staff report on Morocco and the international monitoring of democratic and human rights practices in Morocco, it seems that the Commission has decided to continue with its traditional policy towards this area, which is limited to achieving partial political reform rather than full political pluralism. This evaluation is based on the fact that the Commission has not translated into political priorities the necessity to respect the principle of the separation of powers, to increase parliament powers, to strengthen the role of political parties, to guarantee judicial independence and legal accountability, and to guarantee the equal implementation of human rights.

However, it is important to notice that the Action Plan priority, dealing with the necessity to reform the penal legislation in order to introduce a definition of torture, in line with the United Nations Convention Against Torture (UNCAT), has already been accomplished. Indeed, on December 28, 2004, the Moroccan cabinet has endorsed a bill that amends the existing criminal code to prohibit torture as defined by the UNCAT.⁵⁸ Notwithstanding this positive development, it is not possible on the basis of this analysis, to assess whether or not it was influenced by the European Union pressure.

CONCLUSION

In the first part of the paper I have described the main features of democracy promotion in the framework of the Euro-Mediterranean Partnership, together with its limits in fostering political change in the authoritarian regimes of the southern Mediterranean. It has been shown that, even if the Barcelona process formally attaches great importance to progress on democracy and human rights, in practice the EU has never used the conditionality clause to apply sanctions against a country that violates human rights and democratic principles. Then, I have described the new features of the European Neighbourhood Policy, through which democracy could be promoted towards ENP partners. In particular, it has been stated that while the Barcelona Process introduced (theoretically) the principle of negative conditionality, the European Neighbourhood Policy seems to complement this principle with a positive conditionality, which could encourage reform-willing states to further pursue their political reform agenda. It has also been observed that, in devising this new policy, the Commission has drawn on the experience gained in supporting the process of political transition in the new member states and accessing and candidate countries. However, like the Barcelona process, the ENP does not foresee the prospect of full EU membership, and it is still not possible to evaluate whether the ENP incentives will make neighbours accept this conditionality.

Thus, the main similarity between the strategy of democracy promotion in the framework of the Barcelona process and the same strategy in the context of the ENP, is that both do not offer the incentive of membership. Then, there are four main differences. First of all, the geographic coverage of the ENP extends not only to the Southern Mediterranean region, but also to the Eastern Europe and Southern Caucasus regions. Second, the ENP implies a much more differentiated bilateralism or country-to-country approach. Third, in the ENP the negative conditionality has been complemented with a positive conditionality. And finally, the democracy promotion approach in the framework of the ENP seems to rely much more on the “monitoring of compliance” and “determinacy”. This last one refers to the political

⁵⁸ “Morocco Moves Forward on Human Rights Issues”, *Arab Reform Bulletin*, February 2005, Vol. 3, Issue 1, p. 14.

priorities listed in the Actions plans, which inform precisely what the government needs to do, eases the monitoring of compliance and therefore enhances the credibility of the conditionality.

The second part of the study has focussed on the case of Morocco. It has been shown that, notwithstanding a long political liberalization, most of the academic literature believes that involvement of the king in these moves towards democracy is disruptive of any democratic development. Then, it has been reported that the international monitors underline that Morocco should guarantee respect for the principle of the separations of powers, and in particular increase Parliament's powers, strengthen the role of political parties, make elections become a real instrument for political representation, guarantee judicial independence, and fight corruption. And at the same time, the country should also improve the legal and real protection of human rights and fundamental freedoms, and remove legal discrimination against women and Berbers. At the end I have concentrated on EU- Morocco relations. It has been shown that, while in the framework of the Renovated Mediterranean Policy Morocco was affected by the European Parliament decision to apply negative conditionality on the grounds of human rights violation, the same principle has never been applied in the framework of the Barcelona process. Then, on the basis of the analysis of the political priorities listed in the ENP Action Plan, that the EU has agreed with Morocco in December 2004, it seems that the European Union has decided to continue with its traditional policy towards this area. Such a policy is limited to achieving partial political reform, rather than a genuine democratic transition. This statement is based, in particular, on the fact that the Commission has not translated into political priorities the necessity to respect the principle of the separation of powers, to increase parliament powers, to strengthen the role of political parties, to guarantee judicial independence and legal accountability, and to guarantee the equal implementation of human rights. Thus, on the basis of the content of these political priorities for Morocco, it does not seem possible to affirm that the European Union is moving towards a new and more successful strategy for democratization in the Southern Mediterranean. The EU approach to democracy and human rights in this region seems to continue to be very cautious and it is not possible to assess whether it will be credible, as only at the end of this year the Commission will report on the governments' accomplishment of the political priorities listed in the Action plans.

APPENDIX

Table 1: The European Neighbourhood Policy (ENP)

GEOGRAPHIC COVERAGE (ENP Partners)	Eastern Europe ⁵⁹	Ukraine and Moldova	
	Southern Mediterranean ⁶⁰	Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestinian Authority, Syria, Tunisia	
	Southern Caucasus ⁶¹	Armenia, Azerbaijan, Georgia	
OBJECTIVES	<ol style="list-style-type: none"> strengthening stability, security and well-being for EU member states and neighbouring countries, preventing the emergence of new dividing lines between the enlarged EU and its neighbours. 		
WHAT IS OFFERED	Short term: Reinforced political, security, economic and cultural cooperation (through 11 incentives)	<ol style="list-style-type: none"> Extension of the internal market and regulatory structures; Preferential trading relations and market opening; Perspective for lawful migration and movement of persons; Intensified cooperation to prevent and combat common security threats; Greater EU political involvement in conflict prevention and crisis management; Greater efforts to promote human rights, further cultural cooperation and enhance mutual understanding; Integration into transport, energy and telecommunications networks and the European research area; New instruments for investment promotion and protection; Support for integration into the global trading system; Enhanced assistance, better tailored to needs; New sources of finance; 	
	Long term:	Some economic and political integration	
WHAT IS ASKED	Commitment to common values in the following fields:	democracy	
		rule of law	
		good governance	
		respect for human rights (including minority rights)	
		promotion of good neighbourly relations	
		principles of market economy, free trade, sustainable development and poverty reduction	
		essential aspects of the EU's external action (the fight against terrorism and the proliferation of weapons of mass destruction, as well as abidance by international law and efforts to achieve conflict resolution)	
INSTRUMENTS	Short term:	Action Plans	
	Long term:	European Neighbourhood Agreements	
ACTION PLANS	Guiding principles:	Joint ownership	
		Differentiation	
	Two broad priority areas:	Commitments to shared values and to certain objectives of foreign and security policy	strengthening democracy and the rule of law, the reform of the judiciary and the fight against corruption and organised crime;
			respect of human rights and fundamental freedoms (including freedom of media and expression), rights of minorities and children, gender equality, trade union rights and other core labour standards, and fight against the practice of torture and prevention of ill-treatment;
			support for the development of civil society;
			and cooperation with the International Criminal Court;
		Commitments which will bring partner countries closer to the EU	the fight against terrorism and proliferation of weapons of mass destruction, as well as abidance by international law and efforts to achieve conflict resolution.
			political dialogue and reform;
			trade and economic reform;
			equitable socio-economic development;
Progress monitoring	In the bodies established by the Partnership and Cooperation Agreements or Association Agreements. The Commission will report periodically on progress accomplished.	justice and home affairs;	
		connecting the neighbourhood (energy, transport, environment, information society, environment, research and development);	
		people-to people contacts	

⁵⁹ In this area the Partnership and Cooperation Agreements provide the basis for contractual relations.

⁶⁰ In this area the Euro-Mediterranean Partnership (the Barcelona Process) provides a regional framework for cooperation which is complemented by a network of Association Agreements.

⁶¹ In this area the Partnership and Cooperation Agreements provide the basis for contractual relations.

Table 2: Next democratic challenges for Morocco (source: International Monitors)

1. Respect for the principle of the separation of powers:	- increase Parliament powers
	- transform elections in a sincere means of political representation instead of a mechanism to co-opt the elite
	- make political parties fulfil the function of political representation instead of playing the game of patronage politics with the interior ministry
	- real guarantee of the independence, universal accessibility, and legal accountability of the judiciary
2. Human rights and fundamental freedoms protection:	- make the constitution stipulate that Moroccan citizens are entitled to inalienable human rights
	- respect Morocco's commitment to international human rights conventions (new terrorist law, adopted after the Casablanca terrorist attacks)
	- protect from the use of torture and mistreatment (detainees and Sahrawi militants)
	- fight the trafficking of human beings
	- make reference in Moroccan law to equality between men and women in civil matters or with respect to education, work and health
	- remove discriminative provisions against women from the Statutes of Public Services
	- protect adequately - in the penal code - against domestic rape, violence and murders
	- remove legal discrimination against the Berbers
3. Corruption:	- full guarantee of freedom of expression, assembly, association and religion
	- fight against corruption

Table 3: MEDA commitments for Morocco (euro million)

MEDA I					MEDA II				MEDA III			ENPI
1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
30	-	235	219	172	160.6	120	122	142.7				

Table 4: ENP Report on Morocco (2004) – Democracy and Rule of Law Shortcomings

DEMOCRACY and the RULE OF LAW	
(1)	Not respect for the principle of the separation of powers
(2)	Limited parliament powers
(3)	Weakness of political parties
(4)	Ensure the impartiality of judges and improve access to justice
(5)	Poor administrative capacity
(6)	Corruption

Table 5: ENP Action Plan for Morocco (2004) – Democracy and Rule of Law Priorities

DEMOCRACY and the RULE OF LAW	
(1) Consolidate the administrative bodies controlling the democratic practice and the rule of law	<p>SHORT TERM:</p> <ul style="list-style-type: none"> - exchange of experiences and expertises in the framework of the evolution of the regulation on the political parties - strengthen the administrative capacity through the implementation of the law on the motivation of the administrative decisions - go on in the decentralisation efforts and strengthen the competences of the local entities on the basis of the new charter on territory <p>MEDIUM TERM:</p> <ul style="list-style-type: none"> - control the implementation of the reform of local entities
(2) increase the efforts to facilitate access to justice and to rights	<ul style="list-style-type: none"> - simplify judicial procedures, reduce the length of trials and execution of sentences and improving the legal aid system - support the family sections of the courts of first instance to implement the new provisions of the new family code - support for the children justice in order to implement the reforms of the new code of penal procedure - implement the national plan for the modernization of the prison system - training of judges - implement the programme Meda “modernization of the judicial system in Morocco”
(3) cooperation in fighting against corruption	<p>SHORT TERM:</p> <ul style="list-style-type: none"> - follow the conclusions of the committee “justice and security” - exchange of information on the legislations and on international instruments - support the adoption of the UN Convention measures and international cooperation <p>MEDIUM TERM:</p> <ul style="list-style-type: none"> - strengthening and support the implementation of the national anti-corruption strategy

Table 6: ENP Report on Morocco – Human Rights and Fundamental Freedoms Shortcomings

HUMAN RIGHTS and FUNDAMENTAL FREEDOMS
(1) Unequal implementation of human rights legislation
(2) Lack of ratification of some international human rights protection instruments
(3) Partial implementation of the October 2002 two new laws concerning the right of association
(4) Legislative limits to the freedom of the press
(5) Definition of torture in the criminal law not in conformity with the UN Convention
(6) Discrimination against women
(7) Non-compliance with child labour laws
(8) Limits to the rights to form and join trade unions for certain categories of workers
(9) Not recognition of the Berber speaking community's cultural and linguistic rights

Table 7: ENP Action Plan for Morocco – Human Rights and Fundamental Freedoms Priorities

(1) Ensure a human rights and fundamental freedoms protection in line with the international norms	<p>SHORT TERM:</p> <ul style="list-style-type: none"> - Start discussions in the committed on “human rights, democratization and governance” - Examine the possibility to withdraw the reservations to the international conventions on human rights - Continue to implement through legislation the international provisions on human rights - Take into consideration the possibility to sign the optional protocols to international conventions on human rights - Bring to an end the national action plan on human rights and support its implementation - Strengthen dialogue on human rights issues at all levels - Promote the cultural and linguistic rights of all Moroccan citizens. - Reform the penal legislation in order to introduce a definition of torture in conformity with the United Nations Convention Against Torture
(2) Freedom of association and expression	<ul style="list-style-type: none"> - Ensure the implementation of the law on the right of association and assembly, in line with the provision of the ICCPR - Exchange of experience and expertise in the framework of the evolution of the Press Code - Support the new law on the liberalization of the audio video and cooperation in this sector
(3) Strengthen the promotion and protection of the rights of women and children	<ul style="list-style-type: none"> - Implement the recent reforms of the family code - Fight against women discriminations and violence, in conformity with the ad hoc United Nation convention - Consolidation of the children rights in line with the ad hoc international convention - Promote the women role in the economic and social progress - Protection of pregnant women at work
(4) Guarantee fundamental social rights	<ul style="list-style-type: none"> - Start a dialogue on fundamental social rights in order to identify main challenges and the possible solutions

REFERENCES

- Baracani, Elena (2004): “The EU and Democracy Promotion: A Strategy of Democratization in the framework of Neighbourhood Policy”, in F. Attinà and R. Rossi, *European Neighbourhood Policy: Political, Economic and Social Issues*, Catania, pp. 37-57.
- Bartels, Lorand (2004): “A Legal Analysis of Human Rights Clauses in the European Union’s Euro-Mediterranean Association Agreements”, *Mediterranean Politics*, Vol. 9, No. 3, pp. 368-395.
- Cavatorta, Francesco (2001): “Geopolitical Challenges to the Success of Democracy in North Africa: Algeria, Tunisia and Morocco”, *Democratization*, Vol.8, No.4, pp.175–194.
- Del Sarto, Raffaella A., and Schumacher, Tobias (2005): “From EMP to ENP: What’s at Stake with the European Neighbourhood Policy towards the Southern Mediterranean”, *European Foreign Affairs Review*, 10: 17-38.
- Dillman, Bradford (2003): “The European Union and democratization in Morocco”, in Paul J. Kubicek, edited by, *The European Union and democratization*, London: Routledge.
- Emerson, Michael (2004): “European Neighbourhood Policy: Strategy or Placebo?”, *CEPS Working Document*, No. 215.
- Euro-Mediterranean Agreement establishing an association between the European Communities and their Members States, of the one part, and the Kingdom of Morocco, of the other part, Official Journal of the European Communities, L 70/2, 18.3.2000.
- European Commission, Communication from the Commission “Wider Europe – Neighbourhood: a new framework for relations with our Eastern and Southern Neighbours”, COM(2003) 104 final, 11 March 2003.
- European Commission, Communication from the Commission “European Neighbourhood Policy” Strategy Paper, COM(2004) 373 final, 12 May 2004.
- European Commission, Commission Staff WP ENP Country Report Morocco, SEC(2004) 569, 12 May 2004.
- European Commission Proposal for a Regulation of the European Parliament and of the Council laying down general provisions establishing a European Neighbourhood and Partnership Instrument, COM(2004) 628 final, 29 September 2004.
- European Commission Communication to the Council on the Commission Proposals for Action Plans Under the European Neighbourhood Policy, COM(2004), 9 December 2004.
- European Commission/Morocco, « [Plan Proposé d’Action Ue/Maroc](#) », Brussels, December 2004.
- European Council (1995): “Barcelona Declaration”, *EU Bulletin*, 11-1995.
- European Council (1996): “Council Regulation (EC) No 1488/96 of 23 July 1996 on financial and technical measures to accompany (MEDA) the reform of economic and social structures in the framework of the Euro-Mediterranean partnership”, [1996] OJ L 189/1.
- Gillespie, Richard, and Whitehead, Laurence (2002): “European Democracy Promotion in North Africa: Limits and Prospects”, *Democratization*, Vol. 9, No. 1, pp. 192-206.
- Gillespie, Richard (2005): “Spain and Morocco: Towards a Reform Agenda?”, *Fride Working Paper*.
- Haddadi, Said (2002): “Two Cheers for Whom? The European Union and Democratization in Morocco”, *Democratization*, Vol. 9, No. 1, pp. 149-169.
- Haddadi, Said (2004): “The EMP and Morocco: Diverging Political Agendas?”, in Jünemann Annette, edited by, *Euro-Mediterranean Relations After September 11 – International, Regional and Domestic Dynamics*, London: Frank Cass.
- Maghraoui, Abdeslam (2001): “Monarchy and Political Reform in Morocco”, *Journal of Democracy*, 12 January 2001, pp. 73-86.
- Maghraoui, Abdeslam (2003): “Depoliticization in Morocco”, in Diamond, Plattner, and Brumberg, edited by, *Islam and Democracy in the Middle East*, Baltimore: The Johns Hopkins University Press, pp. 67-75, originally appeared in the October 2002 issue of the *Journal of Democracy*.
- Maghraoui, Abdeslam (2004): Morocco Report, *Freedom House Countries at the Crossroads*.
- Ortega, Martin (2003): “A new EU policy on the Mediterranean?”, in Batt, Lynch, Missiroli, Ortega, Triantaphyllou, “Partners and neighbours: a CFSP for a Wider Europe”, *Chaillot Papers* No. 64.
- Schmid, Dorothee (2004): “The Use of Conditionality in Support of Political, Economic and Social Rights: Unveiling the Euro-Mediterranean Partnership’s True Hierarchy of Objectives?”, *Mediterranean Politics*, Vol. 9, No. 3, pp. 396-421.
- Willis, Michael J. (2004): “Morocco’s Islamists and the Legislative Elections of 2002: The Strange Case of the Party That Did Not Want to Win”, *Mediterranean Politics*, Vol.9, No.1, pp.53–81.
- Youngs, Richard (2001): *Europe’s Mediterranean and Asian Policies*, Oxford: OUP.
- Youngs, Richard (2002): “The European Union and Democracy Promotion in the Mediterranean: A New or Disingenuous Strategy?”, *Democratization*, Vol. 9, No. 1, pp. 40-62.
- Youngs, Richard (2005): “Ten years of the Barcelona Process: A Model for Supporting Arab Reform?”, *Fride Working Paper*.