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DEMOCRACY PROMOTION BY FUNCTIONAL COOPERATION

Tina Freyburg and Sandra Lavenex

Introduction

In response to the regime breakdowns in some Arab countries, the European Commission suggested a ‘New Partnership for Democracy and Shared Prosperity with the Southern Mediterranean.’ When explaining this strategy in an article published in The New York Times on 25 February 2011, Catherine Ashton (2011), then High Representative for Foreign Affairs and Security Policy, emphasised that the European Union (EU) is determined to help Tunisia, Egypt and other countries not just to start their journey toward democracy, but to complete it [...] That will involve detailed, unglamorous, work on the ground – with civil servants, local communities, the police, army and judiciary – laying the foundations of deep democracy and then building it up, brick-by-brick.

Democracy promotion by functional cooperation centres precisely on this detailed, technical work on the ground. The ‘governance model’ of democracy promotion (Lavenex and Schimmelfennig 2011; Freyburg et al. 2015) postulates the transfer of democratic governance as a side effect of functional cooperation, which lies at the heart of the European Neighbourhood Policy (ENP).

While, five years after the ENP was launched, there was some indication that this low-key, depoliticised and technocratic way of transferring democratic principles and practices might indeed present an important complement, if not alternative, to more straightforward strategies of promoting democratic change, ten years later geopolitics appears to paralyse even this soft version of democracy support. The first decade of the ENP has dampened expectations as to its potential to induce democratisation in the EU’s East and South. The violent collapse of the so-called ‘Arab Spring’, the return of armed conflict in Georgia and Ukraine and the internal contestation of the strong pro-European course in Moldova have deeply shaken the EU’s image and efficacy as promoter of democracy, the rule of law and human rights.

Probably much of this image was due to a specific historical context in the late 1980s to early 1990s and the coincidence of a political demand for democratisation on the part of newly liberalising countries with the creation of a more political EU. After the breakdown of communist
regimes, the EU contributed successfully to the consolidation of democracy in the region through its policy of accession conditionality (Schimmelfennig et al. 2006; Schimmelfennig and Scholtz 2008) or active leverage (Vachudova 2005). After the completion of its historic eastern enlargement, this foreign policy success has continued to shape expectations towards the EU’s ability to trigger and foster democratic change in its neighbourhood. Eventually, the ENP was modelled on the EU’s enlargement policy, without providing a membership perspective.

Acknowledging that the EU’s leverage in the neighbourhood is limited, we propose a different and much less ambitious perspective on the EU’s potential role in democracy promotion that centres on the idea of democratic governance transfer as a side-effect of sectoral cooperation between the EU and its neighbouring partner countries (Freyburg et al. 2009; 2011; 2015). In this chapter, we first argue that the experience of eastern enlargement has suggested an idealised vision of the EU as a transformative power that is ill-suited to understanding the more indirect, partial and subtle effects a policy like the ENP can have in terms of the diffusion of democratic governance. We then present this governance model of democracy promotion, which we deem specific to the EU’s ENP, and illustrate its potential with examples taken from a multi-annual research project on the topic conducted with a group of colleagues and published in Lavenex and Schimmelfennig (2011) and Freyburg et al. (2009; 2011; 2015). Finally, and due to recent developments, we contend that the effectiveness of governance-driven democratisation suffers from increased politicisation and geopolitical hardening of the neighbourhood relations. This hardening is mirrored in a diminishing openness of state administrations in ENP countries to external influences, as well as increasing obstacles for civil society organisations to fight for their rights. We conclude that democracy promotion, through functional cooperation, can have a certain impact even in relations with authoritarian regimes but only in a peaceful, interdependent world.

The exception of EU post-communist democracy promotion

The European Neighbourhood Policy (ENP) is directly modelled on the EU’s enlargement policy (Kelley 2006). It was designed in the attempt to reproduce the transformative power ascribed to the EU in the context of post-communist enlargement. More than ten years later, it appears to have been falling short of achieving the same degree of democratising influence—partially due to an idealised vision of EU democracy promotion enabled by context-specific factors that do not hold beyond eastern enlargement, as we outline in this chapter.

First, the democratic transition in Central and Eastern Europe (CEE) was primarily driven by strong endogenous forces in populations and elites (Dryzek and Holmes 2002). Some even argue that most domestic changes would have been initiated without EU support (Houghton 2007; Mungiu-Pippidi 2014). Conversely, where strong domestic drivers for genuine change were missing, once the EU had lost most of its leverage, after accession, some originally pro-Europeanisation actors returned to earlier practices, such as clientele-based distribution of spending budget, control of public media and immunity from corruption accusation (Mungiu-Pippidi 2010). As the ill-fated democratisation movements in numerous ENP countries have shown, pro-democratic reforms in these countries face political resistance, and democratic regimes are more difficult to establish and sustain.

Second, ‘Europeans first thought about democracy promotion in their neighbourhood after 1989’ (Kopstein 2006: 90), that is, after the implosion of the Soviet Union and the initiation of liberalisation processes. Put differently, the EU’s strategy is first to build up democracy rather than to break down authoritarian regimes (Freyburg 2014; Magen and McFaul 2009). In the context of enlargement, scholars agree that, as a ‘tool of democratization’ (Grossmann 2006),
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European integration does not have the power to initiate processes of democratisation in (stable) authoritarian regimes. Rather, democratisation support by the EU can increase the speed and quality of domestically driven democratic change. Yet, as demonstrated by both the ‘Colour Revolutions’ and ‘Arab Spring’, if authoritarian leaders from within or from outside (namely, Russia) mount powerful counter-attacks, there is little external democracy promoters can do from the outside (Hess 2016).

Third, in the ENP, the EU lacks its strongest incentive for promoting democratic reforms, the membership perspective (Schimmelfennig and Scholtz 2008). In the case of post-Soviet Eastern Europe, the EU has been unwilling to extend the prospect of accession to the aspiring candidates. One may argue that an ENP country that strongly aspires to join the EU, and receives encouraging signals from some Member States, might act as if it was offered a membership perspective and outperform the ENP benchmark (Sasse 2008). Yet, the Council of the EU would need to officially grant a membership perspective to the would-be-candidate by unanimity, which appears unlikely in view of increasing ‘enlargement fatigue’. In the case of the Middle East and Northern Africa (MENA) region, third countries have shown no willingness to join the EU. After all, why should the ruling political elite be willing to commit what amounts to political and economic suicide by complying with the EU accession criteria (Schlumberger 2006)? Finally, when the countries that most recently joined have already been rather heterogeneous with the Visegrad group, the Baltics and the Balkan; the sixteen ENP countries are certainly far from forming a homogeneous neighbourhood, not least because some are uninterested in reform – others may even be failed states – and the EU Member States are themselves pursuing divergent interests and goals. Thus, any attempt to assess the ENP’s contribution to democracy promotion today through the prism of the exceptional experience with the countries of Central and Eastern Europe in the 1990s is doomed to failure.

Functional cooperation and democratic governance promotion

The ‘governance model’ is anchored less in an understanding of the ENP as a foreign policy than as a regional structure of functional integration between the EU and its neighbours in different policy sectors such as trade, the environment, energy or migration (Freyburg et al. 2015; Lavenex 2014). The basic idea of this model is reflected in the 2012 EU Communication on the ENP:

> The EU’s values of respect of human rights, democracy and the rule of law [...] are also reflected in the EU’s laws, norms and standards. Taking over EU norms and standards through sector cooperation will respond to the partners’ wish to come closer to the EU, and, crucially, it will promote such values.

(European Commission 2012: 18, emphasis added)

As an extended system of functional regional integration without institutional membership, the ENP is based on the projection of EU policy rules to the neighbourhood as a basis for cooperation. These activities are captured by the concept of external governance, ‘[which] takes place when parts of the acquis communautaire are extended to non-Member States’ (Lavenex 2004: 683). When externalising its substantive acquis rules for regulating policy in each sector subject to functional cooperation, the EU also transfers procedural rules on how decisions are made and implemented. Given that these procedural rules were developed for advanced democracies, they, in principle, embody provisions of democratic governance, notably participatory, transparent and accountable modes of decision-making at the level of public administration.
By participating in cooperation frameworks, state officials in partner countries can become acquainted with democratic governance (Freyburg 2015). Since partner countries concur with their commitments under their association agreements and ENP Action Plans, and approximate their domestic legislation to the respective EU acquis, these provisions can also enter domestic legislation, if not shape, administrative practices, thus contributing – albeit indirectly and only partially – to more democratic governance.

There is evidence that the EU recognised democratising potential of sectoral cooperation already, before launching the ENP in 2004–5. In its 2001 Communication on Democracy and Human Rights Promotion, it declared that

\[\text{[t]}\text{o promote human rights and democratisation objectives in external relations, the EU draws on a wide-range of instruments [. . .] Some are more innovative, and potentially underused, namely Community instruments in policy areas such [as] the environment, trade, the information society and immigration which have the scope to include human rights and democratisation objectives.}\]

(Commission of the European Communities 2001: 6)

One year after launching the ENP, the European Commission acknowledged that

\[\text{[g]overnance in the broad sense is central to [. . . the ENP] action plans, which [. . .] focus on [. . .] introducing sectoral reforms (transport, energy, information society, environment, etc.) in order to improve management and encourage the authorities to account for their decisions to those they administer.}\]

(Commission of the European Communities 2006: 16)

In the same document, the Commission specified that

\[\text{[d]emocratic governance is to be approached holistically, taking account of all its dimensions (political, economic, social, cultural, environmental, etc.). [. . .] Accordingly, the concept of democratic governance has to be integrated into each and every sectoral programme}\]

(European Commission 2006: 6)

including cooperation with external actors.

The EU has established numerous policy reform networks aimed at joint problem solving and transfer of best practices in the neighbourhood. Some networks in the eastern neighbourhood evolved in the early 1990s; however, most of the networks evolved with the EU’s expansion to the East. Since the mid–2000s, projects such as Twinning, TAIEX and SIGMA, previously available only for candidate states, became available for the ENP countries. In addition, since 2006, ENP countries can participate in the EU regulatory agencies, facilitating policy convergence and increasing linkage (Lavenex 2015). Overall, these networks involve the intensification of contact between administrations and are geared to the approximation of legislative and administrative governance standards.

Support for this kind of democratic governance differs from traditional models of democracy promotion, that is, top–down democratic conditionality and bottom–up democracy assistance, in several respects (Lavenex and Schimmelfennig 2011). First, democratic governance promotion targets states’ sectoral legislation, which guides executive action within the different areas of public policy – such as environmental policy, market regulation, welfare regimes
or internal security. This approach does not address states’ national constitutions and the establishment of core democratic institutions, such as free and fair elections, rule of law or human rights – the traditional elements included in political conditionality, nor does it target the societal basis of democratisation movement – be it through foreign aid or assistance to civil society groups, among other channels. Rather, the primary addressees of democratic governance promotion are public officials working in the administration and ministries of the target countries.

Second, instead of democratic macro-institutions – such as an independent judiciary, universal suffrage, or freedom of association – the model focuses on procedural principles of democratically legitimate political-administrative behaviour embedded in sectoral legislation, notably transparency, accountability and societal participation. Transparency refers both to access to issue-specific data and to governmental provision of information about decision making. Accountability is about public officials’ obligation to justify their decisions and actions, the possibility of appeal and sanctioning over misconduct. This can include both horizontal accountability between independent state agencies (such as investigating committees, or ombudsmen) and vertical accountability that emphasises the obligation for public officials to justify their decisions. Participation denotes non-electoral forms of participation such as involvement of non-state actors in administrative decision- and policy-making (Freyburg et al. 2007). Having been developed by democratic countries for democratic countries, the EU sectoral acquis abounds with such democratic governance provisions.

Finally, if governance-driven democratisation is successful, democratic governance provisions are transferred into domestic sectoral legislation (that is, formal rule adoption) and applied in everyday administrative practice (that is, rule application). At both stages, the role of an external actor (the EU), consists not only of encouraging the reform process but also of providing the relevant templates or examples of how legal rules should be incorporated into legislation and how to ensure their effective implementation. By participating in cooperative activities, their ENP counterparts can thus also become acquainted with democratic practices of administrative governance (Freyburg 2015). We do not expect an automatic spillover from rule adoption to rule application. A certain law incorporating the elements of democratic governance may be successfully adopted as part of a functional problem-solving strategy but, anticipating high political costs, not implemented.

In sum, the governance model presents a separate model of democracy promotion, which has – due to its indirect and subtle nature – some potential for encouraging democratic developments in countries where more direct forms of external democracy promotion fail. Since functional cooperation is, in most cases, ‘actively sought by regimes that see them as unthreatening and offering additional resources to boost policy-implementation capacity’ (Youngs 2009: 898), democratic governance promotion can occur within a generally semi-autocratic political system. When intentionally used for political purposes, however, functional cooperation risks losing its political innocence and potential to initiate subtle processes of democratisation (Freyburg 2011).

Moreover, an increase in democratic governance is no real substitute for democratic transformation proper. Rules pertaining to transparency provisions in environmental legislation – or to independent judicial review in asylum policy, for instance – are only small drops in the ocean of institutional provisions constituting a democratic order. If included in domestic legislation, provisions of democratic governance can constitute a domestically legitimised point of reference for reform-minded agents that may demand their realisation in practice (Freyburg 2012). Overall, while unlikely to engender, by itself, more profound democratic change, democratic governance plays an important role in preparing the (legal) administrative ground on which eventual political transitions can draw.
Evidence of democratic governance promotion

The conditions for successful democratic governance promotion are conceptualised based on an institutionalist approach (Lavenex and Schimmelfennig 2009). According to this perspective, rules and practices of state administration are shaped through interaction with the external environment. Institutional factors – properties of the EU acquis and features of sectoral cooperation – are expected to primarily explain variance in success of EU democratic governance transfer. In total, five factors are suggested as determining the likelihood of democratic governance transfer through sectoral, functional cooperation (Freyburg et al. 2015: Chapter 3): (1) codification of democratic governance provisions in EU legislation; (2) institutionalisation of transgovernmental cooperation between the EU and a third state in a particular policy sector; (3) internationalisation, or reinforcement of transgovernmental cooperation of a third state with the EU in other international fora; (4) sectoral interdependence, or the perceived relative ability of each cooperation party to solve a policy problem individually; and (5) domestic political costs of adopting and implementing democratic governance provisions in sectoral policy-making. In addition, the partner country must be willing to allow external experts and bureaucrats to get involved in policy-making and to accept policy learning from these external actors. Countries that enjoy greater political liberalisation and aspire to EU membership should be more susceptible to EU rule transfer.

In this section, we briefly summarise the key findings of the multi-annual research project, as published in Freyburg et al. (2009; 2011; 2015). This analysis systematically explores the democratising potential of functional cooperation from 2004 to 2012 in 12 cases – two countries from the eastern neighbourhood (Moldova, Ukraine) and two from the southern neighbourhood (Morocco, Jordan), and three policy fields of cooperation. The selected countries were initially among the most active and advanced participants in the ENP and were characterised as ‘willing partners’ (Emerson et al. 2007: 7). The selected policy fields – competition (state aid control), environment (water governance) and migration policy (asylum) – vary with regard to how strongly democratic governance is prescribed by EU legislation and the domestic political costs associated with effective democratic sectoral governance in (semi-) authoritarian partner countries. The comparative study is based on a wealth of official documents and other published material, and complemented with 199 semi-structured interviews – conducted mostly between 2007 and 2009, and updated with later phone and email conversations – with governmental and non-governmental actors in the four countries and the relevant Commission officials.

The study executed several analytical tasks to explore the EU’s influence on modes of decision-making at the level of public administration in the partner countries. It started with juxtaposing the respective sectoral EU acquis with the corresponding national legislation in selected ENP countries, with emphasis on provisions of transparent, accountable and participatory governance. The interviews with local and international (non-)governmental actors established whether the existence of provisions can be traced back to cooperative activities by the EU and also the extent to which they are applied in practice. The emerging pattern of democratic governance transfer was then systematically scrutinised using cross-sectional analysis of co-variation to identify similarities and differences across countries and sectors, followed by Qualitative Comparative Analysis (QCA) to cater for potential multiple causalities (Freyburg et al. 2011).

In this chapter, we first demonstrate the analysis by zooming into the transfer of democratic governance provisions through environmental cooperation on water management in Moldova and Morocco, before we then briefly present current knowledge regarding the effectiveness of the governance model of democracy promotion. EU environmental legislation is a policy field
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that has adopted the democratic governance agenda particularly strongly. Three directives of 2003 and 2006 codified central elements of democratic environmental governance in the EU – partly based on the broader 2001 UNECE Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters. Rules on transparency of documents and access to information, public participation in decision-making processes, mechanisms of accountability – such as the right to an effective ‘fair, equitable, timely, and not prohibitively expensive’ review procedure before court or tribunal to ‘challenge the substantive or procedural legality of decisions’ – are regularly included in sectoral environmental legislation (Freyburg et al. 2015: Table 4.3). Overall, the EU environmental acquis and international conventions provide developed democratic governance templates, which can be adopted by EU non-members without further specification. To what extent have these provisions found their way into environmental legislation and governance in Moldova and Morocco, which are the two most active and politically liberalised ENP countries in 2004?  

While environment has never been salient in EU cooperation with Moldova and Morocco, the management of water resources is one of the top priorities in the EU’s environmental cooperation with both ENP countries. Eventually, in solving environmental problems, notably water protection, the EU is bound to Moldova and Morocco through the shared Danube River basin or the Mediterranean Sea. Collaboration existed at the level of experts and policy officials, and in transgovernmental policy networks, such as the EU-coordinated Danube-Black Sea (DABLAS) Task Force or the Eastern European, Caucasus and Central Asia Component of the EU Water Initiative with Moldova, and the Mediterranean component of the EU Water Initiative or the Short- and Medium-Term Priority Environmental Action Programme (SMAP) with Morocco.

Moldova was one of the first countries to ratify the Aarhus Convention but made only partial progress towards the transfer of its provisions into national legislation. If provisions of democratic governance are incorporated in domestic law, the postulated principles remain largely detached from procedures for their implementation. For example, the Regulation on the Ministry of Ecology and Natural Resources in 2004 only states that the Ministry ‘informs population about the state of environment and the use of natural resources in the country, ensures access of the public to information and participation in decision making on environmental protection’ (Art. 58); it specifies no ways to attain these objectives. Hence, in Moldovan legislation all three principles are adopted but presented as a general goal, which may hinder effective implementation in practice (Freyburg et al. 2015: Chapter 5).

The picture looks similar in Morocco, where all three principles of democratic governance are included in the environmental laws, yet less precise and less strict than the corresponding EU acquis, thus leaving amply room for (restrictive) interpretation. For instance, the 2003 Law on Environmental Impact Studies guarantees public access to environmental information and the right to appeal. Yet, it does not specify the quality of environmental information to be provided by public authorities. In contrast to Moldova, Moroccan legislation only granted access to information and public participation that was mediated via political institutions, until Article 27 of the constitution was implemented. That is, participation of societal representatives in the planning and monitoring of water policies was moderated through bodies such as the Supreme Council on Water and Climate, a consultative and non-permanent institution consisting of scientific experts and association representatives. In line with this hindrance, democratic governance provisions are partially implemented in transitional Moldova, while in the stable autocratic kingdom, Morocco, they are not.

To what extent is the facilitating effect of political liberalisation and codification supported by comparison across all four country and three sector cases? The aggregated overview in Table 41.1
reveals that country properties – notably the degree of political liberalisation, membership aspirations and geographic region – explain hardly any difference in democratic governance. All four countries show a clear discrepancy between rule adoption and rule application. Whereas the EU has been successful in inducing the four ENP countries to adopt legislation in line with democratic governance provisions, these provisions had generally not been implemented (Freyburg et al. 2015: Tables 8.1 and 8.2).

At the same time, the transfer of democratic governance provisions worked better in the more politically liberalised eastern neighbours, in particular Moldova, than in the less politically liberalised and geographically more distant neighbours, such as Jordan. The transition country Moldova, ruled by a pro-European coalition government between 2009 and 2012, shows the highest degree of both adoption and application of democratic governance, with the latter predominantly being a consequence of severe economic constraints, that is, weak financial capacity of the public sector, involving weak human resource capacity (Freyburg et al. 2015). In Jordan, the comparatively less successful rule transfer appears to demonstrate the significance of political liberalisation, in addition to proximity to the EU (Member States) (Freyburg et al. 2011: Table 3). Jordan’s geographic position leads to less interdependence with the EU and a less exclusive focus on the EU as a cooperation partner, whereas trade relations with Moldova, Morocco and Ukraine are asymmetric in favour of the EU and not balanced by other partners. Jordan preserves official neutrality in its cooperation with Europe, the USA and the conservative Gulf states (Bouillon 2002). Overall, the findings suggest that relevant country properties, notably liberalisation and proximity, can facilitate or impair (but not determine) the outcomes of democratic governance promotion. If cooperation is agreed, the extent to which it influences the likelihood of successful promotion of democratic governance appears to primarily depend on sectoral properties.

### Table 41.1 Comparative analysis

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<th>Country determinants</th>
<th>Eastern neighbourhood</th>
<th>Southern neighborhood</th>
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<td>Moldova</td>
<td>Ukraine</td>
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<td>Political liberalisation</td>
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<tr>
<td>EU membership aspirations</td>
<td>+</td>
<td>+ to +/−</td>
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<td>Democratic governance</td>
<td>Legal adoption</td>
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<td>Application in practice</td>
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<th>Sectoral determinants</th>
<th>Competition</th>
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<th>Migration</th>
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<td>Democratic governance</td>
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<td>Application in practice</td>
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Note: Values: high or present, +; medium, +/-; low or absent, −. Values in brackets correspond to draft legislation. Note that the signs for costs have been reversed for better comparison: high costs, here, have a negative impact on adoption. The study covers the situation from 2004 to 2012.
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The lower part of Table 41.1 suggests a sectoral dynamic characterising the transfer of democratic governance provisions into domestic legislation of the selected ENP states. First, the comparison across sectors supports the striking discrepancy between rule adoption and application. In all three sectors, national law grants citizens and stakeholders access to policy-making, including relevant information on substance and procedures, at the discretion of governmental officials, and limited possibilities to hold these officials accountable. Second, the absence of high adoption costs, and at least moderate interdependence, codification and institutionalisation, are associated with rule adoption. Adoption costs vary across sectors, depending on the extent to which the domestic ruling elite perceives the rule transfer as threatening their traditional means of power preservation (high costs), or the sectoral authorities anticipate it to diminish their political influence by causing the loss of undivided influence, exclusive information or opportunities for corruption, among other things (medium costs). For instance, EU rule transfer has been most effective in environment – a policy field with a low degree of politicisation, where transgovernmental cooperation tends to be less impeded by political considerations. None of the sectoral conditions was individually sufficient or necessary, as also confirmed by the QCA (Freyburg et al. 2011).

In sum, although transgovernmental policy networks generally operate without much publicity and are relatively unaffected by the turbulence of political disputes (Pollack 2005; Slaughter 2000), functional cooperation is still embedded in politics and affected by political interests and power. The country- and sector-level findings underpin that the situational context in which sectoral cooperation takes place determines whether the full democratising potential of the governance model becomes manifest. Only if the sector is relatively non-politicised and the political transition of the regime is advanced enough to allow for the necessary leeway and openness, the democratising effect of EU cooperative activities unveils. What do the empirical findings of Freyburg et al. (2015) suggest in terms of the future democratising potential of functional cooperation in the EU’s neighbourhood?

Limits of democratic governance promotion

While, in 2004, the ENP was designed to build ‘a zone of prosperity and a friendly neighbourhood – a “ring of friends” – with which it enjoys close, peaceful and co-operative relations’ (Commission of the European Communities 2003: 4), today’s neighbourhood presents itself as a ‘ring of fire’ (Koenig 2016: 4), affected by a number of intra-state, inter-state or frozen conflicts, some of which are lengthy. To the South, the monumental changes of the 2011 Arab upheavals have deeply destabilised the region, with a violent conflict in Syria, a growing presence of the Islamic State (ISIS) in countries such as Iraq and Libya, and unprecedented flows of refugees to initially relatively stable autocratic monarchies, like Jordan and Morocco, but also the fragile, but comparatively stable, Lebanon with its consensus-driven power-sharing system. The Eastern Partnership (EaP), in turn, is paralysed by Russia’s increasing willingness to shield its zone of influence against EU dynamics, as demonstrated with the occupation of Crimea and the military presence in Ukraine. In consequence, the reality of the EU’s neighbourhood, and hence the preconditions of the governance model of democracy promotion have dramatically worsened since the empirical analyses of the above-presented pilot study.

While Figure 41.1 cannot depict a return of geopolitics in the neighbourhood, it illustrates the development of key country-level factors in the neighbourhood over time (and as data is available). Precisely, we plot three pivotal variables that can be expected to determine the receptiveness of a country’s public administration for functional cooperation, and its potential democratising effect, notably political liberalisation (Freedom House 2016), political participation...
Figure 41.1  Trends in the European neighbourhood

Note: Freedom House (FH) ‘Freedom in the world’ aggregated scores (political rights and civil liberties) are represented by the y-axis, with 100 = best score (www.freedomhouse.org/report/freedom-world-aggregate-and-subcategory-scores#.U9t-L2BwaP8). Civil society refers to criteria 2.3 ‘Association/assembly rights’ and 2.4 ‘Freedom of expression’ of the Bertelsmann Transformation Index (BTI), combined to a 10-point scale with higher values for greater participation (www.bti-project.org/en/index/). Bureaucratic strength is measured with the Government Effectiveness component of the World Bank’s (WB) Worldwide Governance Indicators, ranging from around −2.5 to 2.5 (http://info.worldbank.org/governance/wgi/index.aspx#home). Values of the isolated countries are not included in the regional averages.
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(Bertelsmann 2016) and bureaucratic strength (Kaufmann et al. 2010). Political liberalisation combines the scores for political rights and civil liberties, based on a 100-point scale with higher values for greater liberalisation, as weighted and measured by Freedom House. According to the rating body, the scores represent the fundamental components of individual freedom identified by the Universal Declaration of Human Rights. Political participation addresses the extent to which ‘the populace decides who rules, and it has other political freedoms’. Specifically, we focus on criteria 2.3 ‘Association/assembly rights’ and 2.4 ‘Freedom of expression’ of the Bertelsmann Transformation Index, combined to a 10-point scale with higher values for greater participation. Finally, we measure the strength of a bureaucracy by a World Bank index that combines analysts’ ratings of the quality of bureaucracy, including the independence of the civil service from political pressure.

Figure 41.1 shows that overall, and except the democratising ‘showcase’, Tunisia, the four countries studied – Moldova, Morocco, Jordan and Ukraine – continue to show higher values of political liberalisation than the average value of their respective neighbourhood. At the same time, the graphs signal that, overall, openness diminished even in these frontrunners. In the South, possibilities for political participation have been curbed in the autocratic regimes, while the quality of bureaucracy continues to be low and likely to hinder the effective implementation of policy and governance reforms, as initiated by EU sectoral cooperation. The picture looks similar in the Eastern Partnership countries: Moldova and Ukraine’s bureaucratic strength continues to improve, albeit below the regional average. Recent changes in government, which are not yet captured by these macro indices, may yield not only retrogressions in levels of political liberalisation but also a turn away from an EU focus and, despite the relative autonomy of sectoral cooperation dynamics, declining levels of approximation to EU rules.

In sum, developments after 2011 have shown how precarious democratic governance promotion through functional cooperation is. In the absence of a genuine parallel orientation towards political liberalisation, policy-transfer via functional cooperation can strengthen authoritarian governments rather than promote liberal norms. Even if provisions of transparency, participation and accountability have entered the domestic legislation of the ENP countries, our findings seem to suggest that without an active and relatively free civil society demanding implementation, these norms will rarely be enacted, thus remaining dead letters.

Conclusions

EU democracy promotion may operate at many levels and in various forms. Top-down democracy promotion through foreign policy diplomacy and conditionality has not been a stronghold of the European Union, apart from the historical experience of eastern enlargement. The EU is too incoherent as an actor, with the Member States frequently pursuing diverging interests (Geddes and Taylor 2015), and too little leverage to induce political change in third countries, which have no membership perspective (Schimmelfennig and Scholtz 2008). Instead, as a structure of integration, the EU has more indirect resources at its disposal to influence the societal and administrative fabric of interdependent countries. While the exercise and effectiveness of ‘linkage’ policies through trade, aid and communication with pro-democratic civil society groups has been the object of many studies, the potential of functional cooperation in transgovernmental networks among administrative actors has hitherto received less attention. In this chapter, we have summarised the set-up and the results of a four-year research project that has developed and applied this ‘governance model’ of democracy promotion through functional cooperation in the realm of the EU’s neighbourhood. In the meantime, other authors have also
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started investigating the indirect democratisation potential of sectoral integration (Delcour and Wolczuk 2015; Dimitrova and Buzogány 2014; Korosteleva 2016; Szent-Iványi 2014).

While up to a few years ago, the ENP seemed fertile ground for this subtle approach of international democracy support, the de-stabilisation that has occurred after 2011, the rise of geopolitical contestations and the general hardening of political regimes across the neighbourhood point at the limits of a transformative approach based on de-politicised, functionalist ties. Looking back to the theoretical scope conditions identified in the studies by Freyburg et al. (2009; 2011; 2015), and reviewing them in the light of more recent data, this chapter has confirmed the complex interplay between general openness towards greater political liberalisation, the empowerment of civil society and democratic governance promotion through transgovernmental ties.

The apparently stable climate of the ENP’s initial years and the analysed countries’ political will for closer functional integration in the ‘wider Europe’ were amenable to legislative approximation, even if authoritative state structures were not directly affected. With legislative approximation, democratic governance norms travelled also, thus providing a formal basis for accountability, transparency and participation rules in sectoral laws. Yet, these norms’ consolidation, from legislative adoption towards political-administrative application, has been impaired by the hardening political climate and the inability of civil society organisations or the media to mobilise around these alleged entitlements. We therefore conclude that democratic governance promotion through functional cooperation presupposes, next to a peaceful and stable geopolitical context, an ongoing political will for closer interdependence and regulatory approximation ‘from above’ as well as an activation of pertinent provisions ‘from below’.

Notes

1 The research project was funded under the Swiss National Center for Competence in Research (NCCR) ‘Challenges to Democracy in the 21st Century’ (www.nccr-democracy.uzh.ch). Team members were Sandra Lavenex and Frank Schimmelfennig (the project co-leaders), Tina Freyburg, Tatiana Skripka and Anne Wetzel. We are grateful to the NCCR for funding the research. Much of the synthesis presented in this chapter is based on this common work.

2 Faced with the negative effects of EU southern enlargement on its exports of agricultural products, Morocco applied to the European Economic Community (EC) in 1987. In contrast to today’s European Union, the EC back then was no more than an economic union (Bahajoub 1993: 238).

3 Figure 41.1 (political liberalisation). Our study does not cover Israel. While both countries perform above average in their respective region, Moldova is rated considerably higher than Morocco.

4 In the presented study, we consider the period 2004–2012.

References


Democracy promotion


