

THE EU-US SECURITY AND JUSTICE AGENDA IN ACTION

Edited by Patryk Pawlak

Chaillot Papers | December 2011

with a preface by Gilles de Kerchove

In January 2002 the **Institute for Security Studies (EUISS)** became an autonomous Paris-based agency of the European Union. Following an EU Council Joint Action of 20 July 2001, modified by the Joint Action of 21 December 2006, it is now an integral part of the new structures that will support the further development of the CFSP/CSDP. The Institute's core mission is to provide analyses and recommendations that can be of use and relevance to the formulation of the European security and defence policy. In carrying out that mission, it also acts as an interface between European experts and decision-makers at all levels.

Chaillot Papers are monographs on topical questions written either by a member of the EUISS research team or by outside authors chosen and commissioned by the Institute. Early drafts are normally discussed at a seminar or study group of experts convened by the Institute and publication indicates that the paper is considered by the EUISS as a useful and authoritative contribution to the debate on CFSP/CSDP. Responsibility for the views expressed in them lies exclusively with authors. *Chaillot Papers* are also accessible via the Institute's website: www.iss.europa.eu

Cover photograph:

© Credit: Denis Poroy/AP/SIPA

THE EU-US SECURITY AND JUSTICE AGENDA IN ACTION

*Elaine Fahey, Eva Gross, Daniel Hamilton, Xymena Kurowska, Maria Grazia Porcedda,
Mark Rhinard, Thorsten Wetzling, Sarah Wolff; edited by Patryk Pawlak*

with a preface by Gilles de Kerchove

CHAILLOT PAPERS *December 2011*

Acknowledgements

The editor would like to thank all participants of the EUISS-US Task Force held at the European Commission, Brussels, on 15 September 2011 for their insightful comments and the discussion that helped to sharpen the ideas reflected in this volume. Thanks in particular to David Clemente, Sabine Fischer, Kenneth R. Propp, John Rollins, Florian Trauner and Jean Pascal Zanders for their detailed comments on draft chapters. Thanks also to the EUISS publications team and to Anna Kalista for their work and support in preparation of this volume. Any errors are the responsibility of the editor and authors.

Institute for Security Studies European Union

Paris

Director: Álvaro de Vasconcelos

© EU Institute for Security Studies 2011. All rights reserved.
No part of this publication may be reproduced, stored in a retrieval system or transmitted in any form or by any means, electronic, mechanical, photocopying, recording or otherwise without the prior permission of the EU Institute for Security Studies.

ISBN 978-92-9198-197-7

ISSN 1017-7566

QN-AA-11-127-EN-C

doi:10.2815/26912

Published by the EU Institute for Security Studies and printed in Condé-sur-Noireau (France) by Corlet Imprimeur. Graphic design by Hanno Ranck in collaboration with CL Design (Paris).

CHAPTER 7

The Arab revolts: reconsidering EU-US strategies for freedom, security and justice

Sarah Wolff

The author would like to thank Megan Price and Sylvie More from the Conflict Research Unit at the Netherlands Institute for International Relations as well as Patryk Pawlak and Sabine Fischer for their insightful comments on previous drafts of this chapter.

Introduction

Since the turn of the century, North Africa has become one of the geographical laboratories for the externalisation of EU and US homeland security policies. For the EU, even though it remains fragmented and uncoordinated,¹ the conclusion of readmission agreements, counter-terrorism clauses and cooperation on border control has become part of the diplomats' toolbox when negotiating with North African countries. The US mainly relied on partners in the region to conduct secret renditions and deploy counterterrorism programmes in the Sahel.

Ten years after 9/11, the challenge is for transatlantic partners to find innovative ways to support freedom, security and justice in the Arab world, beyond the internal-external security divide. The revolts in the Arab world and the ongoing transitions provide a new geopolitical, strategic and decision-making landscape to test EU and US willingness and capacities to promote that normative agenda. The new approach taken by the Obama administration and the new setting of Justice and Home Affairs after Lisbon clearly demonstrate that transatlantic priorities are not limited to counterterrorism or illegal migration.

This chapter argues that the EU and US homeland security agendas are ill-equipped and too 'internal security'-focused to respond to the challenge posed by the wave of uprisings in the Arab world. A more comprehensive freedom, security and justice agenda is needed in the region. Taking stock of EU and US internal-external policies so far, the chapter looks at the ways transatlantic partners can support security sector reform and the judiciary at times of democratic transitions. The

1. See Introduction by Patryk Pawlak to this volume, pp. 15-25. See also Florian Trauner, 'The Internal-External Security Nexus: More Coherence Under Lisbon?' *Occasional Paper* no. 89, EUISS, Paris, March 2011.

transatlantic dialogue on 'mutual security' can contribute meaningfully to transitions in Arab countries.

The main recommendations of this paper include: overcoming the long-standing dilemma of stability vs. democratisation; putting citizens of the region back at the centre of EU and US strategies; supporting the reform of security sector actors and the independence of the judiciary. Last but not least, a comprehensive approach that combines security and development strategies in the Sahel region as well as towards migration are key parameters for a successful democratic transition and to ensure security for the citizens in the region.

Transatlantic homeland security policies and the Arab revolts: reaching the breaking point?

The transatlantic *rapprochement* on internal security objectives is striking if one compares the EU Internal Security Strategy to the US Homeland Security Strategy. In its fourth review of the US strategy, the Homeland Security Department identified five security missions: (i) preventing terrorism and enhancing security; (ii) securing and managing US borders; (iii) enforcing and administering US immigration laws; (iv) safeguarding and securing cyberspace, and (v) ensuring resilience to disasters.² The Internal Security Strategy, which aims at establishing a 'European Security Model', presents identical objectives, as well as combating serious and organised crime. These similarities attest the salience of internal security concerns in the foreign and development policies of both the EU and the US.

To prevent threats to US homeland security, it was decided that 'all instruments of national power and influence – diplomatic, information, military, economic, financial, intelligence, and law enforcement' were to be used.³ In line with this strategy, the United States Agency for International Development (USAID) worked together with the Department of State to advance the National Security Strategy issued by the Bush administration in 2002.⁴ It did so in the field of border security, visa policy and counterterrorism. The various agencies, including USAID, were asked to cooperate by helping partners to upgrade the security of transport, critical infrastructure networks and borders 'to enhance their security and ours'.⁵ Strengthening the 'quality of their laws, and strength of their judicial/legal institutions' was identified as an important factor for the success of this strategy. Development aid also helped to train African (and North African) police officers in the fight against terrorism.⁶ Accordingly,

2. US Department of Homeland Security, *Quadrennial Homeland Security Review Report: A Strategic Framework for a Secure Homeland*, February 2010.
3. Homeland Security Council, *National Strategy for Homeland Security*, October 2007, p. 13.
4. US Department of State and US Agency for International Development, 'Strategic Plan: Fiscal Years 2004-2009 – Aligning Diplomacy and Development Assistance', August 2003.
5. *Ibid.*, p. 19.
6. Alice Hills, 'Trojan Horses? USAID, counterterrorism and Africa's police', *Third World Quarterly*, vol. 27, no. 4, 2006, pp. 629-43.

this transformed USAID into a 'quasi-security agency' instead of focusing on its international development commitments such as the Millennium Development Goals to eradicate poverty.

On the European side, patrolling of the Mediterranean between France, Spain and Morocco has become common practice, while Frontex has intensively coordinated the patrolling missions of the Mediterranean Sea since its creation in 2004. Italy signed agreements with Libya in 2003 regarding the readmission of irregular migrants arrived in Lampedusa and in 2007 to put in place joint Italo-Libyan patrolling.⁷ The EU was itself considering the challenge of 'jointly addressing' the migration question as a priority with regard to its relationship with Libya, before the 2011 rebellion.⁸ Following the Libyan conflict, compromising documents for the Western intelligence services were found in the offices of the Ministry of Interior in Tripoli. Those documents confirmed the secret renditions by the CIA and the MI5 to Libya.⁹ Such legacies have to be factored in by the transatlantic partners, if they want to establish trustful relationships with the military and police forces in transition that will appear legitimate to Tunisian, Egyptian or Libyan citizens.

But in the aftermath of the first free and fair elections in Tunisia and Egypt, opportunities to break away from those past practices have opened up. First in the EU, the reform of JHA governance ushered in by the Lisbon Treaty brings new prospects for improving the coordination between internal and external policies.¹⁰ In addition, the inclusion in the EU legal structure of the Charter of Fundamental Rights, the expected human rights action plan for the external dimension of JHA, the Frontex fundamental rights strategy,¹¹ the appointment of a fundamental rights officer and creation of a consultative fundamental rights forum within Frontex,¹² are some of the innovations that tip the balance towards a possible reconciliation of the EU's internal security concerns and its normative aspirations as a foreign policy actor.¹³

Second, the US National Security Strategy of 2010 has evolved from 'a narrow vision of the national security toolbox' in 2002, focusing on military power, homeland security, intelligence and counterterrorism, to 'a broader smarter power' approach that involves all actors in the government, ranging from security to development and justice experts.¹⁴ Long-standing transatlantic differences on counterterrorism have also lessened since the advent of the Obama administration, probably due to the fact that 'the Obama administration increasingly incorporates the civilian element in its military endeavours, and has re-introduced the rule of law with regard to many (though not all) terrorism detainees'.¹⁵

The fall of another iron curtain in the Arab world provides a momentum for transatlantic partners to shift from an agenda dominated by their

7. Anna Di Bartolomeo et al, 'Carim Migration Profile - Libya', EU1, Florence, p. 15.
8. See European Commission, 'European Neighbourhood and Partnership Instrument: Libya – Strategy Paper and National Indicative Programme 2011-2013', 2011.
9. Natalie Nougayrède, 'Paris minimise ses liens avec les services secrets du régime Kadhafi', *Le Monde*, 8 September 2011.
10. See Florian Trauner, op. cit. in note 1.
11. Frontex, 'Management Board Endorses Frontex Fundamental Rights Strategy', 4 April 2011.
12. European Commission, 'Proposal for a Regulation amending Council Regulation (EC) no. 2007/2004 establishing a European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX)', COM (2010) 61 2010/0039/COD.
13. See Elspeth Guild et al, 'Implementation of the EU Charter of Fundamental Rights and its Impact on EU Home Affairs Agencies Frontex, Europol and the European Asylum Support Office', European Parliament, 2011.
14. See Heather A. Conley et al, 'The U.S. Case: 2002 and 2010 US National Security Strategy' in *EU-US Security Strategies: Comparative Scenarios and Recommendations* (Istituto Affari Internazionali, Swedish Institute of International Affairs, Fondation pour la Recherche Stratégique and Center for Strategic and International Studies, 2011).
15. Jonathan Laurence, 'The US-EU Counter-Terrorism Conversation: Acknowledging a Two-Way Threat', *US-Europe Analysis Series no. 44*, February 2010, Brookings Institution, p. 8.

own internal security concerns towards policies that reconsider the link between democratisation and security.

Going beyond the democratisation vs. stability dilemma

In spite of policy initiatives such as the Barcelona Process, the European Neighbourhood Policy (ENP) and the Broader Middle East and North Africa (B-MENA) initiative that sought to advance democratisation, the main impetus for the Arab revolts was genuinely domestic. One of the lessons that the EU and US should bear in mind when formulating future democratisation policies is the fact that in the past they constantly overlapped with Western governments' preference for what they regarded as stable regimes, with the results that today are all too plain to see.

16. Jeremy M. Scharp, 'Egypt in Transition', Congressional Research Service, Report for Congress no. 7-5700, 29 March 2011. p. 4.

17. Federica Bicchì, 'Democracy Assistance in the Mediterranean: An Overview', *Mediterranean Politics*, vol. 14, no. 1, pp. 61-78.

18. An inventory of democratisation and human rights policies was done in 2007: see European Commission, DG External Relations, 'Furthering Human Rights and Democracy across the Globe' (2007). However it is worth pointing out that the documents listed on the Human Rights webpage of the EEAS pertain where there is no section on Democratisation.

19. Cristina Barrios, 'Assessing Democracy Assistance: the Democratic Republic of Congo', FRIDE, 2010.

20. Council of the EU, 'Council conclusions on the European Neighbourhood Policy', 3101st Foreign Affairs Council meeting, Luxembourg, 20 June 2011.

21. Roel van Meijenfildt, 'A European Foundation for Democracy: what is needed', FRIDE Policy Brief no 93, September 2011.

US and EU democratisation programmes via USAID or the European Instrument for Democracy and Human Rights (EIDHR) have not been successful in reaching out to the citizens and organisations that most needed their support. In the case of USAID, 'the vast majority of USAID Democracy and Governance assistance goes to Government of Egypt-approved consensual, government-to-government projects'.¹⁶ For the EIDHR micro-projects that were channeled over the period 2002-2006, most of the projects 'promoted human rights (and politically less controversial human rights in particular) more than democracy, and they did so in comparatively easier countries'.¹⁷ Those findings seem to have been confirmed in more recent years.¹⁸ Finally, the EU and its Member States have tended to adopt a piecemeal approach when it comes to the coordination of the EU and the Member States' democratisation policies.¹⁹

The democratic transitions provide a critical juncture to move from a low-cost strategy to full-speed democratisation and a fully-fledged human rights strategy. The latter needs to be devised in coordination with civil society actors, which are using new ways of mobilisation through social media. Such a strategy shall include ensuring the security of MENA citizens in a human security understanding. A positive development has been the proposal to establish a European Endowment for Democracy along with a Civil Society Facility, in the latest renewed European Neighbourhood Policy.²⁰ However even though the former recalls the US National Endowment for Democracy, its precise objectives, functioning and the independence of that institution still need to be clarified²¹ and anchored in a strategic vision of the EU for the region.

So far, the US and the EU have favoured a stance of pragmatism and caution towards democratic transitions. The EU is taking a more political approach²² that insists on an ‘intelligent conditionality’ which is based on the idea that the countries performing well will get support (‘more for more’) and the others will be sanctioned (‘less for less’).²³ It remains to be seen though to what extent the EU is willing to freeze money in countries where it would disagree with the way democratic transitions are conducted. Will the EU react if it disagrees with the policies pursued by Ennahda or if the Egyptian military steps out of its current role? Democratic transitions can be unpredictable and the EU’s strength in applying conditionality is being rapidly tested.

On the EU side, a couple of steps have been taken. The Support to Partnership, Reform and Inclusive Growth (SPRING) programme was put in place, but seems for the moment to focus mainly on economic reforms.²⁴ At the time of writing, an EU-Tunisian task force has been set up to ensure a smooth coordination of the international support to the Tunisian transition comprising Lady Ashton, the Commissioner for Enlargement and the European Neighbourhood Policy Stefan Füle, the EU Special Representative for the Southern Mediterranean Region and the newly-appointed Tunisian authorities.²⁵ Support to civil society via the Anna Lindh Foundation is a positive endeavour, that should be replicated by further actions in the countries undergoing democratic transition, in order to reach out to those non-state actors that do not necessarily have the means to get organised to respond to EU offers of grants.

Mobility Partnerships have also been promised to Egypt, Tunisia and Libya. But the scale and the nature of the problem is different than is the case with the current ‘laboratories’ of Moldova and Cape Verde. Young Tunisians, Egyptians and Libyans have no jobs, labour markets need to be radically restructured, and migration patterns have been disrupted, involving also a sub-Saharan dimension. Faced with a diversity of potential scenarios and security challenges, the EU and the US will have to remain flexible in order to be able to respond to the local needs. In particular, the EU needs to move beyond trying to model the region via its own paradigms and instead start refocusing on bottom-up approaches. Strengthening the support to South-South economic and political regional integration across the Maghreb countries would help to bring about economic development and establish strong relations across the populations of countries that used to mistrust one other. The resolution of the Western Sahara should remain a priority.

So far, though the EU is still very much caught in a dilemma between its ‘normative power’ ambitions and *realpolitik*. In fact when the EU forgets about its normative ambitions, the *realpolitik* can backfire with potentially disastrous consequences. This was exactly what happened in

22. See Ruth Santini, ‘The Transatlantic Relationship after the Arab Uprisings: Stronger in North Africa, Shaker in the Middle East?’, Brookings Institution, June 2011.

23. European Commission, ‘A Partnership for Democracy and Shared Prosperity with the Southern Mediterranean’, Brussels, COM(2011) 200 final, 8 March 2011.

24. European Commission, ‘EU response to the Arab Spring: the SPRING Programme’, MEMO/11/636, 27 September 2011.

25. European Union, ‘First meeting of EU/Tunisia Task Force to support transition to democracy and economic recovery’, Brussels, 27 September 2011.

Libya, where Gaddafi used the migration issue to effectively blackmail the EU.²⁶ The *realpolitik* of the EU, driven by migration, energy and economic concerns, had devastating consequences for EU foreign policy. What happens in the coming months of transition in Libya will be telling as to whether the EU is able to become 'strategic about ideals and values'.²⁷

President Obama's speech in Cairo in June 2009 demonstrated that a focus on counterterrorism was no longer the main element of US strategy towards the region. The ambition was to inaugurate a new era in the United States' relationship with Arab countries based on the principle that America and Islam 'share common principles – principles of justice and progress; tolerance and the dignity of all human beings'.²⁸ In the commitment to enhance transatlantic cooperation of October 2009, both partners stressed that their cooperation is 'inspired by the principles of liberty, democracy and justice' and that 'they are committed to working together internationally to foster these principles around the world'. In the coming years operational cooperation, cooperation with liaison officers or the promotion of UN conventions will be key in a partnership that aims to be 'more operational in maintaining security, facilitating legitimate movement, and protecting human rights and fundamental freedoms'.²⁹

26. Sarah Wolff, 'Qaddafi, the EU's mirror', *European Voice*, 24 September 2010.
27. Richard Youngs, *Europe's Decline and Fall: The Struggle against Global Irrelevance* (London: Profile Books), p. 197.
28. The White House, Office of the Press Secretary. 'Remarks by the President on a New Beginning', Cairo University, Cairo, 4 June 2009.
29. Council of the European Union, 'EU-US Statement on "Enhancing transatlantic cooperation in the area of Justice, Freedom and Security"', doc. 15184/09, Brussels, 29 October 2009.
30. Geoff Burt, 'US "SSR" Assistance in Egypt: what's in a name?', Security Sector Reform Resource Online, 17 February 2011.
31. The author would like to thank Megan Price for pointing this out. See also for instance Marc Cohen and Tara Gingerich, 'Protect and serve or train and equip? US security assistance and protection of civilians', Oxfam America, November 2009.
32. Global Facilitation Network for Security Sector Reform (GFN SSR), 'A Beginner's Guide to Security Sector Reform (SSR)', December 2007.

Prioritising Security Sector Reform and an independent judiciary

Security Sector Reform

In the case of Security Sector Reform (SSR) again it seems that hitherto European and American support remained quite narrowly 'security'-oriented. The US delivered to Egypt an average of \$2 billion of military aid every year under the label of 'SSR' without looking into reforming the military.³⁰ The US has mainly focused on 'train-and-equip' programmes that focused on counterterrorism or counter-insurgency for countries like Afghanistan and Iraq.³¹ It is not sure whether this aid matches the definition of SSR that 'aims to create a secure environment that is conducive to development, poverty reduction, good governance and, in particular, the growth of democratic states and institutions based on the rule of law'.³²

SSR has generated an impressive amount of consultancy reports as an answer to the problems of 'fragile' states and in an effort to forge national consensus to establish long-term peacebuilding. It is presented as 'a key condition to development and the promotion of

human rights³³ and should be conducive to development, security and democracy. Successful and sustainable SSR requires broad-based local ownership (both government and non-state actors) as well as the active participation of civil society in the reform process. However, as rightly outlined by one commentator, this is more difficult in countries where the security sector and the regime are intimately linked.³⁴ There is therefore a constant tension between providing ownership to the local population and not encountering problems with a government that feels its interests are threatened. SSR is about finding the delicate balance between the two while being able to answer to the needs of each country, avoiding a 'one-size fits all approach'.

During the uprisings in Egypt and Tunisia, the military played a pivotal role in deciding to stop supporting the leader in place.³⁵ This is a crucial element of the current repression in Syria where the Alawi minority holds strategic military posts and remains loyal to the regime.³⁶ The Egyptian military's role in future economic reforms will also be closely scrutinised, given its stake in sectors like tourism or education.³⁷ It has also been the privileged interlocutor of the US, the latter providing one of the highest amounts of foreign military aid to Egypt. The military's position in the transition was also shaken by the second wave of demonstrations on Tahrir Square, which protested against the role of the Supreme Council of the Armed Forces (SCAF), a vestige of Mubarak's regime.³⁸

Central to the reforms are the police forces. The secret police services, the 'mukhabarat', have a long history of repression of the political opposition. Along with corruption, the lack of freedom and economic opportunities, they concentrated the frustration of the Arab societies. Those difficult legacies and the sometimes ambivalent roles of the military and police forces need to be carefully taken into account when channelling support.

So far, though, except for the the EU Border Assistance Mission in Rafah, the EUJUST LEX mission in Irak and the EUPOL COPPS mission to reform the Palestinian police, the EU has not been significantly active in SSR in Arab countries. It seems rather that migration and the EU's internal security concerns have focalised attention in Brussels and the European capitals.³⁹ The US have been even less proactive in that field, preferring to provide military aid and counterterrorism assistance and becoming suspicious of SSR programmes.⁴⁰

Establishing contacts with their new interlocutors in the region, and listening to the demands of both governments and civil society while supporting conditionality are some of the challenges facing the transatlantic partners. Multilateral cooperation with other regional actors such as the African Union or the Arab League, international

33. Mustapha S. Adib, Commentaries on the Report of the Secretary-General of the United Nations A/62/659-S/2008/39, 'Securing Peace and Development: the role of the United Nations in Supporting Security Sector Reform', 17-18 March, 2008.

34. Ibid, p.9.

35. See also Eduard Soler i Lecha, 'Security Forces and Arab Revolts', Arab Reform Initiative, 28 February 2011.

36. Elizabeth A. Kennedy, 'Syria's Military Appears Loyal to Government ahead of pro-democracy protests', *Huffington Post*, 4 June 2011.

37. Daniel Korski, 'Without military reform, Egypt cannot democratise', European Council on Foreign Relations, 5 July 2011.

38. See for more information Amnesty International, 'Broken Promises. Egypt's military rulers erode human rights', November 2011.

39. Yezid Sayigh, 'Security Sector Reform in the Arab Region: Challenges to Developing an Indigenous Agenda', Arab Reform Initiative, December 2007, p. 9.

40. Ibid.

organisations and neighbouring countries will help to legitimise support in the eyes of Arab public opinion.⁴¹ The bottom line is to evolve towards a security sector that is accountable and provide security for the citizens of the respective countries.⁴² Long-term and deep structural reforms are needed: short-term training and equipment does not constitute SSR. SSR involves much more than that.

An independent judiciary

Transitional justice is a key element of national reconciliation; in particular for the victims of authoritarian rule. International justice, building the capacities of national justice, but also non-judicial means such as *ad hoc* reconciliation commissions, will be supportive of democratic transitions.

Europeans and Americans can play an important role in supporting the independence of the judges throughout the transitions in Egypt and Tunisia. Strategies on how to support judiciaries where authoritarian governments and military courts are still in place in other countries of the region should also be quickly explored. It is time to move beyond short-term training programmes or modernisation of IT systems in courts, which would fall under 'good governance' aid, to programmes that support deep reforms pursuing the objective to have independent judiciaries. However to be truly successful they could envisage developing a regional approach on the rule of law and justice. As for SSR, involving regional partners is key. The UN-POGAR programmes in the field of rule of law have provided an interesting experiment in this domain. If such successful programmes could be put in place, it would also reinvigorate the exchange of best practices, cooperation and knowledge of each other's systems by other neighbouring countries. Programmes like EuroMed Justice could be revised in this perspective.

Judicial institutions will also ensure that rule of law will govern future constitutional architectures. This step is intimately linked to finding the terms of a new social contract within Arab societies whereby there is no arbitrary exercise of power and whereby people are the authors of the laws.⁴³ The judiciary has, in Egypt, been historically in constant conflict with the executive and managed to secure some civil rights, e.g. the possibility to establish trade unions or to form political parties, in spite of the authoritarian rule.⁴⁴ Even though the independence of the judiciary is ensured by Arab constitutions, in reality the executive has protected itself by creating special courts or by interfering with the oversight of judicial council bodies.⁴⁵

41. Mohammed Khadry Said and Noha Bakr, 'Egypt Security Sector Reform', *ARI Thematic Studies*, January 2011., p.12.
42. Maria Christina Paciello, 'Egypt: Changes and Challenges of Political Transition', MEDPRO Technical Report no. 4, May 2011.
43. See also Sarah Wolff and Tim van de Ven, 'Building Mutual Trust in a European Rule of Law: A Bottom-up approach', *Clingendael Paper*, April 2011.
44. Sarah Wolff, 'Constraints on the promotion of the rule of law in Egypt: insights from the 2005 Judges' revolt', *Democratization*, vol. 16, no. 1, pp. 100-18.
45. Nathan J. Brown, 'Mechanisms of Accountability in Arab Governance: The Present and Future judiciaries and Parliaments in the Arab World', UNDP-POGAR, December 2001.

Balancing development, security and migration in the Sahel and North Africa

Last but not least, the revolutions in the Arab world highlight the continuing relevance of two security concerns for the EU and the US: the Sahel and migration.

The Sahel has been a region of concern for the transatlantic partners since 9/11. The US has been active via the Trans-Saharan Counter-Terrorism Initiative (TSCTI) where they have trained sub-Saharan military⁴⁶ to fight terrorism and improve exchange of information. The US have also gained access to 'bases in Mali and Algeria, [have] conclude[d] agreements to refuel its planes in Senegal and Uganda, and [have] initiate[d] programmes of military assistance and training'.⁴⁷ With funding amounting to roughly \$100 million every year, this programme shall run until 2013. The TSCTI, which succeeded to the Pan-Sahel Initiative, is one of the many programmes that were developed following the establishment of the Africa Command (AFRICOM) in 2008. This unified US commandment for Africa failed to be hosted in one of the African countries due to the unpopularity of US policies in the region.⁴⁸ Back home, the creation of AFRICOM also resulted in some backlash from the State Department who perceived this entity as 'the latest move by the Pentagon to militarize US foreign policy'⁴⁹ that has deepened the gap between the US military and civilian agencies like USAID, which already observed that 'the funnelling of authorities and resources from civilian agencies to the military has rendered them less and less effective'.⁵⁰ Algeria has been heralded as a strategic partner of the US in that respect, especially given that the origins of al-Qaeda in the Islamic Maghreb (AQIM) are Algerian, and that Algeria is the fourth supplier of anti-coalition combatants in Iraq.⁵¹ Via Algeria both the US and the EU can reach out to the African Union where Algeria plays a central role. Given the current contestation against the regime in Algeria, it is also likely that Algeria will continue to issue calls for beefing up security in the region.⁵²

Such security concerns are also shared by Europeans whose direct interests are threatened in the region. In December 2011, the defence ministers of the 5+5 Maghreb countries and EU defence ministers met in Nouakchott to discuss the rising security concerns in the Sahel, among which AQIM, European hostages and the smuggling of weapons in the aftermath of the Libyan conflict.⁵³

However in developing its security approach towards countries like Mauritania, Mali and Niger, the EU puts a stronger emphasis on development, compared to the US. Following the kidnapping of several Europeans, a joint fact-finding mission led to the drafting of a

46. The countries involved in the programme are Algeria, Morocco, Tunisia and the Sahel nations Chad, Mali, Mauritania, and Niger as well as Senegal and Nigeria.

47. Yahia Zoubir, 'The United States and Maghreb-Sahel security', *International Affairs*, vol. 85, no. 5, September 2009, pp. 977–95.

48. Ibid, p. 991.

49. Colin Thomas-Jensen, 'Beyond AFRICOM: Towards a Comprehensive US Africa Policy', *Yale Journal of International Affairs*, Winter 2008.

50. Ibid, p. 34.

51. Alexis Arieff, 'Algeria, current issues', Congressional Research Service, 22 February 2011, p. 8.

52. In December 2011 Abdeliziz Bouteflika and his Mauritanian counterpart called for stepping up security in the region with the support of the EU and the US. See Agence France Presse, 'Algeria, Mauritania pledge to boost Sahel security', 13 December 2011.

53. BBC Monitoring Service, 'Al-Qa'idah threat focus of Maghreb-European defence meeting', 12 December 2011.

Commission and Council paper in 2010 that proposed a security and development strategy in the Sahel.⁵⁴ Initiated under the 2008 French presidency that sought to protect its citizens and business interests in the region, the strategy explicitly links up security threats as being detrimental to development aid. Similarly, the lack of development is identified as a source for increased insecurity.⁵⁵

The strategy is structured around four axes. Strengthening state capacities and meeting development objectives such as education and the mitigation of the effects of climate change constitutes the first axis. The second axis involves adopting a regional approach to foster a common vision on security and development with North African countries but also African organisations such as ECOWAS and the African Union. The document nonetheless avoids mentioning the Western Sahara conflict, which poisons Northern African relations and has led to a lot of distrust at all levels. Strengthening the capacities of law-and-order authorities to fight terrorism and organised crime, within the principles of good governance, is the third axis.⁵⁶ This ambition to professionalise security sectors in West Africa is balanced by the fourth axis that aims at preventing violent extremism and radicalisation. To do so, development initiatives have been flagged up such as providing 'basic social services, economic and employment perspectives to the marginalised social groups, in particular the youth vulnerable to radicalisation; to support the states and legitimate non-state actors in designing and implementing strategies and activities aiming at countering these phenomena'.

While the EU endorses a comprehensive development strategy, some points remain unanswered at this stage. First, the strategy does not flag up indicators to monitor progress. Then, in the aftermath of the Libyan conflict, described by many as the next Somalia in the light of the number of light weapons circulating, the EU's internal security objectives for the moment are predominant. The strategy also links up to the European Pact on Drugs and the establishment of two cooperation platforms in Dakar and Ghana to combat drug trafficking from Latin America that transits through Western Africa. In 2011, the Commission reported that one of the main activities in the Sahel had been the financing in December 2010 of the 'first EU-sponsored counter-terrorism programme for the Sahel region, including Mali, Mauritania, and Niger'⁵⁷ with a budget of €4.5 million. Future developments in the Sahel will therefore be indicative of the future vision that the European External Action Service wants to develop on security and development.⁵⁸ For the moment €150 million have been earmarked to support Mauritania, Mali and Niger. Another mounting concern for US and EU development agencies will probably be how to act quickly on the food crisis that might endanger one million children in 2012 and cause further instability in the Sahel.⁵⁹

54. European Union External Action Service, 'Strategy for Security and Development in the Sahel', 2011. Available at http://eeas.europa.eu/africa/docs/sahel_strategy_en.pdf.

55. *Ibid.*, p. 2.

56. *Ibid.*, p. 7.

57. European Commission, 'Annual Report 2011 on the European Union's development and external assistance policies and their implementation in 2010', (staff working paper), SEC(2011) 880 final. Brussels, 6 July 2011.

58. Andrew Sherriff, 'The EU Strategy for Security and Development in the Sahel – An indicator for the future of EU External Action?', ECDPM Talking Points, 23 September 2011. Available at: <http://www.ecdpm-talkingpoints.org/eu-sahel-strategy/>

59. Agence France Presse, 'Africa's Sahel desert regions face major food crisis: UN', 9 December 2011.

Another point concerns migration management in sub-Saharan Africa and North Africa. While Europeans were debating on the impact of the influx of unwanted Tunisian and Libyan migrants on their southern shores, most of the migrants were actually heading to Tunisia, Egypt or other neighbouring countries. Overall, according to Philippe Fargues, only 5 percent of the total of migrants reached European shores.⁶⁰ The EU has proposed Mobility Partnerships to Tunisia and Egypt that are modelled on the Mobility Partnerships of Moldova and Cape Verde. Those partnerships however can only be successful if the right incentives (i.e. visas) and the inclusion of those countries' specific needs are taken into account. The US-EU Platform for Cooperation on Migration and Refugee Issues can act as a forum to involve international partners. Consultations with the IOM, the UNHCR and regional partners such as ECOWAS or the African Union would be fruitful. The UNHCR has for instance raised its concerns about the treatment by Libyan rebels of sub-Saharan migrants considered to be mercenaries of Gaddafi.⁶¹ Migration dialogue should help in fostering a co-management of migration fluxes that also addresses issues of legal migration and not only illegal migration.

Conclusions and recommendations

The Arab revolts should act as a wake-up call for the transatlantic partners to refocus on democratisation as a solution towards achieving more stability and security in the region. Support to the security sector and the judiciaries as well as supporting development in the Sahel region would be successful strategies to follow. In the past, the normative agenda that both partners had promoted in the region was constrained by stability concerns driven by internal security considerations. Counterterrorism, migration and border control were the main issues that prevailed in the West's approach to the Arab world over the past decade.

The dominance of this narrow homeland security agenda had led to a 'security *rapprochement*',⁶² with authoritarian governments putting forward their expertise in countering terrorism and their respect for the rule of law. This enabled leaders to justify the maintenance of emergency laws, for instance in Algeria, Egypt or Syria. The Arab revolts have demonstrated however that the link between homeland and security also encompasses democratisation, freedom and justice. Encouraging stability by propping up authoritarian governments does not necessarily contribute to security in the EU and US homelands in the medium and long term. Roberto Aliboni noted in 2010 that the debate on security in the Mediterranean had not taken place.⁶³ It is high time to get this debate started and to reflect upon democratisation strategies in the region.

60. Philippe Fargues, 'Voice after Exit: Revolution and Migration in the Arab World', Migration Information Source, May 2011.

61. United Nations High Commissioner for Refugees, 'UNHCR concerned as sub-Saharan Africans targeted in Libya', August 2011. Available at <http://www.unhcr.org/4e57d1cb9.html>.

62. Frédéric Volpi, 'Introduction: Strategies for Regional Cooperation in the Mediterranean. Rethinking the Parameters of the Debate', *Mediterranean Politics*, vol. 11, no. 2, 2006, pp. 119-35.

63. Roberto Aliboni and Abdallah Saaf, 'Human security: a new perspective for Euro-Mediterranean cooperation', EUISS and IEMeD, *10 Papers for Barcelona 2010*, February 2010, p. 23. Available at: <http://www.iss.europa.eu/publications/detail/article/human-security-a-new-perspective-for-euro-mediterranean-cooperation>.

A transatlantic focus on this is particularly welcome given that the geopolitics of the region is being reshuffled. It is important to stress that support to SSR and the judiciary by the US and the EU will only be successful where there will be local ownership. First, to be credible supporters, they will have to strive for support from regional organisations such as the Arab League, the African Union and the Gulf Cooperation Council. A second challenge is that so far SSR has been modelled on various guidelines and roadmaps agreed at national level. As rightly pointed out by one commentator, here the EU and the US should be modest and concentrate on giving support to democratic transition actors such as the newly elected governments and look for local ownership via civil society involvement.⁶⁴ It is up to those new governments to decide in what way they might rely on external support for their own transitions. At the time this publication goes to press, the EU-US summit of November 2011 looked promising in improving coordination in the Arab region. First, counting on their combined contribution amounting to 80 percent of official development assistance, the two partners reaffirmed their commitments to aid effectiveness, division of labour, accountability and country ownership as well as to the Millennium Development Goals via notably the Transatlantic Development Dialogue. Then, acknowledging the ‘historic opportunity’ that the revolts in Egypt, Tunisia and Libya constitute, the partners have reiterated their willingness to work together towards democratic reform.⁶⁵

A transatlantic debate needs to take place in order to identify the points of convergence and divergence. A possible way to proceed would be to see whether some common strategies are foreseeable in the following areas:

- ***Embedding the internal security focus into a comprehensive foreign policy:*** this is not contradictory with EU and US normative goals. Reworking strategies for the MENA region where citizens are at the heart of EU and US actions would be welcomed. This is in line with calls to evolve from traditional diplomacy to ‘social diplomacy’ in the region, albeit on a case-by-case basis, taking into account the specificities of the region.⁶⁶
- ***Supporting security sector reform,*** both in countries undergoing transition and in countries not yet in transition. This means designing comprehensive training programmes that go beyond mere counterterrorism training and take into account the needs of the newly-elected governments. Local ownership will certainly provide the incentives for reform, together with teaming up with regional organisations such as the African Union.
- ***Rethinking rule-of-law support as an objective in itself*** in EU and US programmes, and not merely as a means. Transatlantic partners could

64. Mark Sedra, ‘Security Sector Transformation in North Africa and the Middle East’, United States Institute of Peace, Special Report, November 2011.

65. Council of the EU, EU-US Summit- Joint Statement, Document 17805/11 Presse 463, 28 November 2011.

66. Rianne van Doeveren, ‘Engaging the Arab World through Social Diplomacy’, *Clingendael Paper* no. 4, October 2011.

facilitate trans-regional exchange of best practices and experiences on transitional justice.

- ***Combining comprehensive development and security approaches*** in North Africa and the Sahel. Beyond the recently created Global Counter-Terrorism Forum, transatlantic partners need to support policies that put citizens in the region at the heart of their strategies. In that respect, the US-EU Dialogue on Development provides an appropriate platform to expand the development and security approach to the Sahel and North Africa.
- ***The US-EU Platform for Cooperation on Migration and Refugee Issues*** could be used to think about the implications of migration fluxes in the region and their implications for the transitions. It could involve international partners such as the IOM and the UNHCR and partners such as ECOWAS or the African Union. Exploring further the role of diasporas and remittances in democratic transitions as well as developing refugee policies and migration policies alongside labour market reforms will be crucial, especially for countries like Egypt and Tunisia, many of whose nationals working in Libya have been returning to their home countries.

Looking beyond their own internal security interests, the EU and the US will have to strike a delicate balance in supporting policies that are built on local ownership while pursuing their strategic interests together with their normative commitments. Such 'smart conditionality' as heralded in the latest EU policy documents will have to evolve in a context of shifting sands as democratic transitions can be quite unpredictable. Transatlantic partners will also have to take into account the new geopolitical realities of a regional power such as Turkey or the potential role that the Gulf countries could play.