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REGIONAL COOPERATIONS

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Canan Atilgan / Gabriele Baumann / Alexander Brakel / Claudia Crawford / Jakov Devcic / Amos Helms

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■ **Lonely Together: South American Alliances Mercosur and Unasur Face Crisis**

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■ **A New Beginning instead of Refoundation – Honduras after the Elections**

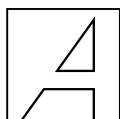
Annette Schwarzbauer

■ **Constitutional Reform and Constitutional Reality in Morocco: Between Monarchical Stability and Democratic Renewal**

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EDITORIAL

Dear Readers,

When the XXII Olympic Winter Games open in Sochi on 8 February, vast numbers of people around the world will turn their eyes to this city on the Black Sea. One can assume Russian President Vladimir Putin will savour the attention. The Olympics in Sochi – a city with a subtropical climate located at the same latitude as Nice – was his dream and his fervent ambition. Six years of planning, demolition and reconstruction, and a seaside resort was transformed into a winter sports resort. This will have cost the Russian state an estimated 50 billion dollars.

The Olympics in Sochi is far more than a sports competition. In the eyes of the Russian leadership, as well as in the eyes of many Russian citizens, it is a prominent symbol of Russia's return to the world stage, a symbol of the political revitalisation of the geographically largest country of the world. This is the event Moscow has been waiting for ever since the fall of the Iron Curtain and the subsequent collapse of the Soviet Empire – historic developments Vladimir Putin has called “the greatest geopolitical catastrophe of the 20th century”.

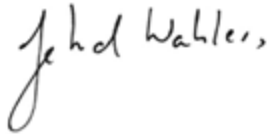
Since that time, the Kremlin has made repeated efforts to consolidate, or possibly even expand, Russia's influence in the post-Soviet sphere through regional cooperation endeavours. Speaking of political achievements in this context would represent a misjudgement. That said, it is worth taking a look at the latest efforts made by the Russian political leadership aimed at moving towards the Eurasian Economic Union. Our authors describe this integration project as follows: “This new project goes much further than its predecessors, at least in terms of the depth of the proposed integration.” And they continue: “And above all, the real novelty is the fact that Russia has agreed to limit its own powers. The guiding light of this project has agreed that all member states should have equal voting rights, making

Russia at best *primus inter pares*." They believe the disparity in size and Russia's economic power will ensure "that Russia will still de facto assume the role of leader".

There is no doubt that Russia has the intention of playing out its dominant role to the limit. Canan Atilgan provides an impressive description of Armenia's dependence on Moscow particularly in matters of security policy, which ultimately led to the signing of the agreement to join the Customs Union. Lengthy negotiations with Brussels on an Association and Free Trade Agreement were suddenly consigned to the wastepaper basket. At the EU summit on the Eastern Partnership, Armenia was relegated to looking on from the sidelines. Alexander Brakel describes Belarus as a basically failed state, which is not viable without closer links to Russia. As Amos Helms explains, Kazakhstan's President Nursultan Nazarbayev claims the vision of a Eurasian Union as his own, but has to acknowledge that his Russian counterpart has not only assumed the copyright to this idea, but also fleshed it out in terms of political content.

In the Ukraine, years of tough negotiations on an Association and Free Trade Agreement with the European Union ultimately led to a reorientation towards Russia after all, to the surprise of many – but not all. The consequences of this decision by the Ukrainian President Viktor Yanukovich have produced ever more dramatic pictures over the last few weeks. The events taking place on Independence Square in Kiev and in large parts of the country illustrate that the reorientation of the country towards the east, which has now become more likely, very importantly also entails a different political culture and social order for the protestors, which they reject. They have realised that the Eurasian integration project is not aligned with liberal democratic values, but first and foremost represents a marriage of convenience involving the economy and power and, unlike the European integration project, is not based on a joint concept of the future of the involved states, but can be attributed to Russia's aspiration to secure and expand its own relevance on the global political stage as a regional power.

The European integration project has proved that regional integration, seen as cooperation between democratic actors to solve common challenges, can increase prosperity and secure peace. Regional integration, however, is only to be welcomed if it takes place on a voluntary basis. Where the Eurasian Union is concerned, this is not the case for all the states involved.

A handwritten signature in black ink that reads "Gerhard Wahlers". The signature is written in a cursive style with a large, looping initial 'G'.

Dr. Gerhard Wahlers
Deputy Secretary General

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PROSPECTS FOR GERMAN FOREIGN POLICY

The current public discourse on questions of international politics in Germany is not commensurate with the colossal challenges that the country is facing. What do developments in the Middle East, in Africa as well as in Asia and in the Americas mean for Germany and Europe? In what areas should German foreign politics become engaged more strongly – which topics should the German public be exposed to more intensely?

**GLOBAL
MEGATRENDS (I):**

**GLOBAL
POWER
SHIFTS**

**GLOBAL
MEGATRENDS (II):**

**DEMO-
GRAPHIC
CHANGE**

**SECURITY
AND DEVEL-
OPMENT IN
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Gabriele Baumann is head of the KAS office in Kiev.



Dr. Alexander Brakel is head of the KAS office for Belarus, which is based in Vilnius.

THE EURASIAN UNION

AN INTEGRATION PROJECT UNDER THE MICROSCOPE

*Canan Atilgan / Gabriele Baumann / Alexander Brakel /
Claudia Crawford / Jakov Devcic / Amos Helms*

“The biggest geopolitical disaster of the 20th century”. This is how Russian President Vladimir Putin described the collapse of the Soviet Union in 1991. Even those who do not share this view cannot deny that it has hardly been clear sailing to turn a single economic space that had long been part of one state with extremely well-integrated industry and established trade flows into 16 separate nations. Since 1991 there have been many very different attempts to create international organisations in the post-Soviet area, which were motivated by both geopolitical and economic considerations. But they have all proved to be largely unsuccessful. The Commonwealth of Independent States (CIS), the Union State of Russia and Belarus, the Eurasian Economic Community – none of these have lived up to their promises and have all quickly become little more than committees with only very limited influence. In recent years, a new proposal has been tabled: the Eurasian Economic Union. This is to be established in a three-stage process. It is based on the Customs Union set up by Russia, Belarus and Kazakhstan in 2009 and which was joined by Armenia last year. The members of this Customs Union have removed tariffs on mutual trade and harmonised tariffs for non-members. They have also agreed to gradually ease other non-tariff trade barriers.

In 2012, the second stage was to create a single economic space to guarantee the free movement of goods, services, capital and labour among member states. It is then planned that the Eurasian Economic Union will enter fully into force on 1 January 2015. It will be similar to the European Union in many respects, including its stability criteria, which will resemble those set out in the Maastricht Treaty.

So is the Eurasian Economic Union just going to be another chapter in this ongoing history of misadventures, or is it really something new? This new project goes much further than its predecessors, at least in terms of the depth of the proposed integration. It also differs from its many antecedents through the creation of a much stronger institutional basis. For the first time in a post-Soviet integration project, it is proposed to set up wide-ranging and far-reaching institutions. Another new aspect is the way the project is being set up in line with international standards, partly as a result of Russia's entry to the World Trade Organisation in 2012. And above all, the real novelty is the fact that Russia has agreed to limit its own powers. The guiding light of this project has agreed that all member states should have equal voting rights, making Russia at best *primus inter pares*. However, its sheer size and economic power compared to the other members will ensure that Russia will still de facto assume the role of leader.

RUSSIA AND THE EURASIAN ECONOMIC UNION

Every year on 12 June, the Russian Federation celebrates Russia Day. Until 2002 it was known as Independence Day, a public holiday introduced by President Boris Yeltsin in 1994 to mark Russia's departure from the Soviet Union in 1991 and the emergence of the Russian Federation as an independent state. But it is a holiday many Russians have little cause to celebrate. Today, many still believe the decision to leave the Soviet Union and provoke its collapse was unnecessary and even harmful.

On 12 December 2013, Russian singer Oleg Gazmanov serenaded the Russian Federation's political elite with his song "Born in the USSR": "Ukraine and the Crimea, Belarus and Moldova, this is my land! [...] Kazakhstan and the Caucasus, the Baltic States too. [...] I was born in the Soviet Union, born in the USSR!"¹ This took place at the Kremlin on the occasion of celebrations to mark the 20th anniversary of the constitution of the Russian Federation.



Claudia Crawford is head of the KAS office in Moscow.



Jakov Devcic is a trainee at the KAS office in Kiev.



Amos Helms is head of the KAS office in Kazakhstan.

1 | "The Ministry of Foreign Affairs of Latvia condemned performance of the Song of Gazmanov about the USSR in the Kremlin", *Russian News*, 17 Dec 2013, <http://rupaper.com/post/13968> (accessed 22 Jan 2014).

Fig. 1
Overview countries described in this article



Source: Own presentation.

These are just two examples of Russia’s difficulty in coming to terms with its loss of power and size in the wake of the collapse of the Soviet Union. So the various attempts to reunite the former Soviet Union may also be due to a desire to restore its former strength and area of influence – beginning with the establishment of the CIS, then the various customs unions and treaties and finally the Eurasian Economic Community. In the West, the Eurasian Economic Union project is also often viewed as another attempt by Russia to turn back the clock. But it could be a fatal mistake to dismiss this project so lightly.

The route to economic union

Some very concrete steps have already been taken towards building the structures of the future Eurasian Economic Union (at present still the Customs Union and the Single Economic Space, SES). The Council of the Eurasian Commission and its Board,² which both resemble the EU’s structures, are already at work, as is the Court of the

2 | Eurasian Economic Commission, *Eurasian Economic Integration: Facts and Figures*, 2013, http://eurasiancommission.org/ru/Documents/broshura26Body_ENGL_final2013_2.pdf (accessed 22 Jan 2014).

Eurasian Economic Community. The necessary legal framework for the Customs Union of the three countries came into force in January 2010.

On 1 July 2010 the Commission was authorised to investigate the introduction of anti-dumping, countervailing and safeguarding measures by the Customs Union with regard to goods from third countries. On 1 July 2011 all border controls between Belarus, Kazakhstan and Russia were lifted. The Custom Union's regulatory framework, which contains more than 70 international treaties and over 900 regulations set by the Commission, entered fully into force at the end of 2011. With regard to the creation of the Single Economic Space, on 1 January 2012 17 agreements entered into force that must be implemented by 1 January 2015. On 5 July 2010 the member states signed the statute of the Court that governs the Court's organisation, responsibilities and procedures. The Court itself is based in Minsk and began its work on 1 January 2012.³ There is a clear qualitative difference compared to previous projects: treaties are being observed and a joint legal framework is being implemented, with potential penalties for non-compliance. In the event of disputes, the Court interprets the treaties signed by the member states and gives its independent verdict.



Elvira Nabiullina, then Russian trade minister, at a WTO conference in Geneva, 2011: Russia, member of a customs union with Belarus and Kazakhstan, since 2012 is a WTO member. | Source: Eric Bridiers, United States Mission Geneva, flickr ©©©.

3 | Court of Eurasian Economic Community, "История" (History), <http://sudevrazes.org/main.aspx?guid=6201> (accessed 22 Jan 2014).

It is worth noting that agreements on economic issues are obliged to comply with WTO conditions. Russia has been a member of the World Trade Organisation since 2012 and is therefore bound to comply with its guiding principle that all regulations within the Single Economic Space must conform to WTO rules. The two other partners are simply left to deal with these hindrances without enjoying the benefits of being WTO members. On the positive side, this situation could help them to modernise their economies.

The measures that have been taken so far to create a Single Economic Space as a step on the way to establishing the Eurasian Economic Union have been very pragmatic and have generally focused on economic aspects. They have aimed to harmonise standards, norms, rules and taxation. This is an important point, as this integration project is essentially a political project. After all, from an economic point of view, Russia is not exactly under pressure to drive this project forward.

Table 1

Russia's foreign trade with Belarus and Kazakhstan, in million U.S. dollars

Export	1995	2000	2005	2008	2009	2010
Total	14,530	13,824	32,627	69,656	46,811*	59,685
Belarus	2,965	5,568	10,118	23,507	16,726	18,058
Kazakhstan	2,555	2,247	6,534	13,299	9,147	10,796
Import	1995	2000	2005	2008	2009	2010
Total	13,592	11,604	18,996	36,607	21,818*	31,606
Belarus	2,185	3,710	5,716	10,552	6,718	9,816
Kazakhstan	2,675	2,200	3,225	6,379	3,697	4,478

* Including Georgia, which left the CIS in 2009.

Source: Russian Federal State Statistics Service, "Внешняя торговля Российской Федерации с государствами-участниками СНГ" (Foreign Trade of the Russian Federation with CIS member states), 2011, http://gks.ru/bgd/regl/b11_58/IssWWW.exe/Stg/d2/06-08.htm (accessed 22 Jan 2014).

If we look at the volume of trade between the three current member states, Russia, Belarus and Kazakhstan, particularly before they formed the Customs Union, we see that it comprises a very small proportion of their respective total trade volumes (Table 1). What is more, the three economies do not complement each other but indeed tend to find themselves in competition. For example, Kazakhstan, like Russia, is a major supplier of energy resources. Kazakhstan's economy, with a per-capita GDP of 9,070 U.S. dollars and the Belarusian economy, with a per-capita GDP of 5,819 U.S. dollars, are not exactly attractive partners that promise tangible market expansion for Russia (per-capita GDP of 10,710 U.S. dollars in Russia compared to 40,164 U.S. dollars in Germany).⁴

“An independent centre of global development”

President Putin himself has made it clear that his motivation for this integration project is largely of a geopolitical nature. On 3 October 2011 he published an article in the newspaper *Izvestia*, in which he outlined his ideas for the Eurasian Union: “We propose a powerful supranational association capable of becoming one of the poles in the modern world and serving as an effective bridge between Europe and the dynamic Asia-Pacific region.”⁵ On 19 September 2013, Putin repeated his strategic view of the Eurasian Union: “Eurasian integration is an opportunity for the post-Soviet area to become an independent centre of global development rather than being on the periphery of Europe or Asia.”⁶ In Moscow it is assumed that the establishment of common rules and standards within the Customs Union of Russia,

In Moscow it is assumed that the establishment of common rules and standards within the Customs Union of Russia, Kazakhstan and Belarus will aid the economic growth of these three countries.

- 4 | All figures from 2010. Cf. “GDP per capita”, The World Bank, <http://data.worldbank.org/indicator/NY.GDP.PCAP.CD> (accessed 22 Jan 2014).
- 5 | “Новый интеграционный проект для Евразии – будущее, которое рождается сегодня” (A new integration project for Eurasia – A future that is born today), *Izvestia*, 3 Oct 2011, <http://izvestia.ru/news/502761> (accessed 22 Jan 2014).
- 6 | “Путин: Евразийская интеграция позволит ее участникам не быть периферией Европы или Азии” (Putin: Eurasian integration will allow those involved to not be the periphery of Europe or Asia), *Voice of Russia*, 19 Sep 2013, http://rus.ruvr.ru/news/2013_09_19/Putin-Evrazijskaja-integracija-pozvolit-ee-uchastnicam-ne-bit-periferiej-Evro-pi-ili-Azii-2180 (accessed 22 Jan 2014).

Kazakhstan and Belarus will aid the economic growth of these three countries. The financial and economic crisis of 2008 also demonstrated to Russia the vulnerability of its economy and its extreme dependence on the global economic climate. A larger economic area can only be an advantage in this respect. The Russian president can also argue that it is important to be in a better position to counter the effects of global crises.⁷

The new institutional structures are not only designed to strengthen the economies of the post-Soviet area but also to create a stronger negotiating position.

When seen in this light, the Eurasian Economic Union project could serve to rekindle nostalgic yearnings for former greatness.

It can also rightly claim that the close and long-standing ties in this region provide a foundation for future cooperation. However, steps towards integration are being approached with a great deal of pragmatism, something that is particularly visible in the new institutional structures. These are not only designed to strengthen the economies of the post-Soviet area but also to create a stronger negotiating position. In the past, it has been difficult for Russia to negotiate with the EU as an individual country. The EU is obliged to demonstrate that its *acquis communautaire* is non-negotiable, as it is already the result of a compromise. The Eurasian Economic Union could allow Russia to use the same argument in future. It could also provide an opportunity for Russia to assert itself more strongly in the face of China. Despite all the criticisms it voices about the EU, Russia still views it as a more viable partner than its Chinese neighbours. This is why Moscow is seeking closer economic ties with the EU. Russian policy-makers are aware that the EU is the only partner that can assist with the country's urgent need for modernisation and diversification. At the official presentation of the Eurasian Union project, President Putin reminded his audience about the possibility of creating a single economic space and waiving visa requirements with the EU.⁸ But it is important for Russia to be treated as an equal partner in negotiations.

7 | "В. Путин: Борьба с кризисом помогут интеграционные связи" (Putin: Fighting the crisis will help integration ties), *RBC*, 25 Oct 2013, <http://top.rbc.ru/economics/25/10/2013/884987.shtml> (accessed 22 Jan 2014).

8 | Cf. n. 5.

The current developments within the Eurasian Economic Community have been welcomed by German and European businesses active in Russia. As far as they are concerned, an expanding market operating under the same rules can only be beneficial. This does not necessarily mean they agree with every single detail, but they are more concerned when they have the impression that the European Union is not talking to the new Eurasian Union. Businesses (particularly those based in Russia and CIS countries) are intensely interested in the developments taking place in the Eurasian Economic Space, and over recent months there has been a stream of academic publications on every aspect of the Eurasian integration project. However, at a political level, Germany and Europe have been keeping a critical, even seemingly indifferent, distance. The failed attempts by the EU and Ukraine to sign an Association Agreement in Vilnius in November 2013 even brought to light the zero-sum, confrontational mentalities that linger on both sides.

So there are many good reasons to take a positive approach towards efforts to create a Eurasian Economic Union. In the past, the EU has basically supported each and every attempt at integration around the world, including Mercosur in Latin America, the Andean Community, ASEAN in Southeast Asia and the African Union. Prosperous regions bring clear benefits to the global economy and hence also to the economies of Germany and Europe. But a strengthening of Russia's political integration with the Central Asian states would also be advantageous. The CIS countries in Central Asia border politically turbulent zones, so a harmonised regional foreign policy is also of great interest to the EU.

Much remains to be done before the official launch of the Eurasian Union on 1 January 2015. It is clear that the economic growth experienced by the Eurasian Economic Community in 2010 and 2011 has not continued. Between 2010 and 2011 internal trade increased by 33.9 per cent, whereas the figure dropped to just 8.7 per cent between 2011 and 2012.⁹ It therefore seems likely that

9 | Eurasian Economic Commission, *Eurasian Economic Integration: General Overview*, Feb 2013, 5, <http://eurasiancommission.org/ru/nae/news/Documents/as0103.pdf> (accessed 17 Dec 2013).

the increases in internal trade between member states had more to do with general recovery after the global economic and financial crisis than with the establishment of the new union.

One of the key questions will be to what extent the participating countries are prepared to give up their sovereignty. This will be a necessity if integration is to succeed. Russia's sheer size inevitably leads to considerable disparities. An initial step was made with the creation of the Eurasian Economic Commission as a supranational body with a board that makes decisions independently of the three governments. Each country has three representatives, all with equal voting rights. The independence of the Court of the Eurasian Economic Community also creates conditions that encourage equality. However, the Council of the Eurasian Economic Commission comprises the deputy prime ministers of the three countries. They have to reach their decisions via consensus, which provides Russia with a means to assert its dominance. This may be one of the reasons why other countries are hesitant about joining the Union. Kazakhstan and Belarus have also made it clear that they are not interested in a deeper political union that entails loss of sovereignty.¹⁰

A board member of the Eurasian Economic Commission has stated that there can be no successful regional integration without Ukraine. The economic potential of Ukraine makes it a desirable partner in the integration project.

The acid test for Russia will be what happens in Ukraine. For historical reasons, many Russians feel a close connection to their neighbours, but the economic potential of Ukraine also makes it a desirable partner in the integration project. Minister Tatiana Volovaja, a board member of the Eurasian Economic Commission, has clearly stated that there can be no successful regional

10 | See "Лукашенко дал развернутое интервью казахстанским государственным СМИ перед визитом в Казахстан" (Lukashenko gave an extensive interview with the Kazakh state media before his visit to Kazakhstan), *Imperiya*, 3 Oct 2013, <http://imperiya.by/news.html?id=117220> (accessed 18 Dec 2013). Belarusian President Alexander Lukashenko stressed in this interview: "The sovereignty and stability of the state – this is important. We must be sovereign, independent states." Cf. also Julian Cooper, "Die eurasische wirtschaftliche Integration nimmt Fahrt auf", Bundeszentrale für politische Bildung (bpb), 3 Jun 2013, <http://bpb.de/internationales/europa/russland/162285> (accessed 17 Dec 2013).

integration without Ukraine.¹¹ It would be a hard pill for Russia to swallow if Ukraine decided to take another route. As we saw in the weeks leading up to the summit in Vilnius in November 2013, Russia will do everything it can to get Ukraine on board.

There is another area of economic integration that is an explosive issue. The Russian Federation already plays host to large numbers of migrant workers from the Central Asian states. An economic community that eventually leads to the free movement of labour will increase these numbers still further, particularly as Russia is dependent on these workers. However, particularly in the major cities, the Russian people see things differently. Tensions are running high between Moscow's native population and the migrant workers. This is clearly becoming an election issue, as was demonstrated by opposition politician Alexei Navalny during the mayor elections in Moscow in September 2013. This gave a clear sign that there is an unresolved problem politicians need to address.



"Independent centre of global development"? Russia's President Putin (r.), with Ukraine's Prime Minister Azarov in Dezember 2013, is promoting the Eurasian Union. | Source: © Alexei Nikolsky, Ria Novosti / picture alliance.

11 | "Auf dem Weg zur Eurasischen Union", German Council on Foreign Relations, 2012, <https://dgap.org/de/node/22927> (accessed 22 Jan 2014).

More than a status symbol

The subsidies that Russia has to be prepared to pay out for this integration project cannot be hidden from the Russian people. The economic disparities between the member states will not disappear without financial aid. In addition to this, one must also consider the offers of financial assistance from Russia as motivating factors for countries, such as Belarus, to seek membership in the Eurasia Economic Union. No-one can predict whether these subsidies will also be borne by the public in the long-term. Albir Krganov, a member of the Russian Federation's Civic Chamber, at least made reference to the issue of political acceptance: "The Eurasian Union could form a foundation for the unification of the post-Soviet area in terms of economic and foreign policy. But it will be very difficult to implement this project without the support of the public."¹²

So far, President Putin appears to be serious about the Eurasian Economic Union. But he still needs to prove it. For the Russian Federation, this means being willing to offer its partners long-term support and giving up a certain amount of sovereignty. The Eurasian Union is not merely a status symbol – it demands a great deal of all the parties involved. In the foreseeable future it has to show that it will bring concrete benefits in order to maintain its degree of acceptance and potentially attract other countries to join. However, the European Union is more a positive than a negative role model, even as it is seen as a competitor.

KAZAKHSTAN AND THE EURASIAN UNION

The Central Asian state of Kazakhstan is keen to make it clear that the Eurasian Union was the brainchild of its president, Nursultan Nasarbáyev, who has been in power since Kazakhstan's independence over 20 years ago. In 1994,¹³ during an official visit to Russia, he gave a speech

12 | Cf. also "Press TV: Кризис в Европе добавляет шансы на успех Евразийского союза" (Press TV: The crisis in Europe adds to the chances of success of the Eurasian Union), *InoTV*, 10 Oct 2013, <http://inotv.rt.com/2013-10-10/Press-TV-Krizis-v-Evropе> (accessed 17 Dec 2013).

13 | Cf. Speech by the President of the Republic of Kazakhstan, Nursultan Nasarbáyev, to Lomonosov Moscow State University, Moscow, 29 Mar 1994, in: *Б.А. Ауелбаев, Президент Н.А. Назарбаев и Современный Казахстан*, *The Kazakhstan* ▶

at Moscow State University in which he floated the idea of a Eurasian Union in place of the CIS. He said it should be a kind of confederation within a harmonised political and economic framework. Seven years later, Vladimir Putin voiced his ideas about a Eurasian Union in the Russian newspaper *Izvestia*. Since then, it has been viewed as a Russian idea, something that is regarded in Kazakhstan as an indirect attempt by Russia to reimpose the old power structures of the Soviet era.

Multi-vectoral foreign policy versus coordinated foreign policy within the Eurasian Union

While Vladimir Putin is interested in political union, in Kazakhstan the emphasis is on economic integration. This is why dialogue in Kazakhstan revolves solely around a Eurasian Economic Union with no mention of the political aspect. The reasons for this lie in Kazakhstan's "multi-vectoral foreign policy" and in the president's keynote address in which he stated strong economic growth was an essential pre-condition for democratic change. The previous credo of a balanced foreign policy that was open to all sides gave the country an opportunity to work with a wide range of partners and, where necessary, sign bilateral agreements. It was always borne in mind that being party to an agreement should not compromise freedom of action within the framework of other existing agreements.

A first break from this foreign policy tradition and its willingness to compromise occurred as a result of the country's poor geographical position. Entry to the Customs Union in 2010 was seen as a litmus test for the establishment of a Eurasian Union and was undertaken with a view to opening up new export markets. Kazakhstan declared itself willing to adapt its customs regulations to suit the requirements of the other two member states – particularly Russia – in the hope of stimulating an economic upturn. However, this has not happened to the extent that was hoped. The additional 153 million people (in Russia and Belarus) the Customs Union brought to the market seemed to hold the promise that Kazakhstan would increase its

Kazakhstan's entry to the Customs Union in 2010 was seen as a litmus test for the establishment of a Eurasian Union and was undertaken with a view to opening up new export markets.

exports to its partners. But in 2011 Kazakhstan's share of revenues within the Customs Union was only 20 per cent, and the following year it fell even further, to 17 per cent. Kazakhstan's exports to its partners dropped by 3.7 per cent, while imports of Russian and Belarusian goods increased by twelve per cent.¹⁴ Some tariffs on goods from non-member states were increased, which had a particular effect on the private sector¹⁵ and on small and medium-sized enterprises that had previously benefited from cross-border trade with Kazakhstan's neighbours.



Memorial in Astana honouring women who in soviet times were imprisoned for being married to a dissident: Kazakhstan has not forgotten the effects of foreign rule. | Source: ninara, flickr ©.

On 25 October 2011, President Nasarbayev responded, also in *Izvestia*, to Putin's article on the Eurasian Union and set out his vision for the project. He said integration within a Eurasian Union must be shaped by economic pragmatism. The Eurasian Union should be a union of states acting on the basis of the principles of equality, non-interference in the internal affairs of its members, respect for

14 | Cf. Larissa Tschernenko, "Таможенный союз надежд не оправдал" (Expectations on Customs Union were not met), *Forbes*, 18 Apr 2013, http://forbes.kz/process/expertise/tamojennyiy_soyuz_nadejd_ne_opravdal (accessed 15 Jan 2014).

15 | Cf. Dinmuhammed Kalikulov, "У Казахстана есть претензии к Таможенному союзу" (Kazakhstan has demands to Customs Union), *ВВС Україна*, 1 Apr 2013, http://bbc.co.uk/ukrainian/ukraine_in_russian/2013/04/130401_ru_s_kazakhstan_customs_union.shtml (accessed 22 Jan 2014).

sovereignty and the inviolability of national borders. He added that all decisions made by the Eurasian Union's supranational organs must take into account the interests of each and every member state. He believed a pre-condition for the establishment of the Eurasian Union was encouraging potential member states to take responsibility for the internal development of their political systems and too increase the effectiveness of their economic policies.¹⁶

This opinion piece makes it clear that President Nasarbajev is rejecting any relinquishment of national sovereignty within the Eurasian Union. From Kazakhstan's point of view, it has already spent too long within a Moscow-dominated state. Kazakhstan has very mixed memories of the Soviet Union. It has not forgotten the effects of this foreign rule, beginning with Stalinist resettlement policies and culminating in Russian nuclear testing on Kazakh soil.

From Kazakhstan's point of view, it has already spent too long within a Moscow-dominated state. It has not forgotten the effects of Stalinist resettlement policies and nuclear testing on Kazakh soil.

Since independence, Kazakhstan has enjoyed excellent economic growth. In 1994 per-capita GDP was just 400 U.S. dollars, whereas it has climbed to 12,116 U.S. dollars in 2012.¹⁷ The United Nations' Human Development Index gave Kazakhstan a value of 0.754 in 2012, confirming its good socio-economic development and placing it just behind Russia (0.788 in the same year).¹⁸ Kazakhstan is very proud of the progress it has made in this area. Its government also sets great store by being an equal negotiating partner. Although they have had some negative experiences with their northern neighbour, people still remember some positive aspects of the old relationship. This is not only because of the large Russian minority living in Kazakhstan (which at 22 per cent exerts a significant influence on the country's society and politics), but also

16 | Cf. Nursultan Nasarbajew, "Евразийский Союз: от идеи к истории будущего" (Eurasian Union: From an idea to the history of the future), *Izvestia*, 25 Oct 2011, <http://izvestia.ru/news/504908> (accessed 22. Jan 2014).

17 | Cf. "Kazakhstan: Economic Indicators", Trading Economics, <http://tradingeconomics.com/kazakhstan/indicators> (accessed 22 Jan 2014); n. 4.

18 | Cf. "Kazakhstan – Human Development Index – HDI", Country Economy, <http://countryeconomy.com/hdi/kazakhstan> (accessed 22 Jan 2014); "Russia – Human Development Index – HDI", idem, <http://countryeconomy.com/hdi/russia> (accessed 22 Jan 2014).

because of the administrative structures and educational ideals that are still very much tied in to Russian traditions. The Russian language continues to play a central role in education and administration. This is unlikely to change, despite efforts to strengthen Kazakh as the country's official language.

Nasarbayev has been accompanying the establishment of the Eurasian Economic Union with critical remarks. He particularly criticised Russia's insistence that it wants to create a political union.

The Kazakh leadership is keeping a close eye on the behaviour of Russia towards Kazakhstan and other potential members of the Eurasian Union such as Ukraine. Worried that big brother Russia will exert excessive influence or even totally dominate the Union, Nasarbáyev has been accompanying the establishment of the Eurasian Economic Union with critical remarks and at times only very reluctant approval. Recently he was highly critical of the barriers¹⁹ that need to be dismantled, mainly by his partners, in order to allow the Economic Union to function. He particularly criticised Russia's insistence that it also wants to create a political union.

Fluctuations in public opinion

Not surprisingly, polls show that the Russian minority in Kazakhstan is more in favour of integration as part of a Eurasian Union and a Eurasian Economic Union than the Kazakh majority and young people in particular. Ethnic Russians believe that a single economic space will facilitate the movement of labour, money and services. This group of supporters is balanced by the undecided and by opponents of the Eurasian Union, a group that particularly includes Kazakhstan's "national patriots".²⁰ The latter criticised Putin's words in *Izvestia* as being a sign of Russia's intention to build a new Russian empire along the lines of the Soviet Union.

People in the undecided group share the fears of the opponents, but also see that the country's economic opportunities lie in close economic ties with Russia and the CIS

19 | Cf. "Тройной компромисс" (Triple compromise), *Zeit*, 26 Oct 2013, <http://time.kz/articles/mir/2013/10/26/trojnoj-kompromiss> (accessed 15 Jan 2014).

20 | Cf. "Нам не нужен Евразийский союз!" (We do not need the Eurasian Union!), open letter, *Respublika*, 26 Aug 2013, <http://respublika-kz.info/news/politics/32236> (accessed 15 Jan 2014).

countries. They are worried about the increasing economic and political influence exercised by China on Kazakhstan and hope the Eurasian Union might help to better contain their eastern neighbour. This group categorically rejects a political union that could be detrimental to their national sovereignty. Different polls produce different results,²¹ but some 55 per cent are in favour of integration within a Eurasian Economic Union, while around 35 per cent are against and approximately ten per cent are still undecided. Evgeny Vinokurov, Head of the Centre for Integration Studies at the Eurasian Development Bank, has commented on the results of the various surveys, saying successful integration within the Eurasian Union depends on attracting the support of today's youth. He added that the growth in the Kazakh majority population, partly due to the return of the "Oralman" (ethnic Kazakhs who settled in other countries) and their high birth rate has had a negative impact on levels of approval for the Union. If the proportion of ethnic Russians in the population also falls, then – as long as there is no general change of attitude that affects all sections of the population – the number of people in favour of the Eurasian Union will also drop.

Regular headlines about violent attacks on Central Asian guest workers in Moscow provide an example of subjective perceptions of Russia's behaviour towards the former Soviet republics and have attracted strong reaction, particularly in social networks. Russia's controversial policies towards Ukraine appear in a similar light. The more Russia exerts political pressure based on its economic strength and the more often there is talk of discrimination against Central Asian guest workers, the more difficult it will be for President Nasarbayev to maintain or indeed build support amongst his people for the establishment of a Eurasian Union.

The more Russia exerts political pressure based on its economic strength, the harder it will be for President Nasarbayev to maintain support for the establishment of a Eurasian Union.

21 | Some of the percentages in this article are given in figures and some in general proportions (e.g. a third). Unfortunately it is not possible to access the original poll it refers to. Cf. "Каждый третий казахстанец против объединения страны с соседями" (Every third citizen of Kazakhstan against reunification with neighbors), *Nomad*, 15 Nov 2011, <http://nomad.su/?a=3-201111170027> (accessed 27 Jan 2014).

Nasarbayev is therefore walking a tightrope between domestic and foreign policy. On the one hand, he has to cope with the domestic situation while at the same time wanting to preserve the economic opportunities that would result from an expansion of the market for Kazakh products within a Eurasian Economic Union. It also remains to be seen whether, in the event of a decision to join the Eurasian Union, the member states will construct multilateral bodies governed by democratic decision-making mechanisms. If this is not the case, then government leaders' acceptance of the basic conditions of the Eurasian Union would be on shaky ground because they would not be backed up by a majority of people in the member states. The Union would be threatened with collapse every time one of the member states changed its government.

Kazakhstan currently has other attractive alternatives for economic integration, such as the U.S.-backed Greater Central Asia and New Silk Road projects and heightened cooperation within the free trade zone created by China's Shanghai Cooperation Organisation (SCO). Turkey also has a proposal on the table that harks back to the two countries' common roots which can be summed up with the term "Neo-Ottomanism".²² Nasarbajev himself mentions the Eurasian Union in the same breath as the option of creating a Central Asian Union.²³ In view of these other options and the reservations of Nasarbajev and broad sections of the Kazakh population, the imminent establishment of a Eurasian Union as proposed by Russia seems somewhat unlikely.

PROTESTS IN UKRAINE: EU ASSOCIATION AGREEMENT VS. CUSTOMS UNION WITH RUSSIA

Immediately after gaining independence in 1991, Ukraine began building closer ties with the EU. Over recent years there has clearly been growing support among the Ukrainian public for the country to take a more European direction, something that has been underscored by the

22 | Cf. "Константин Сыроежкин: США в Средней Азии переигрывают Россию" (Konstantin Syroezhkin: The U.S. outperform Russia in Central Asia), *Regnum*, 22 Aug 2012, <http://regnum.ru/news/1563518.html> (accessed 22 Jan 2014); Tschernenko, n. 14.

23 | Cf. Nasarbajew, n. 16.

mass protests that have taken place over recent weeks. However, there are still strong regional differences. A study by the Democratic Initiatives Foundation²⁴ has shown that 72.5 per cent of respondents in western Ukraine and 48.5 per cent in Central Ukraine are in favour of the country joining the EU. Only 8.2 per cent and 20.5 per cent respectively are in favour of joining the Customs Union with Russia, Kazakhstan and Belarus (Table 2).

Table 2

Attitudes of Ukrainians towards joining a regional union, in per cent

	West	Centre	South	East
We should join the European Union	72.5	48.5	30.7	21.4
We should join the Customs Union with Russia, Belarus and Kazakhstan	8.2	20.5	53.7	60.7
Don't know	19.3	31.1	15.5	17.9

Source: Democratic Initiatives Foundation, n. 24.

Table 3

Attitudes of Ukrainians towards joining a regional union, by age group, in per cent

	18 to 29	30 to 54	55 and above
We should join the European Union	64.2	47.7	32.9
We should join the Customs Union with Russia, Belarus and Kazakhstan	20.3	31.3	40.6
Don't know	15.4	21.0	26.5

Source: Democratic Initiatives Foundation, n. 24.

In southern and eastern Ukraine, the majority of the population (53.7 per cent and 60.7 per cent respectively) are in favour of joining the Russian-led Customs Union because of their history of cultural and economic ties with Russia. Age also has an influence on people's attitudes towards foreign policy. 64.2 per cent of people in the 18-29 age group are

24 | "Інтеграцію в ЄС українці вважають більш пріоритетною" (Ukrainian EU integration considered a priority), Democratic Initiatives Foundation, <http://dif.org.ua/ua/events/integretrnoyu.htm> (accessed 15 Jan 2014).

keen to join the EU, with only 20.3 per cent in this age bracket in favour of joining the Customs Union (Table 3). In the 55+ age group, the majority support Ukraine joining the Customs Union.

Table 4

Attitudes of Ukrainians towards joining a regional union, by party membership, in per cent

	All-Ukrainian Union Batkivshchyna	All-Ukrainian Union Svoboda	Communist Party of Ukraine	Party of Regions	UDAR Party under Vitali Kliitschko
We should join the European Union	77.3	84.9	4.8	25.7	74.5
We should join the Customs Union with Russia, Belarus and Kazakhstan	11.4	2.7	92.9	61.4	15.6
Don't know	11.4	12.3	2.4	12.9	9.9

Source: Democratic Initiatives Foundation, n. 24.



Protests in the snow: After the Ukrainian government crushed hopes that it would soon be moving closer to the EU, protests in Kiev's Maidan central square began. | Source: © Jakov Devcic.

These different attitudes are also reflected among supporters of the various political parties. A clear majority of respondents who support the three opposition parties, Batkivshchyna, Svoboda and UDAR also support joining the EU rather than the Customs Union (Table 4). The reverse is true for followers of the two parties which support the Ukrainian government and President Yanukovich. The

parties are also correspondingly strong in the country's different regions. So it is clear that over time public attitudes are becoming increasingly pro-European, although views remain divided on this issue.

After the summit in Vilnius

In the midst of a dramatic economic and financial crisis in which the country found itself just months from bankruptcy, the Ukrainian government crushed the hopes of many Ukrainians that it would soon be moving closer to the EU by suddenly abandoning plans to sign the Association Agreement, a document that had already been prepared and initialled. Refusal to sign the Agreement took place in Vilnius on 29 November 2013.²⁵ This turnaround on EU integration led to demonstrations by hundreds of thousands of protesters across the whole of Ukraine. Notwithstanding gelid temperatures, the protests continued in Kiev's Maidan central square until 19 January. In reaction to the December protests, the Ukrainian government stated that it still intends to sign the Agreement. Deputy Prime Minister Sergei Arbutov is heading up a special group to renegotiate certain chapters and provisions in the Agreement with the EU. According to statements made by EU Commissioner Štefan Füle and President of the European Council Herman van Rompuy at the EU Summit on 20 December, their offer to sign the Association Agreement still stands.²⁶ The Ukrainian government then capitalised on this situation to highlight its need for financial aid to the tune of 20 billion euros.²⁷ The EU responded by making it clear that it is prepared to finance Ukrainian economic reforms, but not Ukrainian

The Ukrainian government highlighted its need for financial aid. The EU made it clear that it is prepared to finance Ukrainian economic reforms, but not Ukrainian debt.

25 | Cf. Gabriele Baumann, "Der Präsident der Ukraine wählt den Weg ins Nichts", KAS-Länderbericht, Konrad-Adenauer-Stiftung, International Office Ukraine, Dec 2013, http://kas.de/wf/doc/kas_36234-1522-1-30.pdf (accessed 22 Jan 2014).

26 | Cf. Štefan Füle, "EU-Ukraine: Association Agreement is an offer to the country and its people", European Commission, Brussels, 12 Dec 2013, http://ec.europa.eu/commission_2010-2014/fule/headlines/news/2013/12/20131212_en.htm (accessed 22 Jan 2014).

27 | Cf. "Mykola Azarov: Ukraine strives for better conditions of implementation of the Association Agreement", Ukrainian Government, 12 Dec 2013, http://kmu.gov.ua/control/en/publish/article?art_id=246916006 (accessed 22 Jan 2014).

debt.²⁸ Upon signing the Association Agreement, the EU would have been prepared to help Ukraine to quickly obtain a 20 billion euros bail-out from the IMF. Such a loan would be tied in with conditions such as raising gas prices to Ukrainian households and a proper valuation of the Ukrainian currency, the hryvnia.



Masks against teargas and signs of a protest that turns radical: In a street leading to the parliament, demonstrators have pried up cobblestones. | Source: © Jakov Devcic.

Russian President Vladimir Putin used the situation to build a sound foundation for his geopolitical interests – the establishment of closer ties between Ukraine and Russia. Since early December the Ukrainian government has intensified negotiations with Russia and is keen to hold trilateral talks between the EU, Ukraine and Russia. On 6 December Yanukovych met with President Putin in Sochi on his return from an official visit to China. The two leaders agreed to extend a treaty on strategic partnership between Ukraine and Russia. This is designed to strengthen cooperation between the two states, particularly in the heavy industry sector and in aerospace technology. Further steps were taken at a meeting of the Ukrainian-Russian Council in Moscow on 17 December. It was agreed that Russia will give Ukraine financial aid totalling 15 billion U.S. dollars

28 | Cf. "Tombinski: EU may finance Ukrainian reforms, but not Ukrainian debts", *Kyiv Post*, 18 Nov 2013, <http://kyivpost.com/content/politics/tombinski-332006.html> (accessed 22 Jan 2014).

at an interest rate of five per cent, along with a significant reduction in gas prices. Initially, the gas price was dropped to 268.50 U.S. dollars per thousand cubic metres for a quarter, but the trade-off is that gas imports over the coming year alone must increase to 33 billion cubic metres. This will make Ukraine even more dependent on Russian gas supplies, and Russia's ability to adjust gas prices every quarter means it is always in a position to exert pressure on Ukraine. At a press conference on 19 December, Putin stated that Russia's bail-out of Ukraine is not tied to any conditions. He said the country was in dire financial straits and that Russia simply wanted to help its neighbour and "brother".

Although over recent weeks the focus has been on the bilateral treaty with Russia, this does not mean the Association Agreement with the EU will not be signed in the near future. Bankruptcy has been averted thanks to the Russian loan, and funds may even last until the presidential elections in 2015 and gain Yanukovich good ratings in the opinion polls. But without urgent reforms and the ongoing modernisation of the country's economy in line with EU standards, Ukraine will be unable to make progress in the medium-to-long term. Existing free trade agreements with the current members of the Customs Union guarantee smooth trading relations until mid-2014. Thus, from an economic point of view, the Eurasian Economic Union holds little attraction for Ukraine and is opposed by the majority of its population. In western Ukraine, which historically never belonged to Russia, there is unanimous rejection of joining the Customs Union. Membership of a Customs Union with Russia would also not be compatible with the Association Agreement and the accompanying free trade agreement, DCFTA. At present, it seems unlikely that Ukraine will join the Customs Union.

Without urgent reforms and the ongoing modernisation of the country's economy in line with EU standards, Ukraine will be unable to make progress in the medium-to-long term.

History of regional integration and bilateral agreements

The present legal framework for international trade between Ukraine and Russia, Belarus and Kazakhstan is covered by a series of bilateral and multilateral free trade

agreements and the WTO's legally-binding trade practices.²⁹ Between 1992 and 1994 Ukraine agreed bilateral free trade agreements with each of these three nations, which included the abolition of tariffs on mutual trade. The agreements primarily related to the trade of goods, while the service sector was excluded.³⁰ The CIS multilateral free trade agreement signed in October 2011 by Ukraine, Russia, Belarus and Kazakhstan (among others) also focused primarily on the removal of tariff and non-tariff barriers to the movement of goods.³¹ This accord replaced the bilateral free trade agreements that were in place between Ukraine and Russia, Belarus and Kazakhstan. The agreement made specific reference to WTO rules that align trade within the CIS to WTO conditions and open up the possibility of calling on the WTO's mediation mechanism.³²

Along with the free trade agreements that govern the movement of goods between the three countries, since 2010 the framework of the Customs Union has meant that Russia, Belarus and Kazakhstan have adopted a single tariff regime towards third countries. For example, they can levy import duties on goods that do not "originate from Customs Union member states, entail an increase of imports into the Customs Union and that harm or could harm the industry of the Customs Union members".³³ The members of the Customs Union could then use this instrument if

29 | Ukraine joined the World Trade Organisation (WTO) in 2008. Cf. "Member Information: Ukraine and the WTO", WTO, http://wto.org/english/thewto_e/countries_e/ukraine_e.htm (accessed 22 Jan 2014).

30 | Cf. 1993 free trade agreement between Ukraine and the Russian Federation, World Bank, 24 Jun 1993, <http://wits.worldbank.org/GPTAD/PDF/archive/russia-ukraine.pdf> (accessed 13 Dec 2013).

31 | Cf. Anders Åslund, "Ukraine's Choice: European Association Agreement or Eurasian Union?", *Policy Brief*, No. PB13-22, Sep 2013, Peterson Institute for International Economics, 5, <http://piee.com/publications/pb/pb13-22.pdf> (accessed 22 Jan 2014).

32 | Cf. text of the 2011 CIS free trade agreement, "CISFTA – Commonwealth of Independent States FTA", Economic and Social Commission for Asia and the Pacific (UNESCAP), <http://www.unescap.org/tid/aptiad/viewagreement.aspx?id=CISFTA> (accessed 22 Jan 2014).

33 | Cf. Veronika Movchan, "Die Ukraine und die Zollunion von Russland, Belarus und Kasachstan: würde sich eine engere Integration auszahlen?", bpb, 3 Jun 2013, <http://bpb.de/internationales/europa/russland/162295> (accessed 22 Jan 2014).

non-members such as Ukraine were to sign free trade agreements with third countries outside the CIS. In this respect, Ukraine would be at a disadvantage if it were not a member. Based on existing agreements, Ukraine has in the past enjoyed tariff-free access to the markets of the aforementioned three countries for most types of goods.³⁴ However some classes of goods are excluded. The countries try by means of trade protection measures to protect their markets for goods of particular strategic significance such as oil or timber.

Since gaining independence in 1991, Ukraine has signed 17 bilateral free trade agreements with other countries and multilateral agreements with EFTA and the CIS.³⁵ The Ukrainian government is currently negotiating other free trade agreements with countries such as Turkey, Singapore and Israel. If it should sign the Association Agreement (including DCFTA) with the EU, existing and future free trade agreements with other countries would not be affected. However, if it joined the Customs Union it would have to adapt all its existing 17 free trade agreements to fit in with its rules, as it would be obliged to adopt a common tariff regime towards third countries. In contrast, free trade zones tend to have an internal effect through abolishing tariffs, standards and quotas. As a result, Ukraine would no longer be able to act independently in terms of its trade policy. It would also have to enter into new negotiations with the WTO and its energy dependency on Russia would increase.

If Ukraine joined the Customs Union it would have to adapt all its existing 17 free trade agreements to fit in with its rules.

In May 2013 the Ukrainian government signed a memorandum that deepened cooperation with the Customs Union.³⁶ This gave Ukraine observer status in the Customs Union and allows it to attend all important meetings between

34 | Cf. "Ukraine muss sich zwischen West- oder Ost-Integration entscheiden", The German Association for Small and Medium-sized Businesses (BVMW), 2013, <http://bvmw.de/auslandsvertretungen/auslandsbueros/ukraine/informationen.html> (accessed 22 Jan 2014).

35 | Cf. Sayenko Kharenko, *Free trade agreements of Ukraine*, investUkraine, 2012, <http://investukraine.com/wp-content/uploads/2012/06/FTAs-of-Ukraine.pdf> (accessed 22 Jan 2014).

36 | Cf. "Ukraine and the Customs Union signed a Memorandum", Ukrainian Government, 31 May 2013, http://kmu.gov.ua/control/en/publish/article?art_id=246391353 (accessed 22 Jan 2014).

heads of state and government. With this observer status, Ukraine sent a signal to the members of the Customs Union that it finds it strategically important to continue developing its economic relations with them, but without entering into further legal obligations. It has allowed the Kiev government to keep the door open to membership of other regional integration initiatives such as the DCFTA with the EU.

In parallel to the Customs Union, in January 2012 the governments of Belarus, Russia and Kazakhstan announced the foundation of a Single Economic Space, which will enter into force in January 2015 as the "Eurasian Economic Union". In contrast to earlier alliances such as those within the CIS, this will involve much greater integration and the establishment of institutions in the EU mould.

Increased economic cooperation between the member states should be achieved by various measures, including the introduction of a single currency within the Eurasian Economic Union.

Experience with the institutional weakness of earlier unsuccessful projects has acted as a major inspiration for the idea of a union that is structurally more stable and that will be a "powerful supranational union". Earlier integration projects failed because individual states such as Ukraine consistently believed they posed a threat to their national economic interests.³⁷ Increased economic cooperation between the member states should be achieved by various measures, including the introduction of a single currency within the Eurasian Economic Union. There is talk of the union being expanded to include areas such as economic and financial policy, energy and transport policy and the free movement of goods, people and capital.³⁸

In February 2012 the Eurasian Economic Commission was set up as the successor to the Commission of the Customs Union between Russia, Kazakhstan and Belarus. As the sole regulatory institution of the Customs Union and the Single Economic Space, it alone has responsibility for

37 | Cf. Alexandra Polownikow, *Die Zollunion zwischen Belarus, Kasachstan und Russland – Motive, Entwicklungen und Perspektiven*, Stiftung Wissenschaft und Politik (SWP), Berlin, 2012, 4 et seq.

38 | Cf. *The Common Economic Space: the history of creation, institutional framework and the scope of coordinated spheres of activities*, Revera Consulting Group, 2013, http://www.economy.gov.by/dadvfiles/002045_125323_The_Common_Economic_Space.pdf (accessed 22 Jan 2014).

setting tariff and non-tariff trade barriers, the administration of the Customs Union and for technical regulations. The Commission also sets foreign trade tariffs and paves the way for decisions on macroeconomics, energy policy, monetary policy and immigration policy. The Council of the Commission consists of one representative from each of the member states, while the Supreme Council of the Eurasian Economic Commission is made up of heads of state and government. All these levels are involved in the decision-making processes of the Economic Commission.³⁹

Supporters of the Customs Union

The Customs Union has few influential supporters in Ukraine because of the lack of clear benefits the country would enjoy if it joined. The main opposition parties, Batkivshchyna and UDAR, are united in their pro-European orientation. The ruling Party of Regions has long been trying to carry out a balancing act between the two alternatives, until in the summer of 2013 it finally came out in favour of signing the Association Agreement. Ukraine did not make any clear statements in favour of the Customs Union. Once it became increasingly obvious that Ukraine was working towards signing the Agreement and was fulfilling EU requirements at lightning speed, relations between Moscow and Kiev cooled to the point that Russia began imposing bans on Ukrainian imports.

Once it became increasingly obvious that Ukraine was working towards signing the Association Agreement, Russia began imposing bans on Ukrainian imports.

The only remaining supporters of the Customs Union were the Communist Party. Their proposal that a referendum on entry should be held was rejected by Ukraine's Central Election Commission on 17 September 2013. Apart from the Communists, only one other group has been openly campaigning for Putin's integration project. This is the Ukrainian Choice organisation headed up by Viktor Medvetchuk, a loyal supporter of the Russian president. For weeks this organisation has been warning of the "threat" that the Association Agreement poses to Ukraine. All around the country there are posters warning that if the

39 | Cf. Permanent Mission of the Russian Federation to the European Union, "Eurasian Economic Commission", presentation, 5 Jul 2012, <http://russianmission.eu/en/news/presentation-eurasian-economic-commission> (accessed 22 Jan 2014).

country develops closer ties with the EU it will result in drastic price hikes, job losses for Ukrainians and the legalisation of same-sex marriage.

BELARUS AND THE EURASIAN ECONOMIC UNION – POLITICAL RENT-SEEKING RATHER THAN STRATEGIC DECISION-MAKING

Even though President Alexander Lukashenko may harbour a deep-seated nostalgia for the old Soviet Union, membership of the Eurasian Economic Union is not an affair of the heart for the Belarusian leadership but rather a sign of desperation. It was economic pressure rather than freedom of choice that forced Belarus to join the Single Economic Space in 2012. The Belarusian economy is highly dependent on cheap oil and gas from Russia and on more than one occasion the Kremlin has shown that it is prepared to use the supply of raw materials as a political weapon. This was again the case in 2010 when the Russian leadership were angered by the closer ties developing between Minsk and the European Union. On 1 January 2010 Russia imposed export duties on its crude oil deliveries to Belarus in contravention of the terms of the Customs Union that had been established one year earlier between Russia, Belarus and Kazakhstan.⁴⁰ On 8 December of the same year, President Medvedev announced that he would be prepared to drop the export duties in future, clearly in response to Lukashenko's agreement to join the Single Economic Space. The 17 documents formally establishing the Single Economic Space were signed that same day.⁴¹

The Belarusian economy is dependent on cheap oil and gas from Russia. More than once, the Kremlin has shown that it is prepared to use raw materials as a political weapon.

However, even cheap oil and gas supplies from Russia were not enough to stave off severe crisis in subsequent years. During the elections, Lukashenko had significantly relaxed

40 | However, Moscow stressed that the Customs Union did not preclude the levying of export tariffs. Instead, Belarus had levied export tariffs and had to share the income with Russia. It said that Belarus, not Russia, was defaulting on the agreement. Whatever the truth of the matter, the way things subsequently panned out suggests that Russia's actions had been politically motivated.

41 | Stephan Malerius, "The Long Shadow of the Belarus Presidential Elections – Procedures, Results and Political Fall-Out", *KAS International Reports*, 3/2011, 110-129, here: 113 et seq., <http://kas.de/wf/en/33.22146> (accessed 22 Jan 2014).

the hitherto restrictive policies on the financing of election gifts. The consequences of that action were not long in coming. Inflation rose quickly, reaching 109 per cent for 2011 as a whole, while the Belarusian ruble lost two-thirds of its value against the dollar.⁴²



Lenin statue in Minsk: President Alexander Lukashenko's deep-seated nostalgia for the old Soviet Union is only one reason for Belarus to participate in an Eurasian Union. | Source: Bolshakov, flickr ©.

At the same time, the brutal repression of the opposition in the wake of the 2010 presidential elections brought dialogue between Minsk and the European Union to an abrupt halt. At a time of severe economic difficulties, this left Russia as the only potential partner after the International Monetary Fund had refused help due to the lack of structural reforms to the Belarusian economy. And once again Russia helped out, this time in the shape of a three billion U.S. dollars anti-crisis loan and an agreement to provide cheaper deliveries of oil and gas.

As a result, Belarus now pays 165 U.S. dollars for 1,000 cubic metres of gas (previously 265 U.S. dollars), while the price of oil has fallen by 30 U.S. dollars per tonne

42 | Volha Dudko, "Belarus Economy: More Stable But Still Fragile", *Belarus Digest*, 30 Apr 2012, <http://belarusdigest.com/story/belarus-economy-more-stable-still-fragile-9072> (accessed 22 Jan 2014).

due to the lifting of import duties.⁴³ While gas is the most important source of energy for the country's own internal use, oil is also essential for the country's export activities. Petrochemical products from the reprocessing of crude oil imported from Russia currently account for two-thirds of Belarusian exports.⁴⁴ Russian oil and gas subsidies also account for some 16 per cent of the country's GDP (as at 2012).⁴⁵ However, Russia is also using the idea of union to pursue political goals aimed at exerting even more influence on Belarusian foreign and economic policy.⁴⁶

Economic opportunities and risks

In a TV interview in October 2013 Lukashenko said "There is now freedom for the economy and business. This means the economy is starting to function like a single state." Despite the obvious political expediency behind Belarus' agreement to join the Customs Union and the Eurasian Economic Union, President Lukashenko never misses an opportunity to extol the economic benefits. In a TV interview in October 2013 he said "There is now freedom for the economy and business. This means the economy is starting to function like a single state."⁴⁷ However, the benefits of the Union are not quite as clear as Lukashenko would like to make out. For a start, any potential benefits of the Customs Union are likely to be found almost exclusively in the country's bilateral trade with Russia. Trade with Kazakhstan only amounts to one per cent of Belarus' total trade volume. And despite the fact that both countries are members of the Customs Union, there was not one single Kazakh business registered in any of the six

43 | Anna Maria Dyner and Natalia Ryabova, "Belarus in the CES: Advantages and Disadvantages of Economic Integration", *PolSKI Instytut spraw międzynarodowych, Policy Paper*, No. 24 (72), Aug 2013, 3; see also Yauheni Preiherman, "Belarus' Magic Oil Economy", *Belarus Digest*, 17 Apr 2012, <http://belarusdigest.com/story/oil-magic-belarusian-economy-8820> (accessed 24 Nov 2013).

44 | Dudko, n. 42.

45 | Balázs Jarábik, Alexei Pikulik and Andrei Yeliseyev, "Belarus and the Eurasian Union: Incremental Integration", *FRIDE Policy Brief*, No. 159, Jun 2013, 2.

46 | Aliaksandr Aleshka, "Russian Instruments of Economic Influence in Belarus and the Customs Union", *Bell. Belarus Info Letter*, No. 5, Vol. 35, 2013, 4-6, here: 4.

47 | "Лукашенко: Евразийский союз будет единым государством" (Lukashenko: Eurasian Union will be a single state), *NewsCom*, <http://newscom.md/rus/lukashenko-evrazijskij-soyuz-budet-edinim-gosudarstvom.html> (accessed 24 Nov 2013).

Belarusian free trade zones in spring 2012.⁴⁸ In its trade with Russia, Belarus does gain a benefit through the lifting of tariff barriers. However, while tariffs were largely harmonised in 2008, the dismantling of non-tariff barriers has so far been somewhat piecemeal.⁴⁹ On the plus side, there has been a significant rise in direct Russian investment.⁵⁰ Belarusian goods also now enjoy preferential terms on the Russian market and Russian demand for Belarusian consumer goods has also risen sharply.⁵¹ The trading volumes of the three countries involved have also seen a clear increase, climbing by 88 per cent to 44.75 billion U.S. dollars (2012) since the establishment of the Customs Union in 2010. However, it is unlikely that this increase is simply down to the lifting of trade barriers. Economic recovery after the financial crisis and the devaluation of the ruble in 2011 are the more likely reasons. This is supported by the fact that exports to the EU in 2011 and 2012 rose even more steeply.⁵²



Market hall in Minsk: For Belarus, any potential benefits of the Customs Union are likely to be found almost exclusively in the bilateral trade with Russia. | Source: Anthony Gherghetta, flickr, ©©.

There is no doubt that Belarus has reaped the benefits of deeper economic integration with Russia, Kazakhstan and other countries in the post-Soviet bloc because of its position as a transit country.⁵³ However, this has resulted

48 | Jarábik, Pikulik and Yeliseyeu, n. 45, 3.

49 | Folkert Garbe, "Belarus und die Eurasische Integration – Stand und Perspektiven", *Belarus-Analysen*, No. 13, 25 Jul 2013, 2-5, here: 3.

50 | Dyer and Ryabova, n. 43, 4.

51 | Garbe, n. 49, 3.

52 | *Ibid.*, 3 et seq.

53 | *Ibid.*, 5.

in the need for substantial reforms to the Belarusian economy, especially since Russia joined the World Trade Organisation in August 2012. This has forced the country to adopt a wide range of standards and its businesses are obliged to become more competitive. Belarus, which unlike Russia and Armenia is not a member of the WTO, has had to open up its economy to Russian goods and services under the terms of the Customs Union, and so is facing increased competition from Russian companies.⁵⁴ Russia is also proving to be more attractive than its Western neighbours when it comes to foreign investment.⁵⁵ In this respect, Belarus has effectively become a de facto member of the World Trade Organisation, but without the access to dispute settlement mechanisms that comes with official membership.⁵⁶

So far Lukashenko has refused to introduce consistent and effective economic reforms. 80 per cent of the Belarusian economy is still in the hands of the state and most companies are chronically in debt. In order to keep them up and running, banks are forced to issue cheap loans at significantly below market rates. This has resulted in a substantial current account deficit, high inflation and periodic devaluations of the ruble. However, it is precisely this set of circumstances that will not be allowed within the Single Economic Space. The rules of the Union, which have been closely modelled on the European Union's Maastricht criteria, only allow for a maximum annual deficit of three per cent, while the debt-to-GDP ratio is not allowed to exceed 50 per cent. Even more critical is inflation, which should not exceed 15 per cent per year according to the rules of the Single Economic Space, but which was over 59 per cent in 2012. The devaluation of the ruble can no longer be used as a means of stimulating Belarusian exports and, unlike in the past, the economy will therefore have to adjust to lower growth rates. While GDP grew by 3.2 per cent in the first half of 2012, the equivalent figure for 2013 was only 1.4 per cent.⁵⁷

54 | Jarábik, Pikulik and Yeliseyeu, n. 45, 3; see also Kamil Klysinski, "Consequences for the Belarusian Economy of Russia's Entry into the WTO", *East Week*, No. 29, Vol. 305, 2012.

55 | Dyner and Ryabova, n. 43, 5.

56 | Garbe, n. 49, 5.

57 | Dyner and Ryabova, n. 43, 4.

Unintended potential consequences

The Eurasian Economic Union may therefore turn out to be a major blow to Alexander Lukashenko's economic system and regime.

The Belarusian people forego real participation in the political process in exchange for economic stability and low unemployment.

Since 1994, the authoritarian leader has maintained his grip on power thanks to an unwritten social contract in which the people forego real participation in the political process in exchange for economic stability and low unemployment. Modernising the ailing state economy would require greater liberalisation and privatisation, effectively robbing Lukashenko of the opportunity to fulfil his side of the social contract. This is why he has so far refused to comply with demands from the EU and the IMF to carry out such reforms, and why, as previously mentioned, he opted to join the integration project initiated by the Russians. Now, ironically, the final blow to his economic system may actually come from Moscow.

This, together with a reluctance to give up his despotic power, is what is stopping Lukashenko from agreeing to any deeper form of integration. In this respect, he has an ally in Nursultan Nazarbayev, the dictatorial leader of Kazakhstan. They are both taking advantage of the improved opportunities offered by the Eurasian Economic Union to thwart Moscow's integration efforts.⁵⁸ While the Customs Union gives the Russians over 50 per cent of voting rights, thus effectively granting them sole power to make major decisions, the institutions of the Single Economic Space actually have equal voting rights. Decisions also have to be made by consensus, so Russia is not in a position to make decisions that go against the will of the other members.⁵⁹

At the same time, however, dependence on Russia has continued to grow. While cheap oil and gas have reduced the pressure to modernise the Belarusian economy, freedom of movement has resulted in a growing number of Belarusian workers moving to Russia, which has been

58 | At the summit meeting of the three state presidents on 24 Oct 2013 in Minsk, for example. See Agata Wierzbowska-Miazga, "The Customs Union Summit: Crisis instead of Success", *Eastweek*, 30 Oct 2013.

59 | Jarábik, Pikulik and Yeliseyev, n. 45, 3.

suffering from a serious lack of skilled workers since 2008.⁶⁰ Demographic change is only likely to worsen the situation.

The fact that Belarus has so far reaped the benefits of closer ties with Russia is mainly because Putin tends to view the Eurasian Union as a political, rather than economic, project.

So far, the Customs Union and Single Economic Space have been unable to stop the outbreak of occasional trade disputes between Moscow and Minsk.⁶¹ The fact that

Belarus has so far reaped the benefits of closer ties with Russia is mainly because Putin tends to view the Eurasian Union as a political, rather than economic, project. Putin has been willing to pay a high price to consolidate integration within the post-Soviet bloc. As long as this continues to be the case, Lukashenko will be able to go on profiting from Russian subsidies, without necessarily feeling any substantial political pressure. We have to assume that this situation is likely to continue for the time being while Putin seeks to convince Ukraine to join the Eurasian Union. If the example of Minsk is anything to go by, Ukraine – which, alongside Russia, is a key country in the Kremlin's integration plans – will certainly have all the advantages and none of the disadvantages of integration paraded before its eyes. Nothing is likely to change before the Ukrainian presidential elections in 2015.

If after these elections or at some point in the future Russia should decide that countries should start to fulfil their economic commitments – perhaps because geopolitical ambitions have taken a back seat to economic interests – then Minsk surely will pay the price for putting all its eggs in the Russian basket. It would no longer be able to avoid undertaking necessary and painful economic reforms unless it was able to find a way of reducing its dependence on its eastern neighbour. As a member of the Eurasian Economic Union, it is unlikely that Belarus would still have the option of forging closer ties with the EU, such as by signing an Association Agreement.⁶²

60 | Dyner and Ryabova, n. 43, 5.

61 | Garbe, n. 49, 3; see also Galina Petrovskaja, "Москва, Киев, Минск: обреченные на торговые конфликты" (Moscow, Kiev, Minsk: trade conflicts deplored), *Deutsche Welle*, 14 Jun 2012, <http://dw.de/p/15EMK> (accessed 22 Jan 2014).

62 | Jarábik, Píkulik and Yeliseyeu, n. 45, 2.

ARMENIA'S UNCERTAIN FUTURE

Serzh Sargsyan, the President of Armenia, attended the summit meeting of the Eastern Partnership (EP) at the end of November 2013 as an observer. Armenia had been negotiating the Association Agreement and Free Trade Agreement with Brussels for years but the documents that were due to be initialled in Vilnius had become obsolete two months earlier when, much to the surprise of the EU and the Armenian people, Sargsyan suddenly announced that Armenia was going to join the Russian-led Customs Union instead. This amounted to a major about-face for Armenia's future economic and political orientation and raised several key questions. What was the background to this unexpected decision? What can Armenia expect from membership of the Customs Union? What are the potential implications for regional security and Armenia's domestic policy?

There can be no doubt that Armenia's decision was due to pressure from the Kremlin. In explaining Armenia's choice, Sargsyan made it clear that security issues had been a key motivation. Alluding to the Collective Security Treaty Organisation (CSTO), which is also dominated by Russia, the Armenian president suggested that if a country is part of a military security system, it is not possible for it to then isolate itself from an economic space that includes the same countries. Armenia has been a member of the CSTO since it was established in October 2002 and Russia currently has 5,000 soldiers stationed at

a military base in the country. A few years ago, the Armenian government agreed that the base could remain until 2044 and also recently agreed to an increase in the number of troops. This means Russia can maintain a

military presence, not only in Armenia but in the Caucasus as a whole. Security has also been a major issue in the long-running Nagorno-Karabakh conflict with Azerbaijan, a country with rich deposits of raw materials and a much stronger economy. Azerbaijan's defence budget is almost as big as Armenia's total national budget and it recently took delivery of weapons shipments from Russia to the value of four billion U.S. dollars. Combined with the war rhetoric, Armenia views Azerbaijan's military potential as

Security has also been a major issue in the long-running Nagorno-Karabakh conflict with Azerbaijan, a country with rich deposits of raw materials and a much stronger economy.

a serious threat to its security. Armenia's ability to act in foreign policy matters will continue to be limited as long as the Nagorno-Karabakh conflict remains unresolved.⁶³

Armenia is very reluctant to take the necessary steps towards resolving the conflict, but it has to pay a high price for the status quo. This includes geographical isolation: the conflict has led to its 1,000-kilometres-long border with Azerbaijan being closed, along with the border crossing to Turkey. This means that all its foreign trade, including energy supplies, have to go through Georgia and across the narrow border with Iran. As a result, the country's economy is highly dependent on Russia, which has one million Armenians living within its borders.

Russia is the Armenia's most important investor and trading partner. It is not just the energy sector that is controlled by Russia, but also large parts of Armenia's financial sector, transport network, telecommunications and raw materials industry. Armenia mainly obtains its Russian gas supplies via Georgia and also has a pipeline connection with Iran, which is administered for the most part by a subsidiary of the Russian gas company Gazprom. Russia recently used a selective increase in gas prices at a time of restricted Armenian-Iranian capacity as a means of applying pressure on Armenia. Gazprom raised its prices by 50 per cent in July 2013. Prior to that, Armenia had been paying the lowest price for Russian gas of any importing country in the CIS. The Gazprom decision resulted in increases in the cost of food and services, and a 50 per cent

As expected, during his latest visit to Armenia in early December 2013, Putin offered to once again lower prices from 270 to 189 U.S. dollars per 1,000 cubic metres of gas.

rise in the cost of travel on public transport led to widespread public protests. The declaration of intention to join the Customs Union followed hot on the heels of this period of unrest. As expected, during his latest visit to Armenia in early December 2013, Putin offered to once again lower prices from 270 to 189 U.S. dollars per 1,000 cubic metres of gas. However, according to the Armenian head of Presidential administration, this 30 per cent price reduction

63 | About the conflict cf. Canan Atilgan, "Der Konflikt um Berg Karabach: Neue Lösungsansätze erforderlich", KAS-Länderbericht, Konrad-Adenauer-Stiftung, 21 Jun 2012, <http://kas.de/suedkaukasus/de/publications/31403> (accessed 22 Jan 2014).

will not be passed on to the end consumer. Instead, the government has negotiated a deal with Russia that will see gas deliveries remain at the same price for five years. In exchange, Armenia has to agree to transfer its 20 per cent share in the gas distribution company ArmRusgasprom to Gazprom in exchange for cancelling its debts. As a result, the Russian company will now have total control of the market.

This dependence on Russia suggests that any Armenian administration finds its ability to take foreign policy action determined by Moscow. Membership of the Customs Union would signal the collapse of Armenia's foreign policy strategy, which has been described as the "politics of complementarity". This strategy – a reaction to the country's political and geographic isolation – has been a major balancing act. It is almost impossible to maintain equally good relations with all the actors in a region that is dominated by power politics. For Armenia, the challenge has always been to seek to build close relations with national or supranational actors, without effectively restricting its own room for manoeuvre or ability to act.⁶⁴ Against this backdrop, closer ties with European structures could only be reconciled with Armenia's foreign policy options if these were not interpreted by Russia as a policy shift. Until recently, the attitude of the Russian embassy in Yerevan towards Armenia forging closer links with the EU was an unequivocal "carry on" – or at least that is what the Armenian government believed. Clearly there has been a change of mind in the Kremlin with regard to the Eastern Partnership (EP), as evidenced by the increased pressure that Moscow has been applying recently to those EP countries that have been working on Association Agreements with the EU. Moscow has clearly used Armenia to issue a warning and the message is clear: Moscow does not welcome countries cosying up to Europe.

Membership of the Customs Union would signal the collapse of Armenia's foreign policy strategy, which has been described as the "politics of complementarity".

64 | Alexander Iskandaryan, "Armenia-Europe – Minimizing Opportunity Costs", *The South Caucasus 2018 – Facts, Trends, Future Scenarios*, Konrad-Adenauer-Stiftung, Tbilisi, 2013, <http://kas.de/suedkaukasus/de/publications/35353> (accessed 22 Jan 2014).

What does the Customs Union mean for Armenia?

In early September 2013, Sargsyan and Putin signed a joint declaration of intent, which set out “all necessary steps” for Armenia’s future membership. It also spelled out the joint goal of greater economic integration for Armenia within the Eurasian region. The declaration also included Armenia’s intention to sign the whole package of agreements on the Customs Union. A first draft membership resolution was then adopted at the summit meeting in Minsk in October 2013. In the meantime, Armenia had drawn up a road map for establishing a coordinating commission and several sector-specific working groups to look into the compatibility of national legislation with the Customs Union. At the next summit meeting of members and accession states on 19 December 2013, Armenia will receive a detailed to-do list, which will include not only the necessary legislative amendments, but also the appropriate administrative changes that will need to be implemented. This process is due to be completed by early 2014. Accession negotiations and an agreement on the establishment of a Eurasian Economic Union should result in Armenia finally joining the Customs Union in May 2014.



Future partners in the Customs Union: Armenian President Serzh Sargsyan (r.) and Russia’s President Vladimir Putin in Yerevan, December 2013. | Source: © Sergey Guneev, Ria Novosti / picture alliance.

It was surely no coincidence that Putin chose to travel to Armenia immediately after the Eastern Partnership Summit in Vilnius with an offer to work more closely on economic, energy and military issues. A series of agreements were reached and promises made. Putin was not only prepared to make compromises on gas prices, but apparently a new agreement was also reached that would allow Armenia to buy Russian military equipment at special prices. It was also agreed that the project with Belarus aimed at developing joint air defence systems would be extended to include Armenia. According to the Russian president, this cooperation will improve the defence capacity of Russia and its partners and help to promote peace and stability in Eurasia. Putin also announced the establishment of a regional military force to be formed by Armenia, Belarus, Kazakhstan and Tajikistan.

The decision taken by Armenia on 3 September to opt for closer economic ties with Russia was effectively also a decision in favour of political union. Armenia's membership of the Customs Union – which could be ratified by the Armenian parliament as early as May 2014 – at first glance seems absurd, especially as Armenia has no common border with any of the other members of the Customs Union. However, this is not the only issue that calls into question the future success of a Eurasian economic union.

It is doubtful that such a union would have

any great economic potential for countries that continue to be extremely dependent on raw materials exports. This is especially true of Armenia. The country's economic structures remain largely underdeveloped, so the

added value of the Customs Union for Armenia is likely to be very low, given that Russia is already its biggest trading partner. The fear is that Armenia will not be able to avoid the political integration that Moscow wants to follow on from the Customs Union.

Armenia's economic structures remain largely underdeveloped, so the added value of the Customs Union for Armenia is likely to be very low, given that Russia is already its biggest trading partner.

Implications for domestic policy and regional issues

For Armenia, the current situation means that democratic reforms are only likely if other ways can be found to maintain closer links with Europe. The main fear of Armenian experts is that the process of democratisation will be set

back. They expect a growing trend towards authoritarianism in the political decision-making process and a tougher stance towards civil society.⁶⁵ The EU and Armenia may have agreed in Vilnius that they would work on developing and strengthening their cooperation within the framework of the EP, but the trend in Armenia itself appears to be heading in the opposite direction. For example, Yerevan State University recently announced that it would no longer be financing the Masters programme Human Rights and Democratisation, a regional project sponsored by the Eastern Partnership. It would be a tragedy for the future democratic development of the country if cooperation with the EU were to lose its importance and the reform process allowed to stagnate.

In terms of security, the situation in the region is unlikely to change to any great extent. It is unlikely that the conflict with Azerbaijan will escalate, but there also seems little prospect of a solution on the horizon. The balance of military power in the region will continue to be dependent on Russia's day-to-day policies. With Russian soldiers stationed at its border crossings into Turkey and Iran, Armenia is already well on its way to losing control over its own borders. Any benefits to Armenia are likely to be small, short-term and uncertain. The promised additional Russian investment in the country is likely to end up in the pockets of Armenian oligarchs. And it is questionable to what extent trade with other Customs Union member states is likely to grow and what kind of effect this will have on Armenia's economic structure. It is also not clear what effect membership of the Customs Union and possibly later of the Eurasian Economic Union might have on relations with Armenia's neighbours – with Georgia, which initialled an Association Agreement with the EU in Vilnius, and with Azerbaijan, Iran and Turkey. The Russian Federal Agency for the Development of Border Facilities (Rosgranitsa) will open a representative office in Armenia early in 2014 in order to help modernise and potentially monitor border processes. Without common borders with Russia or any of the other member states of the Customs Union, Armenia's one-sided orientation towards Russia appears to be very

65 | Cf. Siranuysch Paryan, "Реальные плоды визита Путина" (Real fruits of Putin's visit), 1in.am, 5 Dec 2013, http://1in.am/rus/armenia_interview_38166.html (accessed 27 Jan 2014).

risky. Putin advisor Sergey Glazyev indirectly suggested as much recently when he compared Armenia to the Russian province of Kaliningrad.⁶⁶

CONCLUSION

At a presentation on the Eurasian Economic Union, Russian President Vladimir Putin spoke of the establishment of the "Eurasian Union" as being a goal for 2015. With a deliberate nod towards the EU, he made it clear that the new union should include political as well as economic aspects. Russia's support for this project is not divorced from thoughts of the past. But it marks a development that is characterised by Russia's determination to drive forward the integration of member states to the benefit of all concerned and ensure the success of the project. At the suggestion of the Russian president, the other much smaller countries will for the first time have a genuine opportunity to exercise a veto. However, the success of the project is not guaranteed. Firstly, there has to be some evidence that member states will actually benefit economically. There are still many questions about how best to harmonise the national economies of the various member states. Secondly, Russia's apparent willingness to limit its own powers must be proven to be consistent and long-term. This includes understanding that the process of national identity is now in full swing in the former Soviet republics and there is little appetite to once again relinquish their sovereignty.

The success of the project is not guaranteed. Firstly, there has to be some evidence that member states will actually benefit economically.

It will be particularly interesting to see how the relationship between the EU and the Eurasian Economic Union develops. The Eurasian Economic Union does in fact offer the possibility of closer cooperation with the EU, particularly because of the requirement for member states to adopt WTO standards, thus ensuring more compatibility with EU markets. On the other hand, the levying of import duties on the external borders of the Eurasian Economic Union will do nothing to stimulate trade with the Union's western neighbours. The common customs policy also prevents

66 | On the interview with Sergey Glazyev cf. Alexey Venediktov, *Echo of Moscow*, 7 Sep 2013, <http://echo.msk.ru/programs/beseda/1149900-echo> (accessed 27 Jan 2014).

countries from being members of both unions, as an EU Member State is obliged to allow the duty-free movement of goods from all other EU Member States and therefore would not be in a position to levy the import duties dictated by the Customs Union.

This is not to say that these problems are insurmountable. Given enough political will, the EU and the Eurasian Economic Community may be able to work out a compromise that is acceptable to both sides. However, the latest events involving Armenia and Ukraine have shown that there is an ongoing battle for influence and power. So far, no solution has been found that will allow an association with the European Union while at the same time maintaining the close economic ties with Russia that are so vital for both Armenia and Ukraine. Moscow has made it quite clear that if its neighbouring countries decide to opt for the EU, then it will view the decision as anti-Russian. The Kremlin has openly threatened serious economic consequences if this were to happen. This stance has clearly reaped positive results in the case of Armenia and Ukraine, though in the case of the Republic of Moldova it remains to be seen whether Russian threats will be backed up by punitive action.

One thing is clear – if in doubt, Russia will continue to play on its dominance. It will remain a difficult negotiating partner and hence the Eurasian Economic Union will also not be an easy partner that always only takes a pragmatic approach to economic issues. Although as a result the EU has a number of critical voices that are highly sceptical of cooperation with the Eurasian Economic Union, it would be a poor strategy for the EU to simply dismiss this integration project. It would be far better to identify areas where the interests of the two unions overlap and think about potential forms of cooperation. But of course – as with most things in politics – it is likely to be a long, slow process.

The article was completed on 19 January 2014.

REGIONAL COOPERATION IN WEST AFRICA

“A STUDY IN FRUSTRATION”?

Franziska Porst

Long before regional integration was recognised as the ideal method to foster economic growth and preserve peace, it had already existed in West Africa in the form of the great dynasties of the precolonial era. It was subsequently shaped both by the influences of the colonial powers and by the search for a special African path towards integration. Since independence, West Africa has experienced a veritable wave of regional organisations being established, but only few proved viable. The two most significant ones are the Economic Community of West African States (ECOWAS) and the West African Economic and Monetary Union (WAEMU, Union Economique et Monétaire Ouest Africaine).

While ECOWAS is much more prominent in public debate as a regional economic community recognised by the African Union (AU) and as a negotiating partner of the EU in the negotiations over a regional economic partnership agreement, the smaller WAEMU, all of whose almost exclusively francophone member states also belong to ECOWAS, on closer inspection proves to represent a considerably more advanced project of West African integration. The integration endeavours within ECOWAS, on the other hand, which is far more heterogeneous in linguistic and economic terms, have repeatedly faltered and have not shown much progress in spite of several attempts at reform.

Besides the region's inherent problems, such as the chronic fragility of several states, recurring armed conflicts, democratic deficits, weak political institutions and poorly diversified economies that mostly depend on raw material



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exports, the very co-existence of ECOWAS and WAEMU carries the risk of acting as an obstacle to integration in West Africa. There is therefore an urgent need for the policies of ECOWAS and WAEMU to be harmonised. After a formal cooperation agreement between the two regional organisations had already been signed in 2004 and a Joint Technical Secretariat (*secrétariat technique conjoint*) had been set up, the convergence of ECOWAS and WAEMU seems to have finally picked up speed last year.¹

PHASES OF REGIONAL INTEGRATION IN WEST AFRICA

There have been at least three identifiable phases of regional integration in total. In the precolonial era, the areas between the Atlantic Coast, Lake Chad and the Gulf of Guinea were dominated by huge multi-ethnic kingdoms with fluid boundaries, in which people and goods could travel in absolute freedom. This included the Ghana Empire in the 11th century, the Mali Empire in the 14th century, the Bornu Sultanate in the 16th century as well as the Songhai dynasty, which extended across a vast territory comprising present-day Niger, Mali, Senegal, northern Burkina Faso and southern Mauritania.

Colonisation ended this phase of pre-modern regional integration; the European powers broke up the West African empires and restructured them in their own interests. This involved the drawing of – frequently arbitrary – boundaries, which still determine the map of the African continent today. In addition to dividing the colonised territories into smaller, more easily administered units, the colonial era entailed a further phenomenon: the creation of new regional entities. Where conditions allowed, the European powers set up regional organisations, in which they merged their colonies. The purpose was not to encourage horizontal cooperation between the colonies, but to establish vertical links between the metropolises and their

1 | Cf. Djénéba Traore and Mathias Vogl, 2013, "Three questions to Christophe Joseph Marie Dabiré – WAEMU Commissioner for the Regional Market, Trade, Competition and Cooperation", *WAI-ZEI Regional Integration Observer*, No. 2, Vol. 1, 19-20; "Sommets UEMOA et CEDEAO: 'Dakar tournant important dans l'avancée du processus d'intégration économique dans la sous-région', Mankeur Ndiaye", *Dakaractu*, Pressafrik, 24 Oct 2013, http://dakaractu.com/_a54114.html (accessed 16 Dec 2013).

protectorates. France, in particular, played a leading role in this. It had conquered almost all its West African territories from Senegal as of 1659 onwards. These initially became part of the *établissements français du Sénégal*, before French West Africa (Afrique occidentale française, AOF), the federation of French colonies in West Africa, was finally founded in 1895. This was the framework in which France implemented the first policies for the economic coordination of the eight colonies amalgamated in the AOF.²



WAEMU headquarters in Ouagadougou: The convergence of ECOWAS and WAEMU has finally picked up speed. | Source: Sputnikilt ©©©.

Decolonisation and the subsequent collapse of colonial federations such as the AOF illustrated the negative impact of the fragmentation of (West) Africa resulting from the colonial era. After the loss of the unifying structures of the colonial administration, the independent African states faced high levels of economic and political disunity.³ Consequently, the third phase of regional integration, which then began, was motivated by political and ideological

2 | Assemblée Parlementaire de la Francophonie, "Bilan de l'intégration régionale en Afrique", May 2013, 22, http://afrique.apf-francophonie.org/IMG/pdf/2013_05_regAfrique_integration.pdf (accessed 3 Dec 2013).

3 | Benedikt F. Franke, "Competing Regionalisms in Africa and the Continent's Emerging Security Architecture", *African Studies Quarterly*, No. 3, Vol. 9, 2007, 32-33.

objectives while also involving practical reasons. The latter included mainly the desire for protecting African self-determination against persistent attempts at (neo-)colonial interference. It was also hoped that regional cooperation would help to overcome the fragmentation of the African continent and enable the founding of stable states that were also economically viable. The guiding political principle for this phase of integration was pan-Africanism, which had promoted the unity of the African states and its citizens as the only path towards genuine political and economic autonomy since the first Pan-African Congress in 1900.

West Africa is the part of the continent that took the earliest and most numerous steps towards integration. This is due to a number of different factors. On the one hand, the experience of slave trade, which was particularly vivid in people's memory in West Africa, had produced a political consciousness that was compatible with the ideology of pan-Africanism. This manifested in the idea of "oneness in experience", i.e. the unity of Africa and its

Kwame Nkrumah advocated rapid and comprehensive unification of the continent and included all the descendants of slaves living outside Africa in this as well.

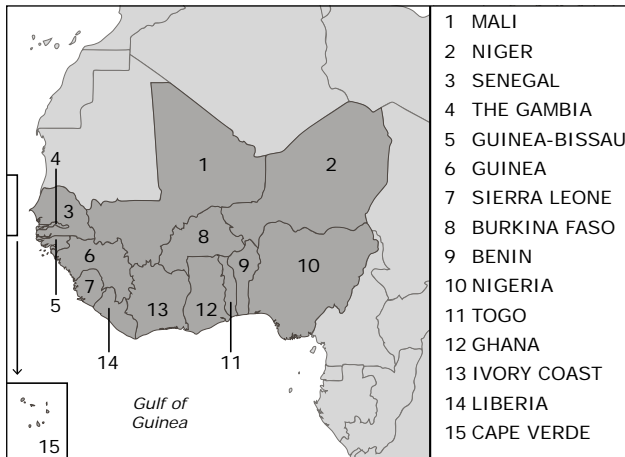
citizens through the shared experience of slavery. Kwame Nkrumah, for instance, the first president of the newly founded Republic of Ghana and a pioneer of (radical) pan-Africanism, advocated rapid and comprehensive unification of the continent and included all the descendants of slaves living outside Africa in this as well. The return of these descendants to the West African lands of their ancestors further enhanced the emancipation of West Africa compared to other regions of the continent.⁴ The existence of the West African empires in the precolonial era also represented an important historic reference point for the advocates of regional integration.

During the course of the last sixty years, over 42 regional organisations were set up or planned in West Africa. Most of them aimed at greater economic cooperation, overlapped geographically and were extremely short-lived. Only four larger organisations still exist today: the Conseil de l'Entente, the Mano River Union, ECOWAS and

4 | John Igue, "Economic Integration in West Africa", in: Corsino Tolentino and Mathias Vogl (eds.), *Sustainable Regional Integration in West Africa*, ZEI Discussion Paper, 2011, 36.

WAEMU. The Conseil de l'Entente emerged in 1959 from a successor organisation to the AOF and comprises Ivory Coast, present-day Burkina Faso, present-day Benin and Niger. Togo joined in 1966. The organisation aims at furthering economic cooperation between the five member states. However, until the recently initiated revitalisation attempts by the President of Benin Boni Yayi, the Conseil de l'Entente has been lingering on the side-lines. The Mano River Union, founded in Sierra Leone in 1973 and comprising Ivory Coast, Guinea, Liberia and Sierra Leone, has had a chequered history. The original aim had been to strengthen economic cooperation between the countries along the Mano River; but it ceased operation during the civil wars in Liberia and Sierra Leone, and was not re-established until 2004. The most important and comparatively most successful regional organisations of West Africa are ECOWAS and WAEMU, which will be described in greater detail below.

Fig. 1
ECOWAS member states



Source: Own presentation.

ECOWAS

On 28 May 1975, the heads of state and government of 15 West African countries signed in the Nigerian capital what is referred to as the Treaty of Lagos, thus founding the Economic Community of West African States. ECOWAS currently has 15 member states: Benin, Burkina Faso,

Ivory Coast, Gambia, Ghana, Guinea, Guinea-Bissau, Cape Verde, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo. Cape Verde joined in 1976, while founding member Mauretania left ECOWAS in 2000 to join the Arab League.

Goals and Operation

The aims of ECOWAS defined in the founding treaty (article 3, clause 1) are to promote economic cooperation and integration in West Africa in order to raise the living standards of its peoples, to maintain and enhance economic stability, to foster relations among member states and to contribute to the progress and development of the African Continent. Economic independence of the member states ("collective self-sufficiency") is to be achieved through the creation of a common trading bloc. To this end, a gradual development is envisaged, progressing from a free trade zone to a customs union to a common market.

The highest decision-making body is the Authority of Heads of State and Government of the member states, which determines the principles of ECOWAS policy and monitors the progress of the integration process. This body appoints an ECOWAS Chairman and the President of the ECOWAS Commission from among its members. Decisions must be taken unanimously and are binding. The remit of the Council of Ministers, which meets twice a year, includes the day-to-day implementation of the decisions of the Authority and monitoring of the institutions further down the line. It is composed of two ministers from each member state, one of whom must be the minister responsible for regional integration.

The 120 members of the ECOWAS Parliament, which has a purely advisory function, were to be elected directly by the ECOWAS citizens.

As the administrative body of ECOWAS, the Commission, which bore the title of Executive Council until 2006, is responsible for managing day-to-day operations and for implementing the decisions of the Authority and the Council of Ministers. Originally, the 120 members of the ECOWAS Parliament, which has a purely advisory function, were to be elected directly by the ECOWAS citizens. However,

during a transition period, which has still not come to an end, the ECOWAS MPs are nominated by the parliaments of the member states.⁵

The ECOWAS Court of Justice has the task of overseeing the construction, interpretation and implementation of primary and secondary legislation. Its establishment was already envisaged in the founding treaty (originally as a tribunal, cf. article 11), but did not receive new impetus until the reform of the treaty in 2007. The Court of Justice comprises seven judges, and it is meant to be independent from the ECOWAS member states and institutions. Since 2005, natural persons and legal entities have had the right to petition the Court, which means it can also prosecute violations of human rights.⁶ All the ECOWAS bodies are based in the Nigerian capital Abuja.

The establishment of the ECOWAS Court of Justice was already envisaged in the founding treaty, but did not receive new impetus until the reform of the treaty in 2007.

State of Integration

The first major ECOWAS achievement in terms of integration consisted of the Protocol on Free Movement of Persons, which was initiated in 1976 and made West Africa the only region on the continent where free travel without a visa and the right of residence and establishment within all member states are guaranteed. Apart from this achievement, ECOWAS' attention was taken up with a deteriorating security situation over the next few years, which made further integration measures difficult. The onset of the civil war in Liberia in 1989 finally represented a decisive turning point in ECOWAS' history, in that it led to the controversial and ground-breaking decision to deploy a peacekeeping force (the so-called ECOWAS Ceasefire Monitoring Group, ECOMOG) in one of the member states, thus going far

5 | The change to the direct election of ECOWAS MPs and further measures to strengthen the Parliament were originally planned to take place by 2010. However, this deadline passed without a new deadline being set. Cf. "West Africa: ECOWAS Parliament seeks more powers", All Africa, 24 Apr 2013, <http://allafrica.com/stories/201304241395.html> (accessed 6 Dec 2013).

6 | Cf. Ademola Abass, "Ecowas and the Regional Integration Experiences in the World", *WAI Critical Analysis and Action Strategies*, No. 2, 2013, 11-13.

beyond the original scope of the regional organisation's remit, which involved areas of economic policy.⁷

All in all, the progress ECOWAS made in terms of integration was very disillusioning, which is why an attempt was made in the nineties to revitalise it through a revision of the founding treaty. The Revised Treaty was approved in 1993 in Cotonou; it replaced the Treaty of Lagos and put ECOWAS on a new legal footing. New bodies, namely the ECOWAS Court of Justice, Parliament, and Economic and

At an economic level, the Revised Treaty included the aim of creating an economic and monetary union. The relevant measures involved the elimination of domestic customs duties.

Social Council, were created as consulting and monitoring institutions intended to act as counterbalances to the ECOWAS Commission (Executive Council until 2007) and to give a supranational dimension to an organisation that was strongly inter-governmental in character. At an economic level, the Revised Treaty included the aim of creating an economic and monetary union (cf. chapter 9 of the ECOWAS Treaty). The relevant measures involved various programmes for the elimination of domestic customs duties by setting a common external tariff, harmonising economic and financial policies as well as creating a common monetary zone in conjunction with a common central bank.⁸ At the same time, the aims defined in the founding treaty were expanded. These now explicitly include cooperation in the areas of education, science and technology, taxation, culture, legal matters, the environment, tourism, health, etc. In addition, article 4 of the Revised Treaty envisages central principles such as good governance, democracy, observance of human rights, protection of regional peace as well as equitable distribution of the benefits and costs of economic cooperation

7 | After the intervention by ECOMOG in Liberia, ECOWAS peacekeeping forces were also deployed in Sierra Leone (1991-2002) and during the first phase of the war in Ivory Coast (2002-2004), and they subsequently formed the core of a UN peacekeeping mission. Cf. Kenneth Omeje, "The achievements and challenges of ECOWAS in security regionalism in West Africa", *WAI-ZEI Regional Integration Observer*, No. 2, Vol. 1, 2013, 8.

8 | George Osuwu, "Factors shaping economic integration and regional trade in West Africa", in: Rike Sohn and Ama Konado Oppong (eds.), "Regional Trade and Monetary Integration in West Africa and Europe", *WAI-ZEI Paper*, No. 6, 2013, 11; Essien Abel Essien, "A record of regional integration in West Africa", *WAI-ZEI Regional Integration Observer*, No. 2, Vol. 1, 2013, 2.

across all members. The existing cooperation in the area of conflict prevention and management, which had been based purely on protocols, was defined as a further ECOWAS remit in article 58 of the Revised Treaty and subsequently brought into primary law.⁹ There is therefore an obvious trend towards the formal widening of the areas of competence of the regional organisation, which had previously focused on economic integration. In doing so, ECOWAS – like the EU before it – takes account of the realisation that market integration cannot work effectively without the harmonisation of relevant sectoral policies. The ECOWAS experience further demonstrates how closely linked socio-economic development and peace are and that economic integration measures in a fragile and conflict-prone environment such as that of West Africa therefore also requires cooperation in the area of security policy.

With the widening of its areas of competence, ECOWAS takes account of the realisation that market integration cannot work effectively without the harmonisation of relevant sectoral policies.

Challenges

The impact of the Revised Treaty and the resulting programmes has, however, fallen short of the high expectations and was mainly limited to declarations of intent. This culture of verbose statements of intention, repeated delays and lack of implementation within the regional organisation is, on the one hand, due to a lack of political efficiency of both the ECOWAS institutions and of its member states generally. On the other hand, there is also frequently simply a lack of political will to implement decisions made at an inter-governmental level at the national level.

Non-tariff trade barriers such as poor infrastructure and insufficient legal security thus still represent major challenges to genuine market integration.¹⁰ The implementation of the economic and monetary union is also still

9 | The security architecture emerging within ECOWAS was underpinned in 1999 through the creation of the Mechanism for Conflict Prevention, Management, Resolution, Peace-keeping and Security. This mechanism includes various instruments and institutions for cooperation in the area of security policy, such as the early warning system ECOWARN and the ECOWAS Standby Force. Cf. Omeje, n. 7, 10.

10 | Cf. Claudia Rommel, "Barriers to Intra-Regional Trade in West Africa", in: Tolentino and Vogl (eds.), n. 4, 36.

pending. The poor record of economic integration has a particular impact on intraregional trade, which has still not passed the ten to 15 per cent mark in the ECOWAS region, while it is around 60 per cent in the EU, 40 per cent in North America and 30 per cent in the ASEAN region.¹¹ The majority of ECOWAS states have also lingered persistently at the bottom of the ranking of the UN Human Development Index over the last three decades (Fig. 2).

Not only have the populations of the ECOWAS states seen little benefit from the regional integration process to date, they were also hardly involved in the decision-making during the first three decades. The lack of long-term regional development planning is also a matter of concern.¹² For these reasons, a further reform was initiated in 2007, in the course of which the institutional structures of ECOWAS were transformed and the strategies and concepts of the organisation were revised. The Executive Council was transformed into a commission and its executive powers were strengthened. The most important document was the so-called ECOWAS Vision 2020, which envisages the transformation from an “ECOWAS of nation states” into an “ECOWAS of peoples”. The purpose of this was to achieve active participation in the integration process on the part of the ECOWAS citizens and the private sector.¹³ However, a greater effect on civil participation than a mere change in name would be achieved by the strengthening of the role of the ECOWAS Parliament and the implementation of direct elections by ECOWAS citizens. According to the personal opinion of a Burkinabe ECOWAS MP, this young institution, which carries so many hopes, has so far shown to be a “toothless tiger”.

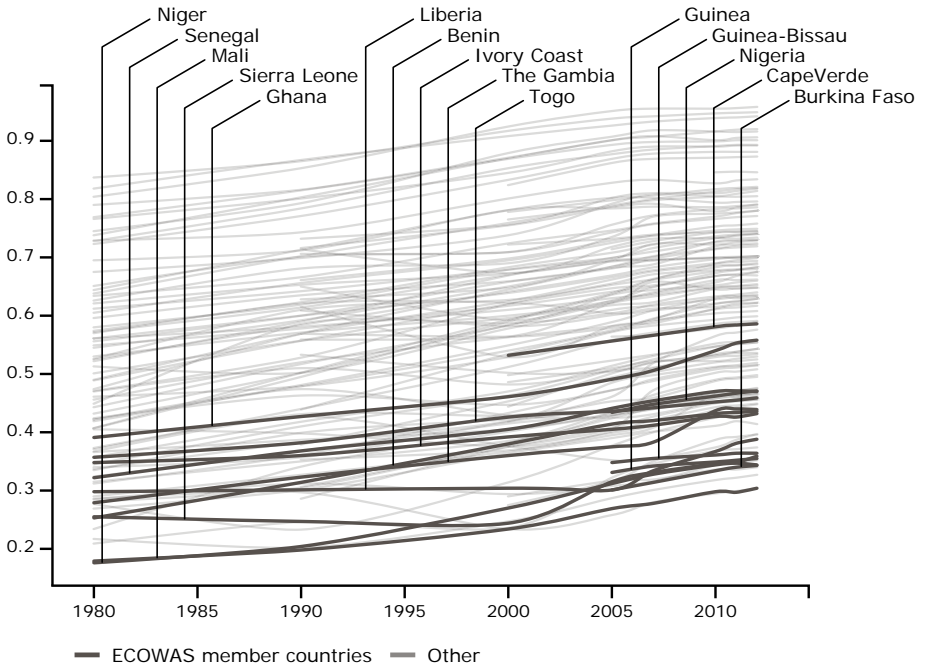
11 | Osuwu, n. 8, 2013, 11; “Déficit d’infrastructures, l’obstacle des barrières non tarifaires au commerce régional en Afrique”, Groupe de la Banque Africaine de Développement, 30 Oct 2013, <http://afdb.org/fr/news-and-events/article/infrastructure-gap-non-tariff-barriers-impediments-to-regional-trade-in-africa-12455> (accessed 2 Dec 2013).

12 | Essien, n. 8, 4.

13 | Abass, n. 6, 35.

Fig. 2

Development of the Human Development Index between 1980 and 2012



Source: „International Human Development Indicators“, *Human Development Reports*, United Nations Development Programme (UNDP), <http://hdr.undp.org/en/countries> (accessed 20 Jan 2014).

The common ECOWAS security policy is still proving similarly ineffective – in spite of the institutional framework that has been in place since 1999 and has been deployed sporadically in Togo, Guinea and Ivory Coast. It was in the Mali crisis that ECOWAS has most recently proved to be incapable of implementing its much-vaunted security architecture and responding militarily to complex armed conflicts with a supra-regional dimension.¹⁴ Although it had agreed on deploying a multinational standby force in northern Mali in April 2012, it did not take action until after the military intervention by the French in January 2013.¹⁵

14 | Omeje, n. 7, 10.

15 | The African-led International Support Mission to Mali (AFISMA), which has been operating in Mali since January 2013, consisted of troop contingents from nine ECOWAS states as well as further members of the AU and was converted into a UN peacekeeping mission in July 2013 (Mission multidimensionnelle intégrée des Nations Unies pour la stabilisation au Mali, MINUSMA).

Important member states such as Ivory Coast and Senegal showed reluctance to become involved or even refused to participate, while Nigeria's involvement, without which an ECOWAS force would not have been viable, was overshadowed by the terrorist activities of Boko Haram. Nor have the ECOWAS troops so far been able to put on a convincing show on the ground due to the glaring lack of financial resources, equipment and battle experience (particularly in desert areas). A high-ranking Pentagon official thus called the ECOWAS force "completely incapable" in April 2013.¹⁶



ECOWAS summit in January 2013: In the Mali crisis the organisation did not find a common voice. | Source: © Legnan Koula, picture alliance.

WAEMU

The West African Economic and Monetary Union was founded by the heads of state and government of seven West African countries on 10 January 1994 in the Senegalese capital Dakar. The exclusively francophone founding states of Benin, Burkina Faso, Ivory Coast, Mali, Niger, Senegal and Togo were joined by the Portuguese-speaking Guinea-Bissau in May 1997. All WAEMU member states are also members of ECOWAS.

16 | Joseph Bamat, "US slams African force as Fréch begin Mali pullout", *France24*, 10 Apr 2013, <http://www.france24.com/en/20130410-usa-slams-africa-force-ecowas-france-troop-withdrawal> (accessed 15 Dec 2013).

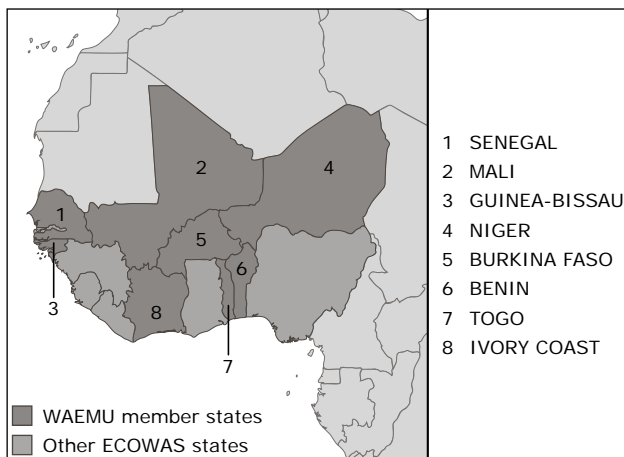
Goals and Operation

WAEMU has charged itself with the task of improving economic cooperation between its member states. Five objectives are defined in its founding treaty:

- improvement of the competitiveness of the member states in an open, competition-based market and a rationalised, harmonised legal framework;
- creation of a common market based on the free movement of persons, goods, services and capital, freedom of establishment as well as a common external tariff and a common trade policy;
- convergence of the economic activities and policies of the member states through a multilateral monitoring mechanism;
- harmonisation of national legislations, where this is required for the effective operation of the common market, particularly of the tax systems;
- as well as coordination of national sectoral policies, particularly in the areas of human resources, land-use planning, transport and telecommunications, the environment, agriculture, energy, industry and mining.

Fig. 3

WAEMU member states within ECOWAS



Source: Own presentation.

WAEMU conducts its operation in a similar manner to ECOWAS. Top-level decisions are made at summit meetings of the heads of state and government, where political guidelines are decreed, which are then fleshed out in detail by the Council of Ministers. A commission is responsible for day-to-day operations. Besides this commission, there is an inter-parliamentary committee, to be replaced by a parliament in the medium term, which is responsible for the democratic oversight of the decision-making processes – albeit only in an advisory role. A court of justice supervises the construction of the community's laws and an audit court checks the financial management at WAEMU. In addition, there are specialised independent institutions such as the Central Bank of West African States (Banque Centrale des États de l'Afrique de l'Ouest, BCEAO) and the West African Development Bank (Banque Ouest Africaine de Développement, BOAD). WAEMU is based in the Burkinabe capital Ouagadougou, while the BCEAO is located in Dakar, Senegal, and the BOAD in Lomé, Togo.

State of Integration

In 1962, the West African Monetary Union was founded and adopted the CFA franc in order to retain the institutional framework, which had provided macroeconomic stability up to that time.

At the time it was founded, WAEMU was far ahead of ECOWAS in terms of integration: it already had a joint currency, the CFA franc (Communauté Financière d'Afrique), and, in fact, came into being as a "by-product" of the devaluation of the CFA franc in 1994. The CFA currency zone was created in 1945 by the French colonial power to take over from the former colonial banks. In 1962, the by then independent francophone states in West Africa founded the West African Monetary Union (WAMU) – strongly advocated by the former colonial power – and adopted the franc in order to retain the institutional framework, which had provided macroeconomic stability up to that time. Due to the diverging economic developments in France and the CFA countries, a serious imbalance developed over time, as a result of which the CFA franc was devalued by 50 per cent in January 1994 – with serious consequences for the countries of the CFA zone. This is also the context in which the West African Monetary Union was transformed into the West African Economic and Monetary Union. The intention was that the latter was to assist with the liberalisation of the former WAMU countries and ensure

macroeconomic stability through economic integration. In concrete terms, this meant the planning of an internal market and the adoption of strict convergence criteria to keep inflation low and provide support for the economic policies of the member states.

To achieve these objectives, a customs union with a common external tariff and free movement of goods within WAEMU was realised in 2000. The trade legislations of the member states were harmonised and a common competition policy adopted. In addition, the multilateral mechanism for the harmonisation of economic policies envisaged in the founding treaty was put into practice with a convergence pact (Pacte de convergence, de stabilité, de croissance et de solidarité). This defined primary and secondary convergence criteria. During an initial phase, scheduled to last from 2000 to 2002, member states were meant to work towards these criteria, which were then to become binding in 2003 (postponed to 2005). In addition, WAEMU developed a common agricultural policy (Politique Agricole de l'Union, PAU) as well as numerous further sectoral policies, for instance in the area of transport and telecommunications, energy (Politique Energétique Commune, PEC) as well as industry and mining (Politique Industrielle Commune, PIC).

Challenges

WAEMU does benefit from the free movement of persons and capital realised within ECOWAS; but securing the most important element of an internal market, the free movement of production factors (labour and capital) and goods still represents its greatest challenge. As already explained in connection with ECOWAS, the reasons for this are to do with the halting elimination of non-tariff trade barriers, poor infrastructure and the resulting high transport costs, as well as deficiencies in legal security.

Added to this is the low degree of diversification in the economies of the WAEMU zone and the fact that large parts of domestic trade are of an informal nature. Furthermore, there is a lack of information among citizens, business-people as well as state authorities about the regulations adopted in connection with WAEMU. These factors are

also reflected in the deplorable record of trade within the WAEMU zone. Exports within the zone make up a mere 13 per cent of total WAEMU exports, while exports to France alone amount to 14 per cent.¹⁷

Despite enhanced diversification of its partners, the WAEMU is still greatly dependent on France to this day.

Another question that arises in connection with WAEMU is that of "ownership" of the integration process. Since its inception, WAEMU has been a project strongly supported and influenced by France. Despite enhanced diversification of its partners, the regional organisation is still greatly dependent on France to this day. Not only does this continue to give rise to problems in the relationship between WAEMU and ECOWAS, it is also reflected in the sluggish implementation of decisions.

ECOWAS AND WAEMU BETWEEN COMPLEMENTARITY AND COMPETITION

When one compares the objectives of ECOWAS and WAEMU as they are described in their founding treaties, there are no obvious major differences. Both integration processes aim at market integration through macroeconomic harmonisation, complemented by coordination in specific sectoral policy areas. While the original ambitions of the two regional organisations may also have been similar, they have developed very differently (Table 1).

Although it was founded nearly twenty years later, WAEMU is now far ahead of ECOWAS where economic integration is concerned. Although one has to add that some of the measures mentioned, particularly in the areas of the free movement of persons and competition policy, have only been implemented to an unsatisfactory degree to date,¹⁸ WAEMU can be characterised as the most advanced

17 | Ibrahima Camara, "Impact des Unions Monétaires sur les échanges commerciaux: Le cas de l'UEMOA", Conference Paper, African Economic Conference, Johannesburg, 28-30 Oct 2013, 10, http://afdb.org/uploads/tx_llafdbpapers/Impact_des_Unions_Montaires_sur_les_changes_commerciaux_Le_cas_de_lUEMOA_V4.pdf (accessed 28 Nov 2013).

18 | Yves Bourdet, "Limites et défis de l'intégration régionale en Afrique de l'Ouest", *Country Economic Report*, No. 6, 2005, 10, <http://sida.se/Publications/Import/pdf/sv/20056--Limites-et-d233fis-de-lint233gration-r233gionale-en-Afrique-de-lOuest.pdf> (accessed 20 Jan 2014).

regionalisation process in West Africa.¹⁹ The efforts that ECOWAS has undertaken to drive forward integration have progressed furthest in the area of security. While the member states have set themselves ambitious goals in the economic area, as can be seen from the large number of planned measures, they have implemented relatively little apart from the free movement of persons and capital and the coordination of certain trade and sectoral policies. The Ghanaian geographer George Osuwu made this rather sober assessment of the record to date: "Outside of peace-keeping missions in the region, which usually reminds the people in the sub-region of the existence of ECOWAS, ECOWAS has achieved very little."²⁰

Table 1

State of integration of ECOWAS and WAEMU by comparison

Measure	ECOWAS	WAEMU
Elimination of customs duties within the community	○	✓
Elimination of non-tariff trade barriers		
Common external tariff	○	✓
Further trade policies	✓	✓
Harmonisation of trade legislation		✓
Competition policy		✓
Free movement of persons	✓	✓
Free movement of capital	✓	✓
Common currency	○	✓
Coordination of economic policies	○	✓
Sectoral policies	✓	✓
Non-economic objectives (e.g. security policy)	✓	○

✓ implemented measures ○ planned measures

Source: Bourdet, n. 18, 10.

19 | Osuwu, n. 8, 12.

20 | Ibid., 11.

However, according to the declared intentions of the heads of state and government of the ECOWAS countries, this is supposed to change. The plan was initially to extend the customs union within WAEMU, which had been in place since 2000, to all other ECOWAS states. To this end, the common external WAEMU tariff was originally to be applied by all non-WAEMU states within ECOWAS by the beginning of 2008. After there had been long delays due to the clear lack of political will of some ECOWAS states, particularly Nigeria and Sierra Leone, to adjust their high external tariffs to the lower WAEMU tariffs,²¹ the heads of state of the ECOWAS and WAEMU countries finally adopted the common external tariff and further measures to standardise customs clearance for products from third countries in May 2013 at a joint special summit in Dakar.²² If this decision were to be implemented from 2015 as planned, that would represent an important step towards the urgently required harmonisation of the policies of ECOWAS and WAEMU.

A further step towards integration, which would build on the implementation of the common external tariff, is the

A roadmap approved in 2009 now anticipates the Eco to be launched in 2015 – a deadline that is very unlikely to be kept in view of the current state of implementation.

introduction of a common currency for the ECOWAS zone, the Eco. To this end, the West African Monetary Zone (WAMZ) was founded in 2000, the members of which include all non-WAEMU members of ECOWAS with the exception of Cape Verde. There are plans for the two West African currency zones, WAMZ and WAEMU/BCEAO, to merge in a second stage. However, the introduction of the common currency has been postponed several times because of numerous problems, particularly insufficient fulfilment of the defined macroeconomic convergence criteria within the WAMZ.²³ A roadmap approved in 2009 now anticipates the Eco to be launched in 2015 and the

21 | Bourdet, n. 18, 12.

22 | Jean Pierre Malou, "Afrique de l'Ouest: Tarif extérieur commun – La CEDEAO valide", AllAfrica, 3 May 2013, <http://fr.allafrica.com/stories/201305030565.html> (accessed 27 Nov 2013).

23 | Kocra L. Assoua, "The Nexus between Political Instability and Monetary Sustainability: The case of a West African Monetary Union", *WAI-ZEI Paper*, No. 5, 2013, 7.

WAMZ and WAEMU/BCEAO to merge in 2020 – deadlines that are very unlikely to be met in view of the current state of implementation.²⁴

The aim of these ambitious plans is not only to enable ECOWAS to make progress in the area of economic integration, but also to put an end to the striking lack of synergy between ECOWAS and WAEMU. The ECOWAS Treaty includes a clause according to which ECOWAS is to be “the sole economic community in the region for the purpose of economic integration”²⁵ in the long term. However, the very slow pace of the convergence in the area of monetary policy raises some doubt as to how much the heads of the WAEMU states in particular are actually committed to this statement. The reasons for their reluctance lie in differences in economic interests and in characteristics of certain ECOWAS and WAEMU member states. The trade policy of the oil exporter Nigeria, for instance, is far more protectionist than that of countries depending on imports, such as Benin and Togo. Such conflicts of interest are far more likely to arise in the considerably larger, more heterogeneous ECOWAS than within WAEMU. Yet, the homogeneity of the WAEMU countries, which facilitates decision-making and implementation, is – above all – cultural. Apart from the Portuguese-speaking Guinea-Bissau, all WAEMU member states are former French colonies. Besides a *lingua franca*, the colonial heritage includes similarities in areas such as education as well as legal and administrative systems, which are central for the implementation of regional integration endeavours.

Within ECOWAS, which comprises eight francophone, five anglophone and two Portuguese-speaking member states, there is no such common identity. On the contrary, there is strong competition between anglophone and francophone countries rooted in history and culture. ECOWAS was originally meant to help overcome this competition by integrating existing regional initiatives. One observer commented on the signing of the Treaty of Lagos in 1975

24 | There is a fundamental controversy over the usefulness of introducing a common currency for ECOWAS and WAEMU. Cf. Bourdet, n. 18, 14 et seq.

25 | ECOWAS Treaty, chapter 2, article 2; cf. similar section in the preamble of the WAEMU Treaty, in which the founding states express commitment to the goals of ECOWAS.

with the jubilant statement that this was a major first step to bridge the rift between anglophone and francophone countries.²⁶ The opposite was, in fact, the case. ECOWAS was unable to shake the reputation of being an expression of the hegemonic ambitions of Nigeria, which is by far the largest member state with over half the economic output of the ECOWAS zone and approximately half its total population and dominates the regional organisation politically and economically. Ivory Coast in particular, which has the largest economy among the francophone countries, was hostile towards ECOWAS from the beginning.

France, which still had considerable influence over its former colonies, had a very critical view of the course followed by ECOWAS, namely loosening the links with the former colonial powers in favour of "collective self-sufficiency".

Ultimately, however, smaller francophone states were too dependent on the trade with Nigeria to fend off its integration efforts in the long term. Furthermore, France, which still had considerable influence over its former colonies, had a very critical view of the course followed by ECOWAS, namely loosening links with the former colonial powers in favour of "collective self-sufficiency". The founding of WAEMU can thus ultimately also be interpreted as an expression of the lack of commitment to ECOWAS on the part of the francophone states.²⁷

The distrust and the competition between anglophone and francophone member states also manifest in the area of security cooperation.²⁸ This is the context in which one must consider the recent decision of the heads of state and government of the WAEMU members to develop a common

26 | Marc Penouil, "Le traité de Lagos efface le clivage entre pays francophones et anglophones", *Le Monde Diplomatique*, Oct 1975. <http://monde-diplomatique.fr/1975/10/PENOUIL/33456> (accessed 5 Dec 2013).

27 | Franke, n. 3, 4.

28 | The frequently criticised indiscipline and lack of professionalism of the troops during the military ECOWAS interventions in Liberia and Sierra Leone, where Nigeria contributed 80 per cent of troops and resources, were mainly attributed to Nigeria's leading role. The fact that this was rejected as French propaganda in other quarters underlines the impression of a deep rift between the anglophone and francophone areas of West Africa even further. Cf. Omeje, n. 7, 9; Issaka K. Souaré, "Regard critique sur l'intégration africaine: comment relever les défis", *ISS Paper* 140, Jun 2007, 5. This rift is also reflected in Nigeria's inability to play an important role in the conflicts of Ivory Coast and Togo.

security and peace policy,²⁹ seeing that cooperation in this area would yet again represent a duplication of the integration efforts of ECOWAS and WAEMU.



ECOWAS as an expression of Nigeria's hegemonic ambitions?
Nigerian President Goodluck Jonathan at a state visit in South Africa. | Source: Republic of South Africa, Government Communication and Information System, flickr ©©©.

In conclusion, it has to be said that an examination of the current integration efforts in West Africa is inevitably “a study in frustration”³⁰ – and that this is the case despite the fact that regional integration has a long tradition there. This is due not only to the omnipresent obstacles to integration (poor infrastructure, poorly diversified economies, weak institutions, etc.), which affect ECOWAS and WAEMU equally, but also results from the relationship of the two regional organisations with each other. The persistent rift between anglophone and francophone countries hinders the integration process noticeably – particularly within ECOWAS. Overcoming this artificial divide will first of all

29 | “UEMOA: vers la mise en place d’une politique commune de la paix et de la sécurité”, *Jeune Afrique*, 25 Oct 2013, <http://jeuneafrique.com/Article/ARTJAWEB20131025090032> (accessed 27 Nov 2013).

30 | Adebayo Adedeji, “Problems and Prospects of Regional Cooperation in West Africa”, in: *Problems and Prospects of Regional Cooperation in Africa*, African Association for Public Administration and Management, Nairobi, 1969, 67.

require the political will on the part of the elites not to continue utilising the historic legacy of their countries to further individual interests. The call by Nigerian ECOWAS MP Kabir Garba to the citizens of West Africa to abandon the distinction into anglophone and francophone to make regional integration possible at all is a step in this direction.³¹ This will, however, require a common regional identity to act as an alternative model to the anglophone-francophone distinction. The fact that “creating” this common sense of belonging involves a long and difficult journey is demonstrated not least by the example of the European Union. In any case, such a regional identity cannot be imposed, but must be shaped in cooperation with West African civil society. This will require active citizen participation in the regionalisation process. The ambition to transform the organisation into an “ECOWAS of peoples” expressed in the ECOWAS Vision 2020 could be a first effective step in this direction.

31 | “CEDEAO: Appel à bannir les appellations anglophone et francophones”, Amevor.info, 15 Jul 2012, <http://amevor.info/?p=2437> (accessed 23 Nov 2013).

LONELY TOGETHER

SOUTH AMERICAN ALLIANCES MERCOSUR AND UNASUR FACE CRISIS

Kristin Wesemann

Latin American countries have sought partnership and a common approach to economic and foreign policy for two centuries. In spite of this they often pursue differing interests and do not find consensus. Argentinian President Cristina Kirchner presents herself as a modern independence fighter who wants to liberate the country from the U.S. and Europe. This type of Latin Americanisation in Argentina has placed considerable strain on regional cooperation.

A SECOND LIBERATION MOVEMENT?

Kirchner's official residence, Casa Rosada, now holds a "Salón de los Pueblos Originarios", a Hall of Native Peoples. It is not brand new; until early 2013 it was still called "Salón Cristóbal Colón". But the man who discovered America no longer has any clout with Cristina Kirchner. Hugo Chávez, the late head of state of Venezuela, is said to have once asked her why Argentina continues to pay homage to "this mass murderer".¹ This is likely to be one reason for the sailor's recent exile from the palace. Chávez sometimes served as the President's *spiritus rector*.

Prior to this, Columbus' presence had not bothered Kirchner even though it is pervasive in Argentina: Large public squares, the country's most important theatres, roads, schools and cities are named for him. A statue honouring the Italian who sailed around the world under the Spanish flag in the 15th century stood in the Plaza Colón, not far



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1 | Carlos Pagni, "Cristina, exitosa imitadora", *La Nación*, 29 Jun 2013, <http://lanacion.com.ar/1596618> (accessed 12 Dec 2013).

from the government palace until last July. But the President had the monument, erected in 1921, removed from its pedestal. The protests by the Porteños, residents of the capital city, primarily from the Italian diaspora, did little to deter her. Venezuela, which has friendly relations with Argentina, has long pursued wiping Columbus from the history books and the national memory. Additionally, the Porteños are to get a new statue. “We want to be rid of Columbus to represent the entirety of Argentina’s history and all the blood that has been shed”, Kirchner said in a speech. “For this reason, we want to erect a statue of Juana Azurduy, heroine of independence.”² The President expressed criticism for “how we are treated out there. If you look at what they are doing with Evo in Europe, it is hard to believe that five centuries have passed”.³ This refers to her Bolivian colleague’s forced stopover in Vienna on 2 July 2013 when the presidential plane coming from Moscow was denied permission to fly over Spain, France, Italy and Portugal. Media reports had suggested that former U.S. intelligence agency employee Edward Snowden was also on board. The plane was searched, but the whistleblower was not found. Morales spent part of the night on a red leather sofa in the departure lounge – certainly not in typical fine diplomatic style. At the same time, on the other side of the world, Cristina Kirchner and her Ecuadorian counterpart Rafael Correa took to Twitter to convene an emergency meeting of the Union of South American Nations – Unasur. The alliance members comprise twelve independent countries on the subcontinent.

“Correa just told me that Ollanta will convene a meeting of Unasur. Tomorrow will be a long and difficult day. But keep calm. They won’t get away with it”, wrote the Argentine to her 2.5 million followers.⁴ Once again, by “they” she meant Europe and North America. Kirchner believes the West wants to humiliate and suppress the young Latin

2 | See video of the speech: “Cristina Kirchner habló sobre el conflicto por la estatua a Colón, ‘No es una decisión caprichosa’”, ediciónciudad.com, http://edicionciudad.com/c_7308 (accessed 12 Dec 2013).

3 | “Cristina Kirchner defendió el reemplazo de Colón por Azurduy: ‘No es una decisión caprichosa’”, *La Nación*, 4 Jul 2013, <http://lanacion.com.ar/1598193> (accessed 12 Dec 2013).

4 | Twitter profile of Cristina Fernández de Kirchner, <https://twitter.com/CFKArgentina> (accessed 10 Dec 2013).

American nations and she will return the favour: she has distanced herself from its values and institutions as eloquently as possible. Because great trust has been placed in Kirchnerism, which has reigned in Argentina for more than a decade, one can assume that it considers itself a second liberation movement; 200 years after Argentina gained independence, its task is considered to be ultimate liberation.

IN EVITA'S FOOTSTEPS

Fernando Petrella doubts this idea could exist in reality, especially in a country like Argentina, where every other person "felt" they had dual citizenship.⁵ Petrella takes two views of Argentina, from a national and international perspective: He was Deputy Secretary of State under President Carlos Menem (1989 to 1999) and Ambassador to the United Nations.

In fact, Argentina has always been an open country with close ties to the West. It is considered an "extreme migration case" because of the 5.5 million mainly European emigrants who landed at Río de la Plata between 1857 and 1924.⁶ They have played a significant role in shaping Argentina; to this day an invisible bridge connects the old homeland with the new. "Gobernar es poblar", said constitutional framer Juan Bautista Alberdi. "Governing means colonising." Article 25 of the Constitution even states: "The government shall encourage European immigration, and it shall not restrict, limit or burden with any taxes the entrance into Argentine territory by foreigners who come with the goal of working the land, improving the country and promoting the arts and sciences."

5.5 million mainly European emigrants landed at Río de la Plata between 1857 and 1924. To this day an invisible bridge connects the old homeland with the new.

Immigrants today come from neighbouring countries, not from far-away Europe. In recent years it has been Paraguayans, Bolivians and Peruvians who have come to

5 | Author's interview with Fernando Petrella on 17 Dec 2013.

6 | Jürgen Osterhammel, *Die Verwandlung der Welt. Eine Geschichte des 19. Jahrhunderts*, Munich, C.H. Beck, 2009, 239.

Argentina, traditionally a partner of the West, geared toward North America and Europe, is now allied with all who are willing to join in the struggle for liberation, rhetorically speaking.

Argentina.⁷ The face of the country is changing – and the electorate along with it. Perhaps herein lies the logic behind the Kirchnerist Latin-Americanisation of Argentina.

It is history repeating itself. First Lady Eva Perón had presented herself as a benefactor of indigenous Argentinians, or “shirtless ones” (*descamisados*), in the 1940s and 1950s – in doing so she contributed to the rise of Peronism. It could also be formulated as follows: Argentina, traditionally a partner of the West, geared toward North America and Europe, is now allied with all who are willing to join in the struggle for liberation, rhetorically speaking.

On 4 July 2013, five of the twelve heads of Unasur states met in the Bolivian city of Cochabamba to express their solidarity with Evo Morales. Kirchner, Correa, José Mujica of Uruguay, Nicolás Maduro of Venezuela and Desiré Bout-erse of Suriname wanted to confront the “humiliation of their sister countries and the entire continent”.⁸ Nevertheless, the official communiqué found its way back to the language of diplomacy, declared solidarity with the Andean country and called for clarification of the circumstances.⁹

Recently however, national leaders have come together in particular to publicly settle their internal disputes. By August 2013, several conflicts had come to light in Suriname: First, Bolivia complained that Brazil enabled a Bolivian Senator suspected of corruption to escape. Paraguay was advised to finally enter into political relations with Venezuela again. Caracas in turn clashed with Bogotá over the Colombian guerilla organisation FARC. And Santiago de

7 | 2004 to 2012: 674791 Paraguayans (39.97 per cent), 447086 Bolivians (26.48 per cent), 251679 Peruvians (14.91 per cent). Cf. Argentine Republic, Dirección Nacional de Migraciones and Ministerio del Interior y Transporte, “Síntesis Estadística de Radicciones”, http://www.migraciones.gov.ar/pdf_varios/estadisticas/Sintesis%20Radicaciones%20enero-diciembre%202012.pdf (accessed 16 Dec 2013).

8 | “Cristina: ‘Es una humillación a una nación hermana y al continente suramericano’”, *Télam*, <http://youtu.be/mfofVZSZCyk> (accessed 16 Dec 2013).

9 | “Comunicado de la Unasur por la situación de Evo Morales”, Argentine Republic, Presidencia de la Nación, 3 Jul 2013, <http://prensa.argentina.ar/2013/07/03/42125-comunicado-de-la-unasur-por-la-situacion-de-evo-morales.php> (accessed 16 Dec 2013).

Chile claimed that Buenos Aires wanted to drive Chilean airline LAN from the country so their own domestic airline, Aerolíneas Argentinas, would gain more passengers. In addition, the foreign ministers had only confirmed the details of the summit at the last minute. It was reported to the press that working groups would be formed for the heads of state to discuss their issues. The presidents of Colombia, Chile and Mexico failed to make any appearance at the summit at all. Since then, nothing more of consequence has been said concerning the organisation's work.



Not always so peaceful: Brazil's President Dilma Rousseff (l.) and the Argentine President Cristina Kirchner at the 44th Mercosur summit in Brasília. | Source: Eduardo Aigner, Mercosul Social e Participativo, flickr ©.

In reality, Unasur had been established to resolve conflicts. Brazil fought strongly for its creation. However, the frequency and degree of friction far exceed the alliance's opportunities. It lacks simple structures and mechanisms to establish a working plane on which decisions can be made. The organisation's real goal was to help the continent establish itself as an independent international actor. Only then could a continental free trade zone be discussed. In fact, at least on paper, Unasur is truly gigantic: more inhabitants than the United States and Canada combined (351 million), more than three times the size of the European Union (42,716,000 square kilometres). Only gross domestic product (GDP) lags behind and falls just short of Germany's (3.25 trillion U.S. dollars). And Brazil of course makes up the lion's share: nearly half of the

inhabitants (201 million), just under half of the land area (8,514,215 square kilometres) and two-thirds of GDP (2.4 billion).¹⁰

Fig. 1

Regional alliances in Latin America

Union of South American Nations (Unión de Naciones Suramericanas, Unasur)

Since 2008, the international organisation comprising twelve South American nations has focussed on the objective of promoting regional economic and political integration. It rests on the model of the European Union. In the long-term, it aims to establish a common currency, defence and development policy. However, the lack of will to integrate and the strong individual interests of member states curb the efforts being pursued.

South America's Common Market (Mercado Común del Sur, Mercosur)

Mercosur was established in 1991 with the vision of forming a common internal market made up of its member states. Free movement of goods, services and citizens is the economic cooperative agreement's founding principle. As yet, however, a free trade zone has not been possible, mostly due to the various conflicts between member states. This was most recently made apparent by the temporary exclusion of Paraguay in 2012 and Venezuela's subsequent admission.

Pacific Alliance (Alianza del Pacífico)

The international organisation made up of the four countries of Chile, Colombia, Peru and Mexico generates over a third of South America's gross domestic product. They aim to expand on their economic strength by eliminating trade obstacles and inviting foreign investment (particularly from Asia). Member states must meet democratic standards and must already have bilateral trade relations in place with existing members. In 2013, Costa Rica became the fifth nation to join the economic community.

Bolivarian Alliance for the Americas (Alianza Bolivariana para América, ALBA)

ALBA emerged as a movement to counter the U.S.'s efforts to establish the Free Trade Area of the Americas (ALCA). The alliance aims to distance itself from the U.S.'s economic and political dominance and offer an alternative. Member states have been in possession of a regional trade currency, called Sucre, since 2010, which should also contribute to integration.

Source: Own presentation.

Early on Argentina disputed Brazil's leadership claims and even refused to vote for them to have a permanent seat on the United Nations Security Council. Following this tradition, Buenos Aires was wary of Unasur: Even with its economic growth, Argentina takes second place at the very most – a difficult role for a country that has long purported to be a respected global actor and rivalled Brazil's gross

10 | Central Intelligence Agency (CIA), The World Fact Book, <https://www.cia.gov/library/publications/the-world-factbook> (accessed 10 Dec 2013); "Living in the EU", European Union, http://europa.eu/about-eu/facts-figures/living/index_en.htm (accessed 10 Dec 2013).

domestic product in the 1960s despite Brazil being much larger. Today the neighbouring country's GDP is nearly four times as high and Brazil has since outgrown Unasur. In any case it had never sought the role of ideological lead strategist; Hugo Chávez of Venezuela occupied that position. He used the alliance to spread his Bolivarian revolutionary ideas, which were not far off from those of the Argentinian government at the time. Néstor Kirchner, former Argentine president and the organisation's first Secretary General, did not often oppose him; they got on very well all their lives and supported each other. Following Chávez's death in March 2013, Cristina Kirchner took up his mantle and used the forum for Argentina's search for its own identity.

Over the next five years, Unasur should become a kind of South American union, following Europe's example – with a common currency, its own parliament and passport system. However, member states often have conflicting goals. Some – especially the Pacific countries – have long emphasised stability, democracy and economic growth. Others – the left-populist governments – seek solutions that go “beyond neo-liberalism”.¹¹

LATIN AMERICA: ONE PLACE, MANY IDEAS

Long before Unasur came about, the continent had striven toward regional integration in hopes that everyone would gain. However, the many and often overlapping alliances have not made much headway since their first tentative steps on a transnational regional level. During the struggle for independence, Simón Bolívar had already made a plan to establish Gran Colombia in the North and thus create a merger of South American republics with a common defence policy and a supranational parliament. The Libertador, as Bolívar is often called, died in 1830, and Gran Colombia fell shortly thereafter.

After the Second World War, the continent experienced a true wave of integration. The Organization of American States, founded in 1948 – originally with 19 members –

11 | Daniel Flandes, “Brasilien – Regionalmacht mit globalen Ambitionen”, *GIGA Focus*, No. 6, 2007, 5, http://giga-hamburg.de/en/system/files/publications/gf_lateinamerika_0706.pdf (accessed 15 Dec 2013).

pledged to promote social and economic development and supported democracy, human rights and security. In 1959 came the addition of the Inter-American Development Bank, a sort of World Bank for the continent that was also intended to promote regional integration. A year later, Argentina, Brazil and Mexico came together to convince their neighbours of the benefits of the Latin American Free Trade Association (LAFTA); these efforts spanned 20 years, collapsed in 1980 and resumed as the Latin American Integration Association (ALADI). It still exists today, open to all countries in the continent, though it is hardly mentioned. In 1969, with the formation of the Andean Alliance, CAN, between Chile, Bolivia, Ecuador, Colombia and Peru, a phase of attempting sub-regional integration began, including the Southern Common Market, Mercosur. In addition, there are more than 50 free trade agreements in place between Latin American states.¹²

The European Union is a consequence of the continent's loss of blood on the battlefield. The idea was born when Europe lay in ruins after the Second World War and there was room for visionary ideas.

Europe is often held up as an example of integration. In fact, South America has undertaken several attempts – from a common currency to a common parliament. Nevertheless, much separates the two continents

in many ways. The European Union is a consequence of the continent's loss of blood on the battlefield. The idea was born when Europe lay in ruins after the Second World War and there was room for visionary ideas: (economic) integration, a Franco-German reconciliation between statesmen Konrad Adenauer and Charles de Gaulle following centuries of bitter enmity.

Latin America does not exhibit a similar split to Europe in 1945; there is no common idea that trumps economic self-interest and still applies after government changeovers. French journalist Bernard-Henri Lévy's famous European quote could also be applied to South America, but in reverse: "South America is not an idea but a place."¹³ The only link in its history is the process of independence – and this of all things has "allowed nationalism to arise, sometimes rather naively, which emphasises national

12 | Renato Baumann, "Integration in Latin America – Trends and Challenges", CEPAL, Jan 2008, <http://iadb.org/intal/intalcdi/PE/2008/01306.pdf> (accessed 15 Dec 2013).

13 | Lévy said: "Europe is not a place but an idea."

autonomy and positively countervails efforts at integration."¹⁴ Josef Oehrlein, a Latin America correspondent for the *Frankfurter Allgemeine Zeitung*, provides an example: Even when it comes to “customs duties on car parts or chicken legs”, or for readily solvable problems, “it is every man for himself”.¹⁵

From a European point of view, South America often appears like a monolith, because, with the exception of Brazil, the same language is spoken everywhere (though this is not entirely correct if one listens closely). Though the continent only consists of 13 countries, it is significantly larger than Europe – and much larger than the EU. Argentina alone measures 5,000 kilometres from north to south – the distance between Stockholm and Rome is a mere 2,000 kilometres, between Paris and Moscow 2,500.

Often these many alliances carry derogatory nicknames like “talking shop”. The *Economist* writes that a “summit fatigue” spread long ago. But Latin America expert Shannon O’Neill of the New York Council on Foreign Relations sees this very fact as a strength. The format of these discussions were always helpful when conflicts erupted, such as in Colombia or Honduras. They could be settled quickly and largely non-violently; this is no small contribution when considering that the continent has a fundamental problem with violence, as Professor of Politics David Mares says – even between states.¹⁶

MERCOSUR: THE BROKEN SPRINGBOARD INTO GLOBAL FREE TRADE

However, none of the many regional alliances is especially important to Argentina. On the contrary, even Mercosur, once so proud, promising its member countries free trade and its inhabitants a kind of regional citizenship, now only makes headlines because of internal bickering or

14 | Josef Oehrlein, “Die Vermessung der Unabhängigkeit”, *Aus Politik und Zeitgeschichte (APuZ)*, No. 41/42, 4 Oct 2010, 4, <http://bpb.de/apuz/32459> (accessed 21 Jan 2014).

15 | *Ibid.*

16 | Cf. David R. Mares, *Latin America and the Illusion of Peace*, New York, Routledge, 2012; David R. Mares, *Violent Peace: Militarized Interstate Bargaining in Latin America*, New York, Columbia University Press, 2001.

spectacular events, such as the exclusion of Paraguay and the inclusion of Venezuela.

The preliminary result of the Treaty of Asunción was a customs union with a democracy clause embedded in a liberal market macroeconomic landscape.

Argentina, Brazil, Paraguay and Uruguay founded the Market of the South in 1991 with the Treaty of Asunción, reinforced three years later with the Treaty of Ouro Preto.

The preliminary result was a customs union with a democracy clause embedded in a liberal market macroeconomic landscape. After the leaden years of dictatorship and state mismanagement, the founding fathers had looked to Europe and not to the north to the North American Free Trade Area (NAFTA), strictly geographically limited to the United States, Canada and Mexico. They preferred an open regionalism for the young democracies in the south. In addition, both the famous ten points of the Washington Consensus and the two Bretton Woods institutions, the World Bank and International Monetary Fund, were accepted. Today they are held responsible for the 2001 crisis in Argentina.

However, the “primacy of the economy” was upheld in the 1990s in particular, when Fernando Collor de Mello was in power in Brazil and Carlos Menem in Argentina.¹⁷ Mercosur was intended as a “springboard into global free trade”, primarily breaking with the “statist-protectionist development model of import-substituted industrialisation”. In the “golden early days”, which lasted until 1994, members saw 90 per cent of all their products exempted from inland customs, and agreed on a common external tariff for 85 per cent.¹⁸ On the one hand, by the end of the decade trade had grown strongly within the bloc and stood at more than 25 per cent by 1998; on the other hand, foreign direct investment, gross domestic product and other economic variables also increased. The turning point was the surprising devaluation of the Brazilian real in January 1999; Argentinian products abruptly became more expensive. The collapse of the Argentine financial system in December 2001 triggered a rethinking that continues to determine the country's political course to this

17 | Karsten Bechle, “Kein Auslaufmodell: 20 Jahre Mercosur”, *GIGA Focus*, No. 3, 2011, http://giga-hamburg.de/en/system/files/publications/gf_lateinamerika_1103.pdf (accessed 15 Dec 2013).

18 | Ibid.

day: in the official discourse, free trade and free markets are considered negatives, a threat to the sovereignty of the nation. In fact, member countries of Mercosur grew in institutional strength in the years that followed – an important step forward considering that the dissolution of the alliance itself had initially been up for discussion. However, the internal disputes could not be stopped by its own parliament, through structural funds or various association agreements.



Reception of Venezuelan President Chávez in August 2012 at the airport in Caracas: The full membership of Venezuela in Mercosur had been sealed in Brasília just prior to this. | Source: © David Fernández, picture alliance.

The Mercosur of today bears little resemblance to an economic community and the open regionalism that was promised. Disputes over tariffs, export margins, import bans and investments have made the alliance a fractious club that still holds together on ideological issues if need be, for example, when Buenos Aires recently placed the British Falkland Islands back on the agenda. The Malvinas, as the Argentines call the South Atlantic islands, are primarily a domestic issue; it is used by the government to provide the country with what it is currently lacking: a sense of community. Argentina is politically divided but united when it comes to the islands. A vast majority of people feel these islands were, are and always will be Argentinian. As the

30th anniversary of the outbreak of the war drew near at the end of 2011, Cristina Kirchner had her colleagues deny ships flying the “illegal flag” of the Falklands access to their ports.¹⁹ While London was still wondering what was going on at the other end of the world and, above all, why, it soon became clear that not all those involved in this pact took the situation as seriously as the Argentine government. In Uruguay, vessels flying the Falklands flag were soon moored and loaded, and a few months later Brazil's President Dilma Rousseff and David Cameron confirmed their good relationship when the British Prime Minister visited the largest country in South America.

The exclusion of Paraguay from the alliance coupled with the inclusion of Venezuela was of greater political significance. In Asunción, the Senate voted President Fernando Lugo out of office; the Constitution permitted this and even outlined steps to this end, but the neighbouring countries were outraged and spoke of a coup, banning Paraguay from their midst in June 2012. Accident or design, in any event the voice that had always vehemently opposed the inclusion of Venezuela because of substantial doubt over the quality of local democracy was now lacking. Hugo Chávez's republic was admitted and was thus permitted to further drive the politicisation of the alliance. The revolutionary leader conjured a “new Mercosur”, which, with a dose of “political Viagra” would erase any residual stock of “neoliberalism” and instead encourage social interests.²⁰

Argentina and Brazil have curtailed their eternal rivalry which has sometimes degenerated into a kind of nuclear arms race.

The *Economist* wrote that Mercosur “was once a good idea”, created so “liberal democracies advancing free trade in South America”.²¹ For the time being, however, the alliance's real act of daring remains this: Argentina and Brazil have curtailed their eternal rivalry which has sometimes degenerated into a kind of nuclear arms

19 | “Declaración de los estados partes del Mercosur y estados asociados sobre buques que enarbolan la bandera ilegal de las islas Malvinas”, http://mercosur.int/innovaportal/file/4506/1/cmc_2011_acta02_ane13_declaracion__islas_malvinas.pdf (accessed 15 Dec 2013).

20 | “Mercosur RIP?”, *The Economist*, 14 Jul 2012, <http://economist.com/node/21558609> (accessed 15 Dec 2013).

21 | *Ibid.*

race.²² Nevertheless, another crisis is on the horizon: the neighbouring countries are talking and arguing about protectionism. In 2013, Brazilian mining company Vale withdrew from a six-billion-dollar project to mine potassium and produce fertiliser in the Argentinian wine and mining province of Mendoza. Two billion U.S. dollars had already been invested; 6,000 jobs were eliminated. However, the second largest company in Brazil, in which the state also holds shares, no longer believed in the investment: "Not even Dilma would invest anything more in Argentina", as was put sympathetically by Argentine business circles. "The future is bleak."²³

In its editorial section, Rio de Janeiro newspaper *O Globo* wrote that a climate hostile to business and a political culture of placing pressure on business, the media and the judiciary ruled in Argentina. The withdrawal of Vale is the "correct answer to the many obstacles that those in power in Buenos Aires placed in the company's way."²⁴ With a slight delay, the political response from Brasília came when Mercosur's foreign and economic ministers met in Caracas in late October 2013. Brazil's Foreign Secretary, Luiz Alberto Figueiredo, reproached his colleague Héctor Timerman for Argentina's constant protectionist measures hampering the talks regarding the free trade agreement with the European Union that began in 1994.²⁵ But while Uruguay and Brazil have long negotiated with the EU on their own, Argentina cannot even bring itself to compile a list of 100 products that could be freely traded between the two alliances.

In fact, the ministers in Caracas were meant to prepare the presidential summit meeting for 17 December 2013. But this was postponed and should now (possibly) take place

22 | "Country Profiles: Argentina and Brazil", Global Security Institute, 22 May 2012, http://gsinstitute.org/dpe/countries/argentina_brazil (accessed 15 Dec 2013).

23 | Jorge Oviedo, "Se va del país la brasileña Vale y despide a 6000 empleados en forma inmediata", *La Nación*, 13 Mar 2013, <http://lanacion.com.ar/1562632> (accessed 10 Dec 2013).

24 | "Mais prejuizos impostos pelo 'risco Argentina'", *O Globo*, 13 Mar 2013, <http://oglobo.globo.com/opiniaao/m-7819195> (accessed 10 Dec 2013).

25 | Martín Dinatale, "Otra foto del Mercosur resquebrajado", 6 Nov 2013, <http://lanacion.com.ar/1635746> (accessed 10 Dec 2013).

in January 2014. In any event, the Argentine government sees their country less as an economic power in Mercosur than as a political giant in an ideological club of the same name. This club wanted to hold its first simultaneous elections for its parliamentarians in all its member states in 2014. But when the deputies met again in early December 2013 after a two-and-a-half year break, they immediately began discussing an alternative: whether it would be better to postpone the transnational vote to 2020.²⁶

In fact, currently almost no one is focussing on Mercosur, once a pioneer of integration. One of its founding fathers, former Uruguayan President and current Senator Luis Alberto Lacalle, says the alliance “practically no longer exists”.²⁷ He sees only two options: “Either we start over with Mercosur from scratch or we declare it dead.”²⁸ Former Brazilian Foreign Minister Luis Felipe Lampreia says that Mercosur today is “a political front” whose protectionist tendencies contradict its original principles.²⁹ Paradoxically, herein lies the reason the trade bloc is still alive: Argentina and Venezuela have slow-growing and state-controlled economies and their governments “flirt with self-sufficiency”.³⁰ Thanks to the Mercosur trade agreement, this is a lucrative market for Brazil’s export economy. The Brazilian balance of trade with its Mercosur partners clearly demonstrates this: more than a quarter of all products and services Argentina imports come from Brazil.³¹

26 | “PARLASUR vuelve a sesionar y elige autoridades”, Mercosur, http://parlamentodelmercosur.org/innovaportal/v/8031/1/parlasur/parlasur_vuelve_a_sesionar_y_elige_autoridades.html (accessed 10 Dec 2013).

27 | “Lacalle: Mercosur, Argentina y gobernantes”, *La República*, 13 Sep 2013, <http://republica.com.uy/lacalle-mercosur-argentina-y-gobernantes> (accessed 11 Dec 2013).

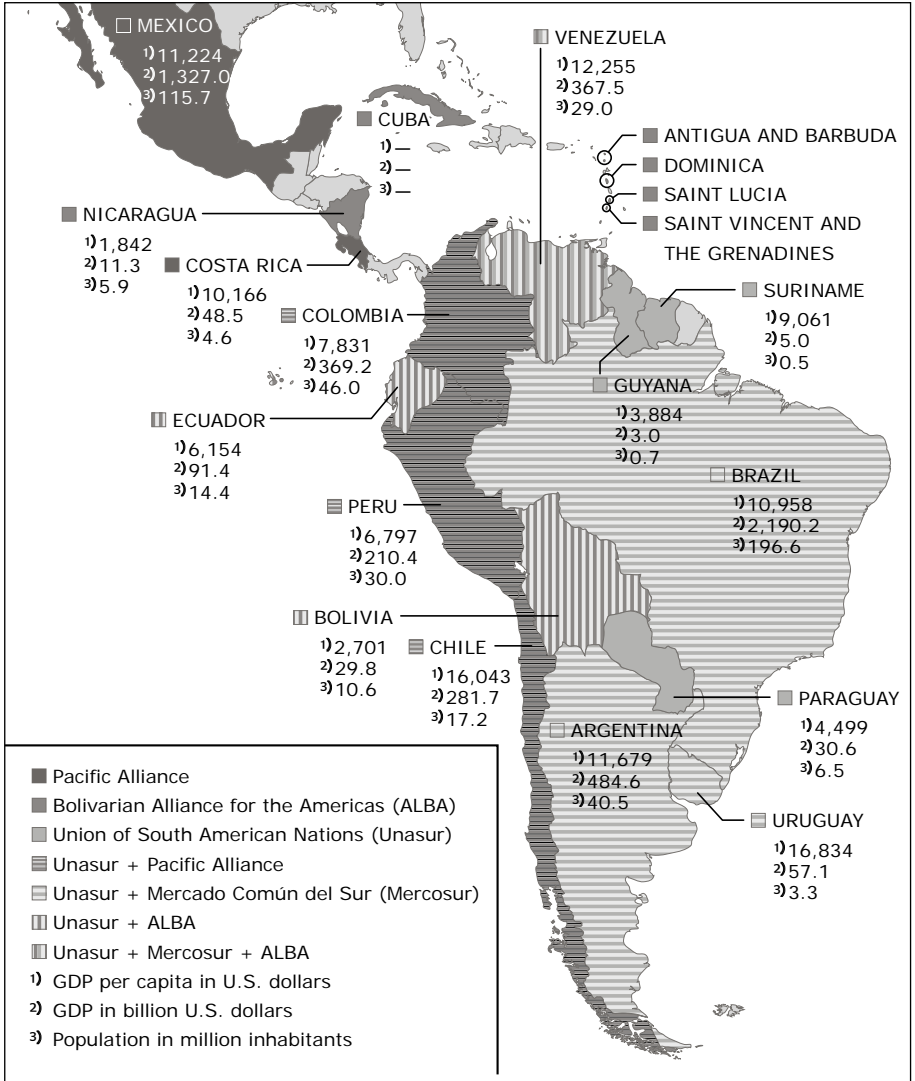
28 | Kristin Wesemann, “Cátedra Konrad Adenauer 2013”, KAS Argentina, 12 Jun 2013, <http://kas.de/argentinien/de/publications/34688> (accessed 10 Dec 2013).

29 | “A continental divide”, *The Economist*, 16 May 2013, <http://economist.com/news/americas/21578056-region-falling-behind-two-alternative-blocks-market-led-pacific-alliance-and> (accessed 10 Dec 2013).

30 | Ibid.

31 | “Dados básicos e principais indicadores econômico-comerciais. Venezuela”, Brazilian Ministry of External Relations, Brasil Global Net, Aug 2013, <http://www.brasilglobalnet.gov.br/ARQUIVOS/IndicadoresEconomicos/INDVenezuela.pdf> (accessed 10 Dec 2013).

Fig. 2
Latin American states with one or more alliance memberships



Source: Own presentation. Data GDP: Estimates 2013. "World Economic Outlook Database", International Monetary Fund (IMF), Oct 2013, <http://www.imf.org/external/pubs/ft/weo/2013/02/weodata/index.aspx> (accessed 28 Jan 2014). Data population: IMF, 2011. There are no data available for Cuba. Paraguay was suspended from Mercosur in 2012.

While Montevideo, Brasília and Asunción are at the very least not on great speaking terms with Argentina, Caracas and Buenos Aires remain the best of friends. It is unclear just how long this will last. The political situation in Argentina has changed. Argentinian followers of Chávismo and the Bolivarian revolution tended to be the losers in the parliamentary elections held on 27 October 2013.³² The opposition received a total of 67 per cent, running on clear domestic issues such as inflation and corruption. The government barely manages to set the political agenda; rather, it is pushed along and can merely respond. At the moment, their vision is not apparent. To some extent, Argentina has broken away from Venezuela, probably because Chávez's successor, Maduro, is a less charismatic figure. This is supported by an almost incredible process that has recently become public: scarcely after he was sworn in, newly-appointed Cabinet Chief Jorge Milton

It is possible that in Argentina an unexpected but highly desirable political change is looming: back to a kind of normality in its diplomatic relations with the rest of the world.

Capitanich, a traditional Peronist from the Left, took down the pictures of Hugo Chávez his predecessor had left him. Néstor Kirchner also disappeared from the wall. The newspapers reported on it in a big way, even using the word "revolution".³³ Néstor Kirchner is not only the father figure for the government, but also for "Venezuelans". He sought out a close relationship with Chávez and came to scores of agreements with him. Perhaps it is even possible that in Argentina an unexpected but highly desirable political change is looming: back to a kind of normality in its diplomatic relations with the rest of the world, a much more sober and rational course than in previous years with a cooler relationship with Venezuela.

PACIFIC ALLIANCE: NO TO "MONOGAMY"

The politicisation of Latin American alliances received a break when the Pacific Alliance was assembled in June 2012 and provided some initial reassurance: No, in no way do they want to distance themselves from the other

32 | Kristin Wesemann, "Ziemlich schlechte Freunde", KAS Argentina, 16 May 2013, <http://kas.de/argentinien/de/publications/34396> (accessed 16 Dec 2013).

33 | "Capitanich 'bajó los cuadros' y redecoró su despacho en la Jefatura de Gabinete", *Perfil*, 27 Nov 2013, <http://perfil.com/politica/-20131127-0035.html> (accessed 10 Dec 2013).

regional groups. None of its colleagues on the Atlantic side of the continent believed this. Morales of Bolivia acts as spokesman for common displeasure; he had already gained lasting experience in this area with the Bolivarian Alliance for the Americas (ALBA): in October 2013, he said this new alliance was a North American conspiracy to divide the entire region. The Pacific Alliance wanted the continent to submit to the Washington Consensus.³⁴ Argentina readily agreed. Ambassador Oscar Laborde, a former Communist, assessed the Pacific Alliance as “an instrument of the rights of the continent and the government of the United States”.³⁵ In fact, these already successful countries on the Pacific coast have understood that clear commitments to democracy, the rule of law and the market economy have a positive effect. Similarly impressive is the momentum the young alliance already has. The list of industrialised nations that have engaged in observer status and encouraged its establishment is long, ranging from Germany to the United States and France to Great Britain and Switzerland. “Unification without isolation” seems to be its formula and the Alliance is taking large steps toward other regions of the world, especially Asia.³⁶

The list of industrialised nations that have engaged in observer status and encouraged its establishment is long, ranging from Germany to the United States and France to Great Britain and Switzerland.

It is pragmatic and powerful: its 207 million people account for a third of Latin America's GDP. This has made an impact. Some Mercosur members have demonstrated just how much they would like to receive the association status among the competition. Paraguay's new president, Horacio Cartes, does not attend Mercosur meetings and does not pay his respects to the leftist spokesmen in Buenos Aires and Caracas either; in his inaugural speech in the summer of 2013, he made no mention of the alliance at all. Shortly before his appointment he also explained: “In Mercosur,

34 | “Bolivian president claims US and Pacific Alliance conspiring to divide UNASUR”, *MercoPress*, 14 Oct 2013, <http://en.mercopress.com/2013/10/14/bolivian-president-claims-us-and-pacific-alliance-conspiring-to-divide-unasur> (accessed 15 Dec 2013).

35 | “El Mercosur marca distancias con la Alianza Pacífico”, *RFI*, 11 Jul 2013, <http://espanol.rfi.fr/americas/20130711-el-mercosur-marca-distancias-con-la-alianza-pacifico> (accessed 15 Dec 2013).

36 | Diego Telias, “La integración más allá de las ideologías”, *Análisis Latino*, CADAL, 30 Oct 2013, <http://analisislatino.com/notas.asp?id=6728> (accessed 15 Dec 2013).

there is neither legal certainty nor economic development”, and stated that it was at best a “politico-ideological Club”.³⁷ He now demands freedom of negotiation with other alliances and his colleague José Alberto “Pepe” Mujica is of a similar mindset. In July 2013 the Uruguayan had said his country was “not crazy” and would leave Mercosur.³⁸ He let his Vice President, Danilo Astori, announce their desire to enter the Pacific Alliance. Montevideo already has observer status and now wants to gain full membership as soon as possible.³⁹ For Uruguayan author and economics professor

Laura Chinchilla, President of Costa Rica, the newest Pacific Alliance member, has said: “Enough with the ideologies, enough with the slogans, enough with looking for scapegoats.”

Nicolás Albertoni, the Pacific Alliance and Mercosur represent two opposing ideas for integration: closed regionalism on the one side, open regionalism on the other. If Mercosur seals itself off from third parties, the Pacific Rim will seek an exchange. Laura Chinchilla, President of Costa Rica, the newest alliance member, has said: “Enough with the ideologies, enough with the slogans, enough with looking for scapegoats.”⁴⁰ Former Colombian Finance Minister Juan Carlos Echeverrey has expressed this somewhat more vividly: “Monogamy is good for a marriage but not for trade.”⁴¹ A look at the numbers shows that the Pacific idea has so far worked better than the Atlantic one: while trade among Pacific Alliance members grew by 1.3 per cent in 2012, it fell by 9.4 per cent in Mercosur. Here the economy grew by five per cent, there by only 2.9 per cent.⁴²

37 | Frederico Franco, “Paraguay afirma que el Mercosur es un ‘club ideológico – político’”, *EL País*, 11 Aug 2013, <http://elpais.com.uy/informacion/paraguay-mercursos-club-ideologico-politico.html> (accessed 15 Dec 2013).

38 | “José ‘Pepe’ Mujica: ‘De joven quería cambiar al mundo y ahora, la vereda de mi casa’”, 11 Jul 2013, <http://lanacion.com.ar/1600059> (accessed 15 Dec 2013).

39 | “Uruguay busca ser miembro de Alianza del Pacífico”, *El País*, <http://elpais.com.uy/economia/noticias/uruguay-busca-miembro-de-alianza.html> (accessed 15 Dec 2013).

40 | Andrés Oppenheimer, “Oppenheimer: Alianza del Pacífico vs. Mercosur”, *El Nuevo Herald*, 25 May 2013, <http://elnuevoherald.com/2013/05/25/1484436.html> (accessed 15 Dec 2013).

41 | “The Pacific players go to market”, *The Economist*, 7 Apr 2013, <http://economist.com/node/18529807> (accessed 15 Dec 2013).

42 | Andrés Oppenheimer, “La Alianza del Pacífico saca ventaja al Mercosur”, *La Nación*, 28 May 2013, <http://lanacion.com.ar/1586060> (accessed 15 Dec 2013).

CELAC: ORGANISATION WITH NO NEWS

If we are to speak of Argentina's regional integration, we must also mention the Community of Latin American and Caribbean States (CELAC). Unlike Unasur, it is an alliance open to all. It only draws one geographical and political boundary on the continent – with North America. Its establishment in December 2011 brought along with it a pot-pourri of challenges and goals from which it seems every one of the 33 member states could choose. Former Venezuelan Foreign Minister Nicolás Maduro wanted a “zone of peace” where regional conflicts would be resolved while coordinating on trade and development organisation at the same time. For his former boss Hugo Chávez, its foundation was the “most important political event in our America for more than 100 years”.⁴³ Ecuador's President Correa wants CELAC to replace the Organization of American States (and to leave Washington completely out of the picture). Chile, however, who was Chair in the first year, focussed on the “promotion of human rights and democracy”; Mexico followed, wanting to join CELAC to finally realise “Bolívar's dream of a united America”.⁴⁴ Argentina and Brazil were in general agreement: the continent should use CELAC to respond to the global crisis and build Latin American economies through import substitutions.⁴⁵ And yes, on the international stage, it would now speak with one voice, as CELAC. Since its enthusiastic founding, the world has heard little news. The organisation's website is updated sparingly; the most recent press releases are from 2011.

One of the few opportunities to speak with one voice was CELAC and the European Union's joint summit in January 2013.⁴⁶ German Chancellor Angela Merkel and Spanish Prime Minister Mariano Rajoy had travelled to Santiago de

43 | “Peaks and troughs”, *The Economist*, 24 Nov 2013, <http://economist.com/node/21540319> (accessed 10 Dec 2013).

44 | Mark Keller, “Latin American Leaders Converge to Form CELAC”, Americas Society / Council of the Americas (AS/COA), 2 Dec 2011, <http://as-coa.org/articles/latin-american-leaders-converge-form-celac> (accessed 10 Dec 2013).

45 | Ibid.

46 | Cf. Martin F. Meyer and Winfried Jung, “Economic and political relations between Europe and Latin America in advance of the 1st EU-CELAC summit in Chile”, *KAS International Reports*, 12/2012, <http://kas.de/wf/en/33.33068> (accessed 30 Dec 2013).

Chile for the event, among others. They wanted to initiate the talks on a free trade area between the EU and Mercosur that have faltered since 1994. However, the Argentine President made a solo effort shortly after the start of the summit. She tweeted that negotiations should not take place on the basis of earlier discussions, that today's world is a different one. "We need to identify and analyse asymmetries so that it do not do any damage to our industries and peoples."⁴⁷ Since then, time seems to be standing still, even with CELAC. At any rate, this group of countries has not aided in finding a Latin American or Argentinian identity. CELAC is intended to show the world one thing: that Latin America is a confident region with independent democracies. But when Cuba's presidency was handed over to "81-year-old Raúl Castro, an unelected dictator and a living symbol of the Cold War",⁴⁸ it became clear just how insurmountable the disparity between claims and reality was.

ORGANIZATION OF AMERICAN STATES: A RING ON THE FINGER

The biggest surprise among the hemisphere's political circles, however, has been provided by the Organization of American States, founded in 1948, which includes all countries on the continent, even the United States and Canada.⁴⁹ It is a kind of continental security organisation that aims to strengthen democratisation and human rights.

Today international drug policy is one of the priorities on the agenda. In contrast to most of the newer regional alliances in Latin America, OAS is more traditionally based around cooperation rather than integration.

Initially conceived during the Cold War as a protective barrier against external threats, it later became a negotiating forum in disputes between member countries. Today international drug policy is one of the priorities on the agenda. In contrast to most of the newer regional alliances in Latin America, OAS is more traditionally based around cooperation rather than integration. Argentina is among the United States' closest allies; former president Menem pushed for inseparable relations. If Néstor Kirchner

47 | N. 4.

48 | "Past and Future", *The Economist*, 31 Jan 2013, <http://economist.com/news/americas/21571157-regions-anachronistic-new-face-past-and-future> (accessed 10 Dec 2013).

49 | Cuba does not participate.

is considered a pragmatic opponent of the U.S. – harsh words were rarely followed by deeds –, his wife has come to the conclusion that their country can get by just fine without committing to Washington. Trade relations have thus far hardly suffered.⁵⁰

The Argentinian government primarily uses the OAS as a stage to criticise the United States – its military policy in the Southern Hemisphere, their “neo-imperialist economic policies,” their anti-terrorism programmes or their international policy in general.⁵¹ But Argentina could play a different role: that of an honest broker between north and south, which would lend the country a

lot more weight. But Kirchner has no interest in this. This need not be the case. The President is controversial, even in her own camp, as was her husband. It is far from certain that she will have enough influence when her term is up in 2015 to suggest that her successor will follow her current course. And many who not only wish to succeed her but actually have the opportunity to do so have already set their sights on Washington and New York. Even the top Kirchnerist candidate in the parliamentary elections recuperated from his defeat in Miami and supplied the local press with beach photos. Miami is an important metaphor in the government’s communications strategy: it stands for the betrayal of the Argentine nation. Only non-Kirchnerists go to Miami – to get U.S. dollars (which are no longer available at home).

It is far from certain that Kirchner will have enough influence when her term is up in 2015 to suggest that her successor will follow her current course.

50 | Larry Rohter, “Argentina And the U.S. Grow Apart Over a Crisis”, *The New York Times*, 20 Jan 2002, <http://nytimes.com/2002/01/20/world/argentina-and-the-us-grow-apart-over-a-crisis.html> (accessed 16 Dec 2013).

51 | “El Mercosur Denuncia a EEUU por Espionaje ante la ONU”, *Los Andes*, 5 Aug 2013, <http://losandes.com.ar/notas/2013/8/5/mercosur-denuncia-eeuu-espionaje-ante-730287.asp> (accessed 16 Dec 2013); “Reunión del Consejo de Seguridad de la ONU: Palabras de la Presidenta de la Nación”, Argentine Republic, Presidencia de la Nación Argentina, 6 Aug 2013, <http://presidencia.gov.ar/discursos/26640> (accessed 16 Dec 2013); Michael Warren, “Cristina Fernandez, Argentina President, Challenges Critics in U.S.”, *The Huffington Post*, 24 Sep 2012, http://huffingtonpost.com/2012/09/24/n_1909795.html (accessed 16 Dec 2013); “Duro Rechazo de Cristina Kirchner al Plan de Barack Obama para Atacar al Régimen de Siria”, *La Nación*, 4 Sep 2013, <http://lanacion.com.ar/1616772> (accessed 16 Dec 2013).

Washington has barely commented on Argentina's odd foreign policy in recent years.⁵² Secretary of State John Kerry's presence at the OAS on 18 November 2013, flanked by his Secretary of State for "interests of the hemisphere", Roberta Jacobson, was thus all the more surprising to many experienced diplomats in Buenos Aires. Kerry expressly named Argentina twice as a partner in the fight against climate change.⁵³ Kerry highlighted the OAS as the starting point on the way to continental unity; he made no mention of any other alliance. Environmental protection, food and energy security, better trade relations, democracy, the fight against poverty – all challenges for the OAS. Clearly yet without expressly saying so, Kerry placed himself in opposition to the substantive and territorial fragmentation of the continent with all its alliances. Diplomat Petrella said that, with his words, the Americans put a "ring on [Argentina's] finger".⁵⁴

Geographically, it already seems likely that Buenos Aires has no interest in political or economic dismantling of the hemisphere. Petrella advises looking at a map of the world and asking: where is Argentina? Out of all the countries in the world it has the furthest distance to traverse to reach the industrialised countries in North America, Europe and Asia. And the desire to establish the Panama Canal as a geographical-political line will not lead any further because Argentina has traditionally been very present, especially in Central America. It is simply irresponsible to believe a country could develop and grow on its own.

52 | See also: Wesemann, n. 32.

53 | John Kerry, "Remarks on U.S. Policy in the Western Hemisphere", U.S. Department of State, 18 Nov 2013, <http://state.gov/secretary/remarks/2013/11/217680.htm> (accessed 16 Dec 2013).

54 | Fernando Petrella, "John Kerry, la OEA y la Argentina", Infobae, 18 Dec 2013, <http://opinion.infobae.com/fernando-petrella/2013/12/18/john-kerry-la-oea-y-la-argentina> (accessed 18 Dec 2013).

A NEW BEGINNING INSTEAD OF REFOUNDATION

HONDURAS AFTER THE ELECTIONS

Annette Schwarzbauer

Sighs of relief could be heard in Honduras: fears that there may be violent unrest on election day in this Central American country, which has the highest murder rate in the world, were not realised. The presidential, congressional and local elections on 24 November 2013 proceeded peacefully, transparently and with an unexpectedly high turnout. The election to the highest public office was won by the candidate from the Christian-democratic, conservative National Party, 45-year-old former President of the National Congress Juan Orlando Hernández, with 37 per cent of the votes. The second-placed candidate from the leftist Libertad y Refundación party (Liberty and Refoundation, LIBRE), which was founded two years ago, was Xiomara Castro, wife of former President Manuel Zelaya, who was deposed in 2009; she gained a 29 per cent share of the votes.

Some five million Honduran voters had been called upon to elect the President and the three Vice-Presidents, 128 deputies to the National Congress, 298 mayors and some 2,100 councillors on 24 November 2013. Honduran society is characterised by distinct political preferences. The two traditional parties, the Liberal Party and the National Party, date back over 100 years, and party allegiances have often been handed down through generations of the same families. Politics tend to arouse strong emotions and heightened interest. Given the participation by new political parties, including the LIBRE party, in a system that had been dominated for many years by the traditional Liberal Party and National Party, the election results had been expected in an atmosphere of heightened suspense.



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Emotional debates and eagerly awaited election results: Juan Orlando Hernández was elected as new president with 37 per cent. | Source: © KAS Guatemala/Honduras.

A VISION FOR HONDURAS – TAKING STOCK OF THE LEGACY OF THE LOBO GOVERNMENT

“Out of control” was the phrase that the business magazine *The Economist* used at the beginning of 2013 to describe the security situation in Honduras, a country where the murder rate was 91.6 per 100,000 inhabitants in 2011 (by comparison: Germany, 2010: 0.8; Colombia, 2011: 31.4; South Africa, 2010: 31.8).¹ The intensified fight against drug cartels in Mexico and Colombia resulted in an increase in illegal activities in Central America. The region is a transit area for drugs from South America heading for the USA. Consequently, improving the security situation tops the wish list of Honduran citizens. Jobs are the second priority. Although economic growth in the country was 3.3 per cent in 2012 and the figure for 2013 is expected to be just over three per cent, the majority of the population does not benefit. With a poverty rate of some 60 per cent, Honduras is characterised by an extremely unequal income distribution and high unemployment.

1 | Cf. United Nations Office on Drugs and Crime (UNODC), “UNODC Homicide Statistics”, <http://unodc.org/unodc/en/data-and-analysis/homicide.html> (accessed 22 Jan 2014).

In 2010, President Porfirio “Pepe” Lobo from the National Party took over a country the previous governments had left with a high level of national debt and expenditure for a public employee salary structure that could not be covered by the national budget. The debt situation has deteriorated further over the last few years, with the budget deficit rising to eight per cent in 2013. When President Lobo took office on 27 January 2010, he had two main tasks to fulfil: regaining international recognition for Honduras after the ousting of President Manuel Zelaya and initiating measures to solve the country’s structural problems. Zelaya, a politician from the Liberal Party, had been deposed by the military on the orders of the Supreme Court on 28 June 2009 and exiled. He had called for a referendum about convening a constitutional assembly for which there was no provision in the constitution. Given the closeness between Zelaya and the Venezuelan President Hugo Chávez, which had developed during Zelaya’s presidency, people assumed the objectives he pursued with this referendum included not only a “refoundation” of the state as had taken place in Venezuela, Bolivia and Ecuador but also an unconstitutional second term in office.

When President Lobo took office, he had two main tasks to fulfil: regaining international recognition for Honduras and initiating measures to solve the country’s structural problems.

Businesses and politicians feared the Venezuelan model and supported the ousting of the head of state, whose popularity had waned. The parliament appointed the President of the National Congress Roberto Micheletti as interim head of state for a transitional period of seven months. As preparations for the November 2009 elections had already been initiated before Zelaya was deposed, the elections were to smooth over the consequences of the unconstitutional action to thwart an unconstitutional endeavour. In the immediate aftermath of the coup d’état – which is how the events were subsequently described by the Truth and Reconciliation Commission set up by President Lobo – there was international criticism from various sides. The Organization of American States temporarily excluded Honduras, the USA condemned Zelaya’s deposition and the European Union temporarily suspended negotiations on the Association Agreement with the country.

During the term of Interim President Micheletti there were some protests by opponents of the coup, who organised mainly in the Frente Nacional de Resistencia Popular (FNRP), the National Popular Resistance Front, and militated against the elections being held. They demanded Zelaya's reinstatement. His wife, Xiomara Castro, played an active role in these activities. The LIBRE party later emerged from the FNRP. There were no international observers present to monitor the November 2009 elections. Porfirio Lobo won the presidential election with an absolute majority, and his National Party won a clear majority in Congress, gaining 71 of the 128 seats.

President Lobo immediately attempted to initiate a process of reconciliation in the country and regain the trust of the international community. A first step was the formation of a government of national unity that incorporated representatives from different parties. While this was met with some criticism from a number of President Lobo's followers, as they had hoped for a larger number of posts for their own ranks, it was an essential step to bring together various sections of Honduran society and integrate them into the new government. Further steps included the establishment of the Ministry of Justice and Human Rights and the appointment of the Truth and Reconciliation Commission (Comisión de la Verdad y la Reconciliación). Both these measures found support particularly from the donor community, which wanted to see progress in the area of justice as a prerequisite for resuming financial support.²

Rehabilitation by the international community of states was successfully completed in June 2011 with Honduras being readmitted to the Organization of American States. This was a consequence of the Cartagena Accord of mid-2010 between President Lobo and Zelaya, which covered arrangements for the return of the former president to Honduras, the withdrawal of the charges against him and recognition of the FNRP as a political movement. The Cartagena Accord, which was mediated by two people

The formation of a government of national unity that incorporated representatives from different parties was an essential step to bring together various sections of Honduran society and integrate them into the new government.

2 | Cf. Ismael Moreno, "2012: balance político de un año agitado", *Envío*, No. 36, Dec 2012, 6, http://issuu.com/radioprogresoericsj/docs/e-book_a_o_10_n_36_ (accessed 22 Jan 2014).

situated at the opposite ends of the ideological spectrum, namely President Juan Manuel Santos of Colombia and Hugo Chávez, served as a “pact of governability”³ to create a foundation at the level of domestic politics for the holding of the primary elections in 2012 and the elections in 2013.

By way of his first official act in January 2010, newly elected President Lobo enacted the law on the Country Vision and the Nation Plan (*Ley de Establecimiento de una Visión de País y la Adopción de un Plan de Nación*), which had been adopted by Congress the previous December. This legislative initiative originated in an agreement between the presidential candidates for the November 2009 elections, in which they committed themselves to align their government policies with a common long-term development plan, the Country Vision, if they became president. The Vision de País, which covers the period from 2010 to 2038 – i.e. seven government terms – defines four main goals and 23 sub-goals. The Plan de Nación provides guidelines for the period from 2010 to 2022, three government terms. The contents of the Country Vision are based on various strategies and processes designed in a participatory manner, including the Millennium Development Goals, the poverty reduction strategy devised as part of the debt relief initiative for highly indebted countries, and the plan for reconstruction and national transformation after the destruction wrought in the country by Hurricane Mitch in 1998. The four main goals of the Country Vision relate to the following areas: alleviation of extreme poverty, education, health and social security; democracy, security and nonviolence; productivity, opportunities and jobs taking into account sustainability and environmental protection; as well as a modern, responsible, transparent, efficient and competitive state.

Goal of the Country Vision is amongst others to establish a modern, responsible, transparent, efficient and competitive state.

Lobo aligned his government programme consistently with the Nation Plan and the Country Vision, referring to the Christian-democratic principles of the Centro Humanista: human dignity in conjunction with integral and sustainable development and the opportunity to live a good life. The government programme mentions improved access to the education and health systems, the creation of jobs and

social services and improvements in the areas of security and justice, economic growth and balancing of the public finances.

At a national level, the required measures and reform projects in various policy areas are meeting with resistance from groups that see their interests jeopardised.

The implementation of the extensive project is proving difficult. The long-term approach of the Country Vision is not well known at a local level; and at a national level, the required measures and reform projects in various policy areas are meeting with resistance from groups that see their interests jeopardised. The daily newspaper *El Heraldo* used the headline "Unfinished Agenda"⁴ for an appraisal of the results achieved during three years of Lobo's term in office, and the government report of January 2013 stated in its introduction that the challenges faced by Honduran society were so large that they could not be overcome by the efforts made during a single government term. The goals of the long-term development plans would therefore need to be pursued by the next government – albeit with its own priorities.⁵

The government's own assessment of its term in office stresses achievements in the area of "poverty alleviation, health, education, social care". Payment of the Bono 10,000, approximately 500 U.S. dollars a year, to mothers who send their children to school and present them for preventative health measures in return, reached 350,000 families in 2012 and thus indirectly 1.75 million people. In the government's own account, further achievements include social security payments for pensioners and disabled people, an increase in primary school attendance to nearly 100 per cent, a decrease in the illiteracy rate, a reduction in the number of women dying in childbirth as well as improvements in health care and the social security system. In the area of "democracy, security and nonviolence", the list of achievements includes the Grand National Agreement between the government, the private sector, employees and farmers on economic growth with social justice, the adoption of the National Policy on Security and

4 | Cf. "Agenda inconclusa marca último año de gobierno de Porfirio Lobo", *El Heraldo*, 21 Jan 2013, <http://elheraldo.hn/Secciones-Principales/Al-Frente/Agenda-inconclusa-marca-ultimo-ano-de-Lobo> (accessed 22 Jan 2014).

5 | Cf. "Logros del gobierno de unidad nacional", Gobierno de Unidad Nacional, Jan 2013.

Justice, the commission dedicated to reviewing the police career path, laws on security, and measures for citizen safety. These measures succeeded in halting the increase in the murder rate (according to statistics from the Ministry of Security there was an increase to 86.5 between 2009 and 2011 and a modest decline to 85.5 in 2012).⁶ Further achievements listed are the establishment of the Ministry of Justice and Human Rights and the adoption of the first national action plan for human rights.

In the area of “productivity, opportunities and jobs”, the government sees achievements in the growth rate, which averaged 3.6 per cent in the period from 2010 to 2012 after a negative rate of -2.4 during 2009, in a reduction in inflation to 5.4 per cent, in measures to support small and medium-sized enterprises (SMEs) and in an increase in the granting of land titles to farmers. The legal minimum wage is described as having risen by 29 per cent between 2009 and 2012. Among the accomplishments under the heading of the “modern state”, the report includes the adoption of the Country Vision and the Nation Plan, the country’s readmission to the Organization of American States, the adoption of development plans in seven regions, the strengthening of citizen participation, greater transparency of the public budget and a modest improvement in the World Bank’s “Doing Business” ranking from 129 to 125.

Subsequent to the state crisis in the aftermath of President Zelaya’s ousting, the Lobo government has indeed taken some important steps forward. Lobo took over a country in an extremely difficult economic situation, with a split society and no international support. Since then, Honduras has regained acceptance and there is a long-term development vision to serve as a guideline. Initial measures have been taken to implement the reforms recommended by the Truth and Reconciliation Commission and the implementation is being reviewed and supported by a specially established department at the Ministry of Justice and Human Rights, the Unidad de Seguimiento a las Recomendaciones de la Comisión de la Verdad y Reconciliación. In the social realm, the Bono 10,000 in particular

Lobo took over a country with a split society and no international support. Since then, Honduras has regained acceptance and there is a development vision to serve as a guideline.

6 | These figures differ from those of the UN statistics quoted earlier, but may well illustrate a trend.

has become firmly established in public consciousness and is seen in a positive light, although it is criticised by some as assistencialism. Towards the end of his term in office, President Lobo himself viewed his government as a “bridge”, stressing in particular the achievement of having brought Honduran society back together after the crisis of 2009.

CHANGING PARTY LANDSCAPE AND PRIMARY ELECTIONS

In the aftermath of the ousting of liberal President “Mel” Zelaya in 2009, the traditional two-party landscape in Honduras, previously dominated by the National Party and the Liberal Party, underwent some changes. Although the chapter of President Zelaya’s ousting is closed as far as the outside world is concerned, there are still rifts within Honduran society between coup supporters and opponents as well as differences of opinion in how to deal with the aftermath of this event. This split is also reflected in the development of the party spectrum.

Zelaya founded the LIBRE party in 2011. His wife Xiomara Castro de Zelaya ran as its presidential candidate because the Honduran constitution precluded a former head of state from standing again. Other new parties include the Partido Anticorrupción (Anti-Corruption Party, PAC) led by Salvador Nasralla, a well-known TV sports commentator, the Alianza Patriótica Hondureña (Patriotic Alliance of Honduras) whose chairman is Romeo Vásquez Velásquez, a former general, who had moved Zelaya out of the country in 2009 and who also ran for president, and Frente Amplio Político Electoral en Resistencia (Broad Political Electoral Front in Resistance, FAPER).

LIBRE was particularly visible from the beginning, and it is thought to have received financial support from the Venezuelan government. LIBRE comprises a number of different forces. On the one hand, it originated from the FNRP protest movement; on the other hand, it unites grass-roots and trade-union forces and former members of the Liberal Party and Zelaya supporters, who had already been among his followers during his presidency. LIBRE is thus not a homogeneous movement, but unites actors with different

interests, who joined forces under the leadership of Manuel Zelaya. In the preamble to LIBRE's Declaration of Principles, the party's formation is linked to Zelaya's ousting and the subsequent resistance. Zelaya himself assumed the role of coordinator and represents the party's public face.

The primary elections on 18 November and the associated preparations dominated the year 2012. Ahead of the elections in the following November, primary elections were held to determine who would be each party's presidential candidate, their candidates to run for Congress and for the Central American Parliament, and their

candidates for the posts of mayors and councillors in 298 communities. All citizens listed in the electoral register were entitled to vote.

Three parties had registered to take part in the primary elections, while the other parties had reported that no separate internal movements existed and therefore no competing lists either. The internal election campaigns of the National Party, the Liberal Party and the newly founded LIBRE party dominated the political landscape for several months and were in part conducted very fiercely and with considerable financial investment. The primary elections required huge logistical and financial efforts from the Honduran Electoral Tribunal and pushed the limits of feasibility.

The primary elections required huge logistical and financial efforts from the Honduran Electoral Tribunal and pushed the limits of feasibility.

Within the National Party, the two people who had the best chances of success as presidential candidates were Juan Orlando Hernández, President of the National Congress and President Lobo's preferred candidate, and Ricardo Álvarez, party chairman and mayor of Tegucigalpa. There was a great deal of distrust between the different wings and accusations of election fraud were voiced while the election campaign was still going on. As the National Party was thought to have a chance of winning the next presidential election, the primary elections were fought all the more vigorously. On the side of the Liberal Party, the battle to become presidential candidate was fought out between Mauricio Villeda, who supported Zelaya's deposition, and Yani Rosenthal, who opposed it. LIBRE only presented one candidate for the office of president, Xiomara Castro, who the Election Tribunal permitted as "consensus candidate". The candidature of Zelaya's wife had been agreed

in party-internal discussions. On the one hand, this signalled that the party wished to continue what Zelaya had begun; on the other hand, LIBRE wanted to demonstrate its strength and unite all votes in the primary elections for the office of president behind one person – the election would in actual fact not have been necessary.

In spite of problems with the transmission of election results by mobile phone, Hernández already declared himself the winner on election day evening.

Within the National Party, Juan Orlando Hernández was able to win through against Ricardo Álvarez by several percentage points. In spite of problems with the transmission of election results by mobile phone, Hernández already declared himself the winner on election day evening. Álvarez did likewise, although he trailed his opponent by several per cent. During the next few days, he called upon the Election Tribunal to conduct a complete recount of all ballot papers, as there had allegedly been some fraud. The Election Tribunal did not comply with his demand, but merely checked the vote tally sheets where there were some irregularities. Álvarez then went one step further and filed an action with the Supreme Court, which was, however, rejected.

As far as the Liberal Party was concerned, Mauricio Villeda, who had supported Zelaya's ousting, won the presidential candidature. His strongest opponent Yani Rosenthal attracted considerably fewer votes. This made it more likely that further followers of the Liberal Party would defect to LIBRE, the new competition. In the case of LIBRE, Xiomara Castro won through as the consensus candidate of the different internal movements as expected.

With some 2,460,000 people casting their votes, the turnout was very high, even surpassing the turnout during the 2009 elections (approximately 2.3 million). Apart from the party-internal aspects, the numbers of votes cast per party were also significant as they were seen as an indication of the parties' chances in the November 2013 elections. The National Party was clearly in front with 1,140,000, the Liberal Party in second place, and LIBRE achieved a respectable result of almost 600,000 votes. Although this meant that the new party failed to achieve its own target of one million votes, it did establish it as the third force in the political landscape.



The queue in front of a polling station in Tegucigalpa: The turnout exceeded the participation in the elections of 2009. | Source: KAS Guatemala/Honduras.

ELECTION DAY – HEAVILY GUARDED FESTIVAL ATMOSPHERE

Nine parties had put forward candidates for the presidential, congressional and local elections, a clear increase compared to the five parties at previous elections. The large number of different parties represented a challenge to the voters, who had to share up to 23 votes among candidates of the nine lists depending on which department they lived in.⁷ But the number of parties also represented a challenge with respect to the organisation of the elections, as it is up to the parties to man the polling desks. Each party provides a representative and a deputy, which means 18 polling officers per desk. This was generally thought to be a good thing as the presence of representatives from more parties would preclude manipulation at the polling desks. According to observers, there had been “collusion” between polling officers in the past leading to manipulation, which would no longer be feasible with greater party diversity.

Voters streamed to the polling stations, particularly in the morning. Numerous members of the security forces, military and police were deployed and this appeared to encourage voters to set off to the polling stations in large numbers. The elections proceeded in a peaceful manner

7 | There was an additional independent candidate in the Francisco Morazán Department.

and the anticipated clashes did not materialise. In parts of Tegucigalpa, there was something of a festival atmosphere in front of the polling stations with food stalls, information stands set up by the parties, music and vehicles carrying flags. One Electoral Tribunal employee commented that the presence of citizens on the streets had been exceptionally large considering the prevailing insecurity in the country.

Voter turnout was approximately 60 per cent, a good percentage by Honduran standards and an increase in comparison with previous elections, where it had been just over 50 per cent. It appears that the participation of young people in particular was gratifyingly high. The number of young electoral assistants was also disproportionately large.



Election assistants in the urban district Cerro Grande: Party representatives attend to voting tables. | Source: © KAS Guatemala/ Honduras.

OUTCOME: JUAN ORLANDO HERNÁNDEZ WINS PRESIDENTIAL ELECTION

The Electoral Tribunal aimed at announcing initial preliminary results of the presidential election based on reliable figures on election day evening. After the problems with the transmission of results by mobile phone during the primary elections, the Electoral Tribunal had decided to transmit the results via scanner. Due to the importance of the office, the results of the presidential election were of

particular interest; after the sluggish pace of the transmission of results in the early stages, this caused the Electoral Tribunal to request the polling officers not to wait for the particularly protracted counting of the results of the congressional and local elections and transmit the results of the presidential election first separately.

Table 1

Presidential election results

Party	Candidate	Votes	Share of votes in per cent	Votes for presidential candidate in 2009	Share 2009 in per cent	Change compared to previous elections
Partido Nacional de Honduras	Juan Orlando Hernández	1,149,302	36.89	1,213,695	56.6	- 19.71
Partido Libertad y Refundación	Xiomara Castro	896,498	28.78	—	—	—
Partido Liberal de Honduras	Mauricio Villeda	632,320	20.30	817,524	38.1	-17.80
Partido Anticorrupción	Salvador Nasralla	418,443	13.43	—	—	—
Partido Alianza Patriótica	Romeo Vásquez Velásquez	6,105	0.20	—	—	—
Partido Demócrata Cristiano	Orle Solís	5,194	0.17	38,413	1.8	-0.63
Partido Innovación y Unidad SD	Jorge Aguilar	4,468	0.14	39,960	1.9	-1.76
Alianza UD-FAPER	Andrés Pavón	3,118	0.10	36,420	1.7	-1.6
Valid votes		3,115,448	95.12	2,146,012	93.30	
Invalid		108,171	3.30	92,604	4.03	
Blank		51,727	1.58	61,440	2.67	
Total votes		3,275,346	100	2,300,056	100	
Turnout			61		49.9	
Registered voters		5,355,112		4,611,211		

Source: Own listing based on data from the Electoral Tribunal, <http://www.tse.hn> (accessed 22 Jan 2014).

At seven p.m., two hours after the polling stations had closed, the Electoral Tribunal announced initial figures after the results had been received from 24 per cent of the polling desks. According to these figures, Juan Orlando Hernández was leading Xiomara Castro by some seven per cent. Castro had already declared herself the winner during the early evening on the basis of some exit polls conducted by her own side in order to generate facts. Hernández waited for the first announcement by the Electoral Tribunal about the results from over 20 per cent of polling desks and then declared himself the winner of the presidential election based on the announced lead. Already on the evening of election day, the heads of state of Colombia, Panama and Guatemala, who can all be counted among the conservative camp, congratulated the candidate from the National Party, Juan Orlando Hernández, on winning the presidency; congratulations from Spain, the USA and – particularly significant – from leftist Nicaraguan President Ortega arrived the following day.

Table 2

Congressional election results

Party	Seats	Seats in 2009	Change
Partido Nacional de Honduras	48	71	-23
Partido Libertad y Refundación	37	—	—
Partido Liberal de Honduras	27	45	-18
Partido Anticorrupción	13	—	—
Partido Demócrata Cristiano	1	5	-4
Partido Innovación y Unidad SD	1	3	-2
Partido Unificación Democrática	1	4	-3
Seats total	128	128	

Source: Own listing based on data from the Electoral Tribunal, <http://www.tse.hn> (accessed 22 Jan 2014); *El Heraldo*, 14 Dec 2013, <http://elheraldo.hn> (accessed 22 Jan 2014).

Out of the 298 mayoral posts, the National Party won 183, including that for the capital Tegucigalpa. The Liberal Party won 83 posts; LIBRE will provide the mayor in 31 communities and the Christian Democratic Party in one. Winning

the presidential election represented a particular achievement for the National Party. For the first time since the introduction of the democratic constitution in 1982, they provided the president for two terms in succession. Moreover, the National Party managed this immediately after a difficult term in office following the state crisis of 2009. Juan Orlando Hernández himself described the elections as an opportunity for the Honduran people to determine the country's future course: either 21st century socialism modelled on the Venezuelan example or a social market economy with investment opportunities and solidarity. The majority of voters decided in favour of the concepts put forward by Hernández, who promised social inclusion, greater security and job creation. However, at 37 per cent, his victory is considerably less clear-cut than the absolute majority that Lobo gained in 2009.



"It's not so complicated": After mishaps with the transfer of results by mobile phone in the primaries, the Electoral Court used scanners for the transmission of the results. | Source: © KAS Guatemala/Honduras.

At 29 per cent, the second-placed candidate, Xiomara Castro, achieved a remarkable result, considering her party, LIBRE, was only established two years ago. Her party, and particularly its prominent coordinator Manuel Zelaya, had

been successful in demonstrating a presence from the very beginning. However, it did not succeed in attracting a majority for the “Refoundation of the Country” project involving the convening of a constitutional assembly. The candidature of Xiomara Castro, who ultimately deputised for her husband, failed to convince a number of voters because of her lack of experience in exercising high office.

The candidate of the new Anti-Corruption Party PAC made a respectable showing with just over 13 per cent of the votes. The journalist Nasralla had focused his election campaign on what was an important problem in Honduras, but derogatory remarks about other parties and candidates lost him some sympathy during the last few weeks. The election losers included the old-established Liberal Party, which lost part of its votes to LIBRE. As was to be expected, the small traditional parties, including the Christian Democratic Party, also lost out as they were hit hardest by the competition from the newly founded parties.

As was to be expected, the small traditional parties, including the Christian Democratic Party, also lost out as they were hit hardest by the competition from the newly founded parties.

By and large, the composition of the National Congress reflects the results of the presidential election in spite of the option of vote-splitting. While the National Party represents the largest parliamentary group with 48 deputies, it has lost its absolute majority. LIBRE and the Liberal Party represent the second and third-largest groups. There are new parties entering the parliament, namely PAC and LIBRE, and this will require negotiations to form alliances with respect to individual legislative endeavours. Going purely by numbers, the National Party and the Liberal Party together make up an absolute majority. This is also regarded as the most likely alliance. LIBRE has already announced that it wants to act as a constructive opposition.

The election results show that the majority of Honduran voters still have a relatively conservative outlook. The votes for the National Party and the Liberal Party jointly constitute just over 55 per cent; added to this are approximately 15 per cent for the Anti-Corruption Party, which cannot be described as left-wing either.

ORDERLY AND TRANSPARENT ELECTIONS

The head of the EU Election Observation Mission to Honduras, Ulrike Lunacek, an Austrian Member of the European Parliament from the Green Party, announced on election day evening that the election process had been transparent. The alliance of Churches and civil society organisations Hagamos Democracia (roughly: Let us realise democracy), which was represented by national observers and simultaneously transmitted the results, concluded on 25 November that the elections had proceeded with a large turnout, peacefully and in an orderly manner. These elections were the most closely monitored in Honduran history, with some 800 international and 15,000 national election observers, including observation missions from the EU, the Organization of American States (OAS) and the Carter Center as well as international “companions” from party organisations Organización Demócrata Cristiana de América (ODCA) and Foro de São Paulo, a network of leftist parties. Because of the lack of international recognition, there had been no foreign observers present at the 2009 elections. Individual voters thanked the international observers for their presence. Vote counting was performed publicly for the first time, and some citizens remained behind in the polling stations well into the night to monitor the process. It should be stressed that the party delegates generally cooperated well despite their different party allegiances resulting in a smooth operation.

The preliminary statement issued by the EU Election Observation Mission on 26 November, i.e. two days after the elections, carries the headline “Transparent voting and counting after an unequal and opaque campaign”.

Points of criticism are voiced mainly in connection with the electioneering: excessive duration and expenditure, use of public resources, opaque election campaign.

The ways in which the elections were conducted and organised by the Electoral Tribunal and the ensuing transparency are evaluated positively. Points of criticism are voiced mainly in connection with the electioneering: excessive duration and expenditure, use of public resources, opaque election campaign. The last point relates to the lack of transparency regarding party funding, an issue that has drawn criticism for some time and also applies to other countries in the region. Where rules about the disclosure of funding arrangements do exist, these are frequently not

complied with and the electoral tribunals are too weak to enforce them. The issue of party funding remains on the reform agenda.

The EU Election Observation Mission further criticises the lack of reliability of the register of voters, but also acknowledges that some progress has been made. The Civil Registry improved its procedures in 2013. One crucial step consisted of changes made to the previously existing process, under which the parties passed identity cards on to citizens. This had given rise to some manipulation in the past. Now, the Civil Registry can be considered “depoliticised”. According to international observers, some 20 per cent of tally sheets contained errors, mainly due to incorrect totalling of votes per ballot box or missing signatures of polling officers. However, this was not seen as a reason to question the election outcome. In fact, in spite of justified criticism, the elections represent a qualitative step change in the Honduran context and went considerably better than many people had expected.

According to international observers, some 20 per cent of tally sheets contained errors, mainly due to incorrect totalling of votes per ballot box or missing signatures of polling officers.

When ex-President Zelaya called upon young followers to come out in protest the day after the elections, few fortunately followed his call. The fact that Zelaya made this call was astonishing seeing that he had declared just shortly before the elections that he would acknowledge the results. Over the next few days, his strategy consisted mainly of contesting the election results through the press. LIBRE subsequently filed a formal complaint with the Electoral Tribunal and demanded that some 22 per cent of the tally sheets that allegedly contained errors should be checked. According to Zelaya, LIBRE had won the presidential election with over 37 per cent of the votes. The Electoral Tribunal rejected the complaint due to a lack of evidence. An action filed with the Supreme Court was also rejected. Manuel Zelaya therefore announced on 24 December that LIBRE had decided to acknowledge Juan Orlando Hernández’s “questionable election victory”. The former president will take his place in the new parliament as a deputy.

“WORK, WORK, WORK”

Election victor Orlando Hernández faces massive challenges. The main topics of his election campaign were jobs, the fight against poverty, and security. His Plan de todos para una vida mejor (Better life for all plan) lists ten points covering measures that address these issues. Hernández wants to create jobs in the agricultural sector and provide support to SMEs. Additionally, his plan envisages the setting up of Special Development Zones, which had been planned for some time but put on hold, as well as an expansion of the Bono 10,000 cash transfer programme to 800,000 families and the fight against corruption. Furthermore, Hernández intends to continue reforming the police, while at the same time relying on the military police.

Hernández asks for his government to be judged by results. Personally, he sees his future government as a new beginning after the time of transition under President Lobo. In line with a strategy of long-term policy-making, topics that the previous government had focused on and lines of action from the vision for Honduras – the fight against poverty, security, jobs and an efficient state – will continue to be part of the agenda; the new beginning must therefore entail changes to structures and personnel. According to Hernández, what the government will have ahead of it when it starts up on 27 January is “work, work, work”. The future president stated that he and his team would not be taking a break, but would begin straightaway with the preparations for taking over the government. It was agreed with President Lobo that transition teams of the future government would be sent into the ministries to take stock and make preparations for the new government. In view of a budget deficit of eight per cent, an austerity policy was announced, which includes measures such as a reduction in the number of ministries and the incorporation of some bureaus and agencies into existing structures. In anticipation of the new government, various measures – some of them unpopular – have already been approved under President Lobo and by the National Congress, with the National Party still in the majority, in order to pave the way. Shortly before Christmas, the National Congress approved tax reforms,

Shortly before Christmas, the National Congress approved tax reforms, which include tax increases and measures to improve tax collection.

which include tax increases and measures to improve tax collection. In addition, numerous VAT exemptions, which had previously been granted generously to organisations and businesses, were withdrawn. After consultation with Hernández, President Lobo dismissed the Chief of Police, who is accused of human rights violations, and removed the military commander.

With these measures, the future president is demonstrating that he is serious about wanting a new beginning. The National Party realises there must be progress in dealing with the urgent issues in the areas of jobs, welfare and security. Otherwise, a voter may decide in favour of a “refoundation of the state” at the next elections after all.

The article was completed on 31 December 2013.

CONSTITUTIONAL REFORM AND CONSTITUTIONAL REALITY IN MOROCCO

BETWEEN MONARCHICAL STABILITY AND DEMOCRATIC RENEWAL

Ellinor Zeino-Mahmalat

Compared to similar processes in other countries of the region, such as Tunisia and Egypt, the 2011 constitutional reform in Morocco proceeded at a truly breathtaking pace. It was merely four months from the time the reform was announced and the King appointed a constitutional commission¹ in March 2011 to the referendum and the date the constitution subsequently came into force in July 2011. The actual drafting of the constitution in the constitutional commission in consultation with the political parties, trades unions and associations took just over three months.

This striking pace was due in part to the fact that the Moroccan kingdom had undergone neither a social revolution nor a violent changeover of power and therefore did not have to overcome a difficult transition phase. Furthermore, the reform was a “royal project”, which enjoyed top priority and whose scope and room for negotiation had been pre-determined in their fundamental details. Ultimately, the purpose of the changes to the constitution was to prepare Morocco’s monarchy for the future and create “stability through reform”.

After the trouble-free adoption of the constitution, some criticisms remained regarding the development process and its contents. One formal aspect that was criticised was that the constitutional commission appointed by the King



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1 | The *Commission consultative de révision de la Constitution* consisted of 18 members, mainly lawyers and university professors, presided over by Professor Abdelatif Mennouni.

was not democratically legitimized and sat behind closed doors.² Criticisms of the contents included the resurfacing of the controversial former article 19, which defined the King's dominant political and religious position of power, in article 41 and 42. The abolition of article 19 had been one of the main demands of the Moroccan protest movement of the Arab Spring.³ Some information also emerged subsequently from among the ranks of the constitutional commission confirming that there are different versions of the text of the constitution.⁴

Compared to the 1996 constitution the new one establishes the independence of the judiciary in law and enshrines far-reaching basic and human rights.

Despite the criticism, the 2011 constitution can be regarded as a milestone in Morocco's constitutional history. Compared to the 1996 constitution, it gives the government and parliament greater scope for political action vis-à-vis the King, establishes the independence of the judiciary in law and enshrines far-reaching basic and human rights. Theoretically, it could thus form the basis for a constitutional and even a semi-parliamentary monarchy.⁵ The constitutional foundations exist, but the challenge now is to achieve an effective and credible implementation and application of the constitutional principles. This will require the reform of existing legislation as well as the passing of

2 | See Souleiman Bencheikh, "Bilan. Constitution: Deux ans pour rien", *TelQuel*, 8 Jul 2013, <http://telquel-online.com/content/bilan-constitution-deux-ans-pour-rien> (accessed 29 Jan 2014).

3 | According to Anja Hoffmann and Christoph König, the abolition of article 19 was one of the few points on which the different activists of the M20 movement agreed. Anja Hoffmann and Christoph König, "Scratching the Democratic Façade: Framing Strategies of the 20 February Movement", *Mediterranean Politics*, No. 1, Vol. 18, 16; see also Vish Sakthivel, "Morocco's Adl wal-Ihsan: They'll Be Back", *Fikra Forum*, 17 Apr 2013, <http://fikraforum.org/?p=3214> (accessed 13 Jan 2014).

4 | On the one hand, there are differences in terminology between the Arabic and the French versions; on the other, there are also differences in the text presented by the King, the text of the referendum and the text ultimately published in the *Bulletin Officiel*. See Souleiman Bencheikh, "Le match parfait de Mohammed VI", *TelQuel*, 10 Jul 2013, <http://telquel-online.com/content/le-match-parfait-de-mohammed-vi> (accessed 29 Jan 2014).

5 | Mohammed Hashas remains more sceptical. He considers the new constitution a "transitory constitution" that cannot, in its current form, give birth to a parliamentary monarchy. See Mohammed Hashas, "Moroccan Exceptionalism Examined: Constitutional Insights pre- and post-2011", *IAI Working Papers*, 10 Dec 2013, <http://iai.it/content.asp?contentid=1032> (accessed 3 Feb 2014).

new organic laws, without which the constitutional principles would remain pure lip service. The new constitution envisages 19 of these organic laws (*lois organiques*), which are intended to determine the details. Only four of these laws have been implemented to date.

In view of the fact that the constitutional reform proceeded successfully and virtually without any problems, Morocco is frequently depicted within the kingdom as an “island of stability” and an “exception” within the region. The constitution indeed represents a legal template for political stability through democratic renewal. The question now is what balance between monarchical stability and democratic change the kingdom will aim for. To assess the success⁶ of the 2011 constitutional reform one needs to examine the constitutional innovations and principles on the one hand and constitutional practice and application on the other. The most important points to consider when carrying out the assessment are the separation of powers within the state as well as the available measures to counter any attempts to monopolise power. The second important area to consider is the granting of basic rights, freedoms and participatory rights of individual citizens against the state as well as the degree to which the state respects pluralism and diversity.

“DUAL EXECUTIVE”: KING AND HEAD OF GOVERNMENT IN AN UNEQUAL POWER GAME

According to the new constitution, the King remains the head of state (article 42), the highest religious authority (*amir al-muminin*) (article 41), guarantor of state security, national unity and independence, guarantor of the independence of the justice system, commander-in-chief of the military as well as the chief arbiter between the institutions. With the new constitution, the King is no longer sacred, but an inviolable person to whom respect is due (article 46). He remains the central figure within the state. His role is not limited to symbolic and representative functions. As head of state and highest religious authority, he has crucial influence over the country’s political, socio-cultural and religious orientation. The King manages all issues

6 | What is meant by success in this context is political stability through democratic renewal.

crucial to the interests of the state and important political and religious decisions by *dahir* (royal decree). In addition, the King can issue directives (*hautes instructions royales*) to the head of government or other decision-makers. The constitution does not specify precisely where the royal directives are placed in the hierarchy of Moroccan law.⁷ However, one can assume that they will not be questioned or overseen by any other government body.

Where religion is concerned, the King has the exclusive prerogative to make decisions. Official religious rulings (*fatawa*, sing. *fatwa*) can only be issued by the Supreme Ulama Council, headed by the King. This bundling of political power (in the role of the head of state) and the highest religious authority (as Commander of the Faithful) constitutes the King's special power status and inviolability. It is also one of the aspects of the present system that attracts the harshest criticism from the non-parliamentary Islamist opposition (*al-Adl wa al-Ihsan*).

The 2011 constitutional reform gave the office of the head of government greater legal authority and enhanced its importance within the executive as the second political pole beside the prominent role played by the King. Changing the designation of the office from "Prime Minister", who had been *primus inter pares*, to "Head of Government" was intended to emphasise this adjustment in importance. According to article 47, the King will appoint the candidate whose party has gained the majority in the parliamentary elections Head of Government for the first time. This should prevent him from appointing minority candidates or technocrats in the future, as happened in 2002 with the appointment of independent Prime Minister Driss Jettou, for example. This new constitutional provision strengthens the political office and the political reputation of the Head of Government.

A further innovation illustrating the "dual executive" is the legal embodiment of the Government Council headed by the Head of Government (Conseil du Gouvernement)

According to article 47, the King will appoint the candidate whose party has gained the majority in the parliamentary elections Head of Government for the first time.

7 | According to Mohammed Madani, a lawyer at the Mohammed V University in Rabat, the directives are above the law. Statement made on 7 Jun 2013 at a political debate in Rabat.

in conjunction with the Council of Ministers (Conseil des Ministres) presided over by the King. While the Council of Ministers (article 49) has sole authority to make strategic political decisions, involving matters such as fundamental draft bills and proposals for constitutional changes as well as the appointment of walis, governors and other high officials of particular strategic importance, the Council of Government (article 92) is left with general political decisions and directives.

This allocation of complementary functions to the Council of Government and Council of Ministers and other areas where the King and the Head of Government have to act in collaboration with each other suggest a certain amount of constitutionally enshrined “sharing” of executive power. This power sharing includes, for instance, the fact that, with a few exceptions, all royal *dahirs* have to be countersigned by the Head of Government (article 42). Mutual consultation between King and Head of Government, for instance in the event of the dissolution of parliament or the dismissal of ministers, as well as the requirement for the Head of Government to countersign many royal actions represent first signs of a system of checks and balances.

The majority of the Moroccan media and experts in constitutional matters have a similar opinion on the question whether the new constitution means that the model of the “executive monarchy”, in which the King not only rules, but governs as well, has been replaced by the model of a “constitutional parliamentary monarchy”.⁸ The consensus is: “The King continues to govern – but no longer on his own.”⁹ There are now two poles in the executive, albeit two very unequal ones. The Head of Government has become a second person to hold executive power besides the King. The King continues to make the decisions about the general course to follow in political, social, economic or religious matters without having

The Head of Government has become a second person to hold executive power. The King continues to make the decisions about the general course to follow in political or social matters.

8 | Article 1 of the new constitution describes Morocco as a “constitutional, democratic, parliamentary and social monarchy”.

9 | According to Abderrahmane Haddad, “Le partage des compétences en matière de nomination des hauts fonctionnaires de l’Etat entre le roi et le chef du gouvernement”, *L’Opinion*, 23 Aug 2012, http://lopinion.ma/def.asp?codelangue=23&id_info=27384 (accessed 13 Jan 2014).

to fear substantial restrictions. Jurist David Melloni speaks of “collaboration” or “cohabitation” between the King as the established actor and the Head of Government as a new actor. According to Melloni, the new constitution has introduced a far-reaching rebalancing of powers as well as a strengthening of the Head of Government through the recognition of democratic majorities, albeit with the King retaining his supremacy.¹⁰

Political practice has shown that the King and the *makhzan* power centre established around the King continue to exert political and economic influences that are not reflected in the constitution. According to Larbi Benothmane, a lawyer and professor at the Mohamed V University – Agdal in Rabat, the balance of power and the power sharing described in the constitution do not correspond to the King’s actual position and to political reality.¹¹ Informal power sharing and informal centres of power continue to determine political reality beyond the constitution. The informal centre of power around the Palace includes, in particular, the circle of royal advisers, which was developed into a type of shadow cabinet when the PJD took over the government in 2012. The royal advisers work on all important political dossiers affecting the country and are able to act as the agenda setters and provide impulses for decisions on political strategy.

It was above all leading political actors from the governing coalition who emphasised and strengthened the King’s special executive position through their political actions.

Since the constitutional reform, political practice has proved highly consistent with respect to the King’s dominant executive position. It was, in fact, not only the King himself who bolstered his executive position through occasional interventions in political decisions made by the government. It was above all leading political actors from the governing coalition who emphasised and strengthened the King’s special executive position through their political actions.

During his first governing coalition (2012 to 2013), the Head of Government and PJD party leader Abdelilah Benkirane was occasionally accused of an excessive strategy

10 | See David Melloni, “La Constitution marocaine de 2011: Une mutation des ordres politique et juridique marocains”, *Pouvoirs*, 2013, No. 145, 10 and 17.

11 | According to Benabdallah on 7 Jun 2013 at a political debate in Rabat.

of ingratiation and appeasement towards the King. He was said to be “more royalist than the King” in his behaviour and “to degrade himself to merely following orders”.¹² Even within his own party, Benkirane was criticised for not sufficiently exercising the rights he has against the King, which are guaranteed in the constitution.¹³ Over the last few years, Head of Government Benkirane has demonstrated his loyalty and subordination to the King by making statements such as “le patron c’est Lui (le Roi)” (he [the King] is the boss) and “on ne marchandé pas avec le Roi” (one does not bargain with the King), indicating his unwillingness to take up a potential fight for power to strengthen the government.

The government leadership has largely accepted the fact that the King intervenes in the political action, sometimes (pro)actively, sometimes reactively,¹⁴ and occasionally in direct competition with government activities. In some instances, the King ignored the opinion of the Head of Government or even counteracted or reversed decisions made by the government. The media interpreted the royal speech

12 | According to Mohammed Madani, quoted by Beat Stauffer, “Glänzende Fassaden, wackliger Untergrund”, *Neue Zürcher Zeitung*, 29 Nov 2013, <http://nzz.ch/1.18194364> (accessed 13 Jan 2014).

13 | See Ali Hassan Eddehbi, “Portrait. L’enfant terrible du PJD”, *TelQuel*, 24 May 2013, <http://telquel-online.com/Actualite/Maroc/Portrait-L-enfant-terrible-du-PJD/571> (accessed 29 Jan 2014).

14 | See Thierry Desrues, “First Year of Islamist Government in Morocco: Same Old Power, New Coalition”, in: *IEMed Mediterranean Yearbook 2013*, 170-173. Desrues cites the King’s intervention in the media reform of Minister of Communications El Khalfi (PJD) as an example of reactive intervention. The King stopped a reform project for the Arabisation and the announcement of prayer times over the state media and appointed a new commission, which continued the work, but watered down or withdrew many intended changes. An instance of proactive intervention by the King was the appointment of the members of the commission for the reform of the justice system, which the King made without consulting the government. Another example is a meeting with the Minister of the Interior and further high-ranking military personnel and state security experts that the King convened for August 2012, where a large-scale crackdown on police and customs officers suspected of corruption was discussed. The meeting and the subsequent activities were conducted without having informed or consulted the Head of Government. See also Maati Monjib, “Al-malik wa rais al-hukuma min asma ila asma” (The King and the Head of Government: from crisis to crisis), *Sada*, 20 Sep 2012.

of August 2013, in which the King focused on the subject of education and denounced the poor state of education in the country, as clear criticism of the government's work by the King.

Similarly, the power struggle between the two party leaders of the governing coalition at the beginning of 2013 and the subsequent government crisis ultimately benefited the King's position. For several months, PJD party leader Benkirane and the newly elected leader of the Istiqlal Party Hamid Chabat failed to overcome the government crisis by their own efforts after Chabat had announced the withdrawal from the PJD-led government. Instead, Chabat placed the King into the role of supreme arbiter by requesting him to mediate. Istiqlal leader Chabat did not base his appeal to the King on article 47 of the constitution, which enables the Head of Government to request the resignation of members of government from the King. Instead, Chabat made reference to article 42, which describes the King as supreme arbiter and guarantor of the stability of the state. The fact that Chabat did not solve the government crisis as a normal conflict among parties but involved the King as supreme arbiter between state institutions is described as follows in the Moroccan weekly newspaper *TelQuel*: "A retrograde step for the democratic attainments that have only just been gained".¹⁵

2013 was also a year during which King Mohammed VI experienced the worst crisis of his rule since ascending the throne in 1999 because of the so-called "paedophile scandal".¹⁶ The royal pardon for the Iraq-born, Spanish perpetrator Daniel Galván Viña at the end of July had led to nationwide protests once the decision had filtered through to the national media. Demands for the royal decision to be revoked came from across all sections of society. Only a few days later, the royal cabinet conceded that an incorrect decision had been taken due to erroneous information and then revoked the pardon within a week. The situation where the Moroccan people demand the King to revoke

15 | See Mohammed Boudarham, "Gouvernement. Chabat, Benkirane et le roi", *TelQuel*, 22 May 2013, <http://telquel-online.com/Actualite/Maroc/Gouvernement-Chabat-Benkirane-et-le-roi/571> (accessed 29 Jan 2014).

16 | Cf. Youssef Ait Akdim, "Grâce et châtement", *Jeune Afrique*, 11-24 Aug 2013, 56-58.

a decision and are, in fact, successful in their demand represents an absolute first in the kingdom. Mohammed Ennaji describes the right to grant royal pardons (pursuant to article 58) as an expression of “absolute power and of the relationship of dependence on the King”.¹⁷ However, according to article 42, a decree of pardon requires the Head of Government’s countersignature. There were some voices raised in the social media questioning the right to grant pardons. While the PJD-led government had trouble in enforcing its own positions vis-à-vis the Palace or did not even try to do so, the united will of the people was able to make a stronger political impact in the case of Daniel Galván.



“More royalist than the King”? Head of Government and PJD party leader Abdelilah Benkirane was occasionally accused of ingratiating towards the monarchy. | Source: Magharebia, flickr ©©.

Similarly, there has been repeated criticism in the social media in 2013 about the annual *bai'a* ritual, a ceremony during which high state official pledge allegiance to the King.¹⁸ This ceremony, which has been practiced since

17 | See Mohammed Ennaji, quoted in: “À la grâce du roi”, *Jeune Afrique*, 12-18 Feb 2012, 45.

18 | In the critical online magazine *Lakome*, readers overwhelmingly described the practice of *bai'a* as not in keeping with the times, as a culture of subservience or as un-Islamic. Another issue regularly discussed on the occasion of the annual Holiday of the Throne is the symbolic kissing of the King’s hand during the *bai'a* ceremony. While modernists condemn this as an archaic gesture of subservience, advocates regard it as an expression of respect and reverence. See also Fatima El Ouafi, “La bey’â, contrat moral et serment d’unité”, *L’Economiste*, 31 Jul 2012, 27 et seq.

the 16th century, symbolises the feudal relationship of dependence and trust between the King and his civil servants.¹⁹ In July 2013, the *bai'a* was boycotted for the first time by a representative of the Istiqlal Party, which attracted a great deal of support from readers of the critical online portal *Lakome*. The annual renewal of allegiance to the King (*tajdid al-bai'a*) is not regulated by the constitution, and it is, in fact, outside or even above the constitution in the opinion of some lawyers.

During the government crisis of 2013, Mohammed VI was also able to set himself up as an independent "arbiter" as well as a political "player".

In a review of the last two years of constitutional practice and interpretation, the national media confirm that the country has a "King who rules and governs" ("un roi qui règne et gouverne"). During the government crisis of 2013, Mohammed VI was also able to set himself up as an independent "arbiter" as well as a political "player" (*arbitre et joueur*).²⁰ The new constitution has thus not brought about a genuine break in political practice and in the way the country is governed.²¹

The *makhzan* circle that has emerged around the King comprises a political and economic elite with close links to the Palace, which also benefit financially from the existing structures through a network of economic ties. It continues to have significant influence in all important political and economic strategic issues affecting the country. The *makhzan* system is built on a logic of privileges and not of rights and responsibilities (guaranteed by the constitution).²² In the opinion of many observers, these informal power structures and the continuing dominant position of the King describe political reality and are not embodied in the new constitution. While the new post of Head of

19 | The regular renewal of allegiance (*tajdid al-bai'a*) was introduced by Sultan Ahmad Al-Mansur Al-Dhahabi in the 16th century. During this ceremony, which has been extended considerably since the rule of Hassan II, several thousand religious dignitaries, high-ranking army officials, specific representatives from the tribes and from civil society as well as high-ranking civil servants from the Ministry of the Interior now pledge their allegiance to the King face to face, sealing it by a kiss of the King's hand (or shoulder).

20 | See Bencheikh, n. 4.

21 | See Bencheikh, n. 2.

22 | See Younes Abouyoub, "Morocco – A 'Democratic Moment?'", *Jadaliyya*, 20 Mar 2012, <http://jadaliyya.com/pages/index/4750> (accessed 13 Jan 2014).

Government has given the executive a new pole, it is not sufficiently powerful to act as a counterbalance.

PARLIAMENTARY OVERSIGHT: PARLIAMENTARY AND INFORMAL TYPES OF OPPOSITION

In parliamentary systems, keeping a check on government is traditionally first and foremost a role performed by parliament. The new Moroccan constitution therefore also envisages a new balance in the relationship between legislative and executive powers. On the one hand, the number of areas where parliament has sole legislative responsibility was increased from twelve to thirty.²³ On the other hand, parliament's oversight function with respect to the government was strengthened by the introduction of parliamentary questions and boards of inquiry.²⁴

In political practice, the Moroccan parliament has not yet been able to sufficiently assert its importance as the central legislative and oversight body. The President of the House of Representatives in office since 2011, Karim Ghellab, was mainly engaged in trying to transform the first chamber into a more efficient and effective body through new internal regulations and disciplinary measures for its own members.²⁵

One particular innovation is the institutionalisation of the parliamentary opposition. In article 10, the role, rights and participation options of the parliamentary opposition were enshrined in the constitution for the first time. Among other things, there is mention of the right to freedom of expression and assembly, guaranteed transmission times in the state media, the right to public funds as well as the oversight of government activities through inquiries, boards of inquiry or motions of no-confidence. Additionally, effective cooperation by the opposition in the legislative

23 | Article 71 lists the areas of responsibility of parliament (*domaines de la loi*). According to article 70, the government can only issue regulations or directives in these areas if they have been preceded by enabling acts (*loi d'habilitation*).

24 | A board of inquiry can be formed at the initiative of the King or of a third of the members of the 1st or 2nd parliamentary chamber (article 67).

25 | In particular, Ghellab has advocated stronger sanctions for unjustified absences of parliamentarians. See "Le Parlement traque les députés absents", *L'Economiste*, 1 Aug 2012, 14.

process, for example through legislative initiatives, is to be guaranteed.²⁶ With the 2011 constitution, the parliamentary opposition obtained a constitutional status for the first time. According to Jallal Essaid, President of the House of Representatives from 1992 to 1998, the constitution awards the opposition an important role in the parliamentary system and may help to rouse parliament from its existing lethargy.²⁷ Of course, the legal strengthening of the opposition could also be seen as a precautionary measure against an election victory by the Islamists, which was already on the cards at that time.

In spite of having been upgraded in legal terms, the parliamentary opposition does not represent a substantial force in constitutional reality and in the political game played out between the government bodies. Other informal types of opposition within the state power apparatus play a larger role. One of the strongest forces counterbalancing the PJD-led government (Benkirane I: 2012-2013) comes from the coalition itself. The multi-faceted coalition comprising Islamists (PJD), national-conservatives (Istiqlal), socialists (USFP) and conservative-liberals (Mouvement populaire) made it more difficult to enforce purely Islamist policies. The subsequent power struggle between the party leaders of the PJD and Istiqlal ultimately resulted in the government becoming incapacitated and a new government being formed. The new coalition partner RNI (Rassemblement National des Indépendants), which is

In its new role as the opposition party, the Istiqlal Party might be more effective in exercising and defining the function of the parliamentary opposition.

regarded as being close to the Palace, is a long-time ideological opponent of the PJD and will also work against policies that are influenced excessively by PJD views. In its new role as the opposition party, the Istiqlal Party might be more effective in exercising and defining the function of the parliamentary opposition.

According to Mohammed Sassi, member of the PSU party executive committee, other types of opposition are considerably more effective than the classic parliamentary

26 | Article 82 reserves one day a month to deal with legislative initiatives of the parliamentary opposition.

27 | According to y Essaid made at a political debate in Rabat on 8 February.

opposition. Sassi distinguishes four types of opposition within the power apparatus of the state.²⁸

1. According to his idea of the “partial opposition” (*mu’aradha nisbiya*), the opposition parties only attack the government, which constitutes merely a small part of the power apparatus. According to the new constitution, the King retains some 70 per cent of the power and represents the real centre of power that nobody criticises.
2. The “opposition through authority” (*mu’aradha al-wilaya*) is exercised by the conservative and “administrative parties”,²⁹ which are close to the Palace. These opposition parties reflect the state apparatus itself and the covert power centre around the Palace, the Ministry of the Interior and the security forces. Benkirane has already experienced their influence in the area of domestic security.³⁰
3. The opposition “by the government itself” (*mu’aradha al-hukumiya*) represents the phenomenon of the PJD occasionally showing that it has not overcome its role as the former opposition party. One example mentioned by Sassi is the fact that numerous PJD ministers criticise the previous government, thus holding former decision-makers responsible for current ills.
4. According to Sassi, there is a further type of opposition “within the government” (*mu’aradha min dakhil al-hukuma*). This refers to the above-mentioned political differences within the previous government coalition and the present one.

Sassi’s list illustrates that the dividing lines between the different centres of power do not run along a classic separation of powers as envisaged by the constitution. With the current governing coalition, there are different poles

28 | Mohammed Sassi presented his categories at a political debate in Rabat on 8 February 2013.

29 | These are generally considered to include the PAM, the Union Constitutionnelle as well as the RNI.

30 | One example is a public PJD event that was to take place in Tangiers in 2012 and at which Head of Government Benkirane was going to speak, which was not authorised by the security forces. Benkirane was not informed about this decision in advance.

of power opposing one another within the executive in the wider sense and also within the government, which hold each other politically in check at best and may result in the government becoming incapacitated at worst.

**THE NEW CONSTITUTIONAL JURISDICTION:
INDEPENDENT AND BALANCED MEANS OF OVERSIGHT?**

In view of the rather weak parliamentary oversight of the executive, the question arises whether the justice system and the newly created Constitutional Court, in particular, can establish themselves as effective supervisory bodies for the prevention of potential abuses of power. The 2011 constitution envisages the transformation of the former Constitutional Council (Conseil Constitutionnel) into a Constitutional Court (Cour Constitutionnel) with investigative powers. Modelled loosely on the French Constitutional Court, the Moroccan Constitutional Court is to check all laws adopted in parliament for their constitutionality before they are promulgated (article 132).³¹

Probably the most important innovation in the area of constitutional jurisdiction is the possibility of concrete judicial reviews. In future, the Constitutional Court can check laws for their constitutionality in the course of legal proceedings or legal disputes and declare them unconstitutional if they violate constitutionally guaranteed basic rights and freedoms of one of the conflicting parties (article 133). The Moroccan justice system does not have any provisions for an abstract judicial review³² or complaint of unconstitutionality³³ as contained in German constitutional law.

31 | Article 132 also states that international agreements can be presented to the Constitutional Court for examination before ratification, either by the King, the Head of Government, the president of the 1st or 2nd chamber, a fifth of the Members of the 1st chamber or 40 Members of the 2nd chamber.

32 | The abstract judicial review in German procedural constitutional law allows laws to be checked for their constitutionality outside of any concrete legal dispute. The federal government, the government of a German Federal State or a quarter of the Members of the Bundestag are entitled to apply for such a review.

33 | The purpose of allowing complaints of unconstitutionality to be made is to guarantee the protection of citizens' basic rights and freedoms against the state. According to article 93 of German Basic Law (GG), any citizen who sees one of their basic rights violated by a public power can file a complaint with the Federal Constitutional Court (BVerfG).

The constitution and the competences of the Constitutional Court are intended to introduce a certain balance of power between the constitutional bodies. There are many decisions that require cooperation between the state institutions as the involvement of the Constitutional Court is required. The President of the Constitutional Court must, for instance, be consulted before parliament is dissolved (articles 96, 104). Of the twelve constitutional court judges, who serve a nine-year term, three each are appointed by the first and second parliamentary chambers and six by the King (article 130). The constitution further guarantees that the parliamentary opposition has a say in the proposal and selection of the constitutional court judges. The President of the Constitutional Court is appointed by the King.³⁴

Of the twelve constitutional court judges, who serve a nine-year term, three each are appointed by the first and second parliamentary chambers and six by the King.

Despite the clear commitment to the introduction of genuine constitutional jurisdiction, the implementation once again depends on concrete implementation laws. Until a concrete organic law has been passed, it remains unclear what shape the constitutional jurisdiction will take precisely. Experts in constitutional law and in politics also disagree on the degree to which the Constitutional Court can guarantee the protection of citizens' basic rights and freedoms and on how the independence and professional competence of the constitutional court judges can be ensured.³⁵

34 | In an earlier draft by the constitutional commission the King was meant to share his right to propose a person to be appointed as President of the Constitutional Court with parliament. The King's sole power of appointment, which was inserted subsequently, indicates the importance attached to the Constitutional Court.

35 | According to a statement made at a political debate on constitutional jurisdiction among politicians, experts in political science and experts in constitutional law on 27 November 2013 in Rabat. The debated issues included the possibility of citizens to file constitutional complaints in the event of a violation of basic rights and the question to what extent social and economic rights could be enforced as basic rights. The discussions also covered the problem of illiteracy among parliamentarians and elected local representatives as well as ways to guarantee a minimum level of education for those occupying public office.

PROTECTION OF BASIC RIGHTS AND PARTICIPATION: LAW AND REALITY

The 2011 constitution claims to provide the basis for a parliamentary, democratic and constitutional monarchy. The term 'citizen' (the feminine form is generally also mentioned) is quoted in numerous places in order to emphasise the rights and claims that citizens have vis-à-vis the state. Several enshrined principles, such as "participatory democracy", non-discrimination on the basis of gender, ethnicity, faith, language or social or regional origin as well as the principle of good governance are intended to form the basis for the democratic, constitutional and liberal character of the state.

Table 1

Basic rights, freedoms and participatory rights in the 2011 Moroccan constitution

Basic rights

Right to life and physical (and mental) inviolability, prohibition of torture	Articles 20, 22
Protection from arbitrary arrest and further basic legal rights	Article 23
Inviolability of a person's home and protection of privacy	Article 24
Protection of personal property	Articles 21, 35
Equality principle: equal (civil, political, economic, social and cultural) rights and freedoms for women and men	Article 19

Individual freedoms

Freedom of opinion and expression, freedom of the press	Article 25
Freedom of the arts and science	Article 25
Freedom of assembly and association	Article 29

Participatory rights

Right to petition	Article 15
Active and passive universal suffrage	Article 30
The ability of civil society to act in freedom	Article 12

Social and economic rights

Health, social security, education/professional training, adequate accommodation, work, access to water and a clean environment	Article 31
Protection and social support of the family	Article 32

Rights derived from the principles of good governance

Right to information from public administration and elected institutions	Article 27
Sustainable development	Article 31

Source: Own presentation.

The 2011 constitution was further enhanced by the inclusion of a comprehensive catalogue of basic rights, which guarantees citizens essential basic rights, freedoms and participatory rights vis-à-vis the state. This catalogue of basic rights includes fundamental rights such as the right to life and physical inviolability, protection of privacy and private property, and fundamental legal rights, freedoms such as freedom of expression and freedom of the press, freedom of the arts and science, freedom of association and assembly, as well as participatory rights such as the right of petition, universal suffrage and unhindered activity of civil society. In addition, the constitution mentions certain social and economic rights; although these are not enforceable by legal means or guaranteed, they are to be worked towards in line with the goal of good governance. Amongst other things, these include the right to health, social security, education/professional training, adequate accommodation, work as well as access to water and a clean environment. The constitution also includes a separate chapter dedicated to good governance.

As the constitutional innovations in the area of institutional power sharing have not yet had sufficient impact because implementation laws are not yet in place or because of the informal centres of power, the constitutionally guaranteed basic rights and freedoms are not yet universally applied. Apart from the fact that the legal provisions are not being publicised sufficiently, this is due to the lack of concrete legal provisions, the outstanding revision of existing laws and incomplete constitutional structures. Socially weak and

disadvantaged groups of the population (illiterate people, people working in the informal sector, women working in agriculture, single mothers, etc.) find it particularly difficult to take advantage of their rights. Insufficient knowledge about their own rights and a justice system with prejudiced, corrupt or simply poorly trained and inadequately equipped judges make it difficult for wide swathes of the population to assert their basic rights. According to Borzou Daragahi, the changes brought about by the new constitution should, in fact, make themselves felt particularly here, in the area of the rule of law and good governance.³⁶ Judges and middle-ranking officials should become actors of the new constitutional reality.

The implementation and interpretation of basic rights and freedoms is impeded particularly in areas where they touch on sensitive matters of state or social issues. These issues include the Muslim faith on the one hand and internal security on the other. Basic rights and freedoms, such as the freedom of religion and belief, women's rights or freedom of speech and press freedom as well as rights that affect national identity and unity, have engendered social debates that are having a long-lasting effect. In many sensitive areas, the implementation of the reform process is therefore only progressing sluggishly or coming up against special evaluation criteria.

FREEDOM OF BELIEF, CONSCIENCE AND RELIGION

In June 2011, PJD party leader Abdelilah Benkirane threatened to boycott the constitutional reform if it was to enshrine the principle of the freedom of belief.

In view of the very extensive catalogue of freedoms and human rights in the constitution, it is striking that one essential human right, namely the freedom of belief, conscience or religion, has been excluded. Although the constitutional commission envisaged freedom of conscience, this was not realised due to strong protests on the part of the PJD. In June 2011, PJD party leader Abdelilah Benkirane threatened to boycott the constitutional reform if it was to enshrine the principle of the freedom of belief. Although Benkirane did not oppose the Islamic principle of freedom

36 | Borzou Daragahi, "États de non-droit", *Jeune Afrique*, 17-23 Nov 2013, 46-49.

of belief (“no coercion in religion”), he considers its enshrinement in law a danger to national identity and public morality.³⁷

It is, in fact, not only the Islamists who are impeding a comprehensive freedom of belief and conscience. On the one hand, the Islamists boycotted a clear commitment to freedom of religion. But on the other hand, genuine freedom of religion and belief would also undermine the religious authority of the King in his dominant role as Commander of the Faithful. A clear indication that the monarchy will not stand for any defection from the community of faith was provided by the fatwa on apostasy issued by the Supreme Ulama Council, which confirmed the death penalty envisaged for apostates at least in theory and came to public knowledge in April 2013.³⁸

The state makes a distinction between an unacknowledged freedom of belief for the Muslim community and a freedom to exercise one’s religion enshrined in the constitution (*libre exercice des cultes*). The latter has been exercised for centuries and has been of benefit mainly to members of other faiths such as Jews and later Christians. The members of the country’s official faith, however, are subject to restrictions in the way they practice, or fail to practice, their faith. In the last few years, the MALI movement (Mouvement alternatif pour les libertés individuelles) founded in 2009, for instance, has attracted a great deal of attention by the provocative action of holding public picnics

The MALI movement has attracted a great deal of attention by the provocative action of holding public picnics during Ramadan.

37 | Benkirane thus viewed the enshrinement of the freedom of belief as a gateway for the breakdown of values and social customs. Issues that Benkirane counts among the “risks” to Muslim identity and to national customs in Morocco include the failure to observe the rule to fast in Ramadan, sexual licentiousness and homosexuality. See Mohamed Aswab, “Les Islamistes et la Constitution: Le PJD monte au créneau sur la liberté de croyance”, *Aujourd’hui*, 14 Jun 2011, <http://www.aujourd'hui.ma/maroc-actualite/focus/m-77697.html> (accessed 22 Jan 2014).

38 | The fatwa had been issued back in 2012, allegedly at the request of the interministerial delegation for human rights issues linked to the Head of Government (Délégation interministérielle des droits de l’homme). See Ayla Mrabet, Mohammed Boudarham and Jules Crétois, “Enquête. Les ouléma de sa Majesté”, *TelQuel*, 7 May 2013, <http://telquel-online.com/En-couverture/Enquete-Les-oulema-de-sa-Majeste/> 568 (accessed 13 Jan 2014).

during Ramadan. Public refusal to adhere to the obligation on Muslims to fast during the month of Ramadan is prohibited under Moroccan criminal law and can be punished with fines or with a prison term of up to six months.³⁹ This is where the exercise of religious freedom and the creation of a public nuisance collided.⁴⁰

According to Lahcen Oulhaj, the freedom of belief, i.e. the freedom to make your own choices, and change them, where religion as well as issues of morality and conscience are concerned as well as the freedom to have no faith, comes into conflict with the current legal system. After all,

The Moroccan state reserves the right to assert the precedence of national cultural “constants” should national provisions come into conflict with higher-ranking laws.

article 3 of the constitution⁴¹ defines Islam as the state religion. Comprehensive freedom of belief would also mean giving up part of the royal monopoly on power and part of the royal authority in the religious sphere. Furthermore, the Moroccan state reserves the right to assert the precedence of national cultural “constants” should national provisions come into conflict with higher-ranking laws. Theoretically, international provisions in the area of freedom of belief could be overridden by the “immutable national identity” (*identité nationale immuable*) stipulated in the constitution.⁴²

39 | According to article 222 of the Moroccan Penal Code. There are exceptions for those who are exempted from the obligation to fast according to Muslim law.

40 | Further examples of restrictions on religious freedom are discriminatory court rulings against the Baha'i faith and the arrest of two minors in 2013 in Nador on account of a photo of them kissing published on Facebook. The latter case once more involves a clash between religious freedom in the wider sense (the freedom to extramarital relationships between men and women) and moral values entrenched in society.

41 | Article 3 prescribes Islam as the state religion, but simultaneously guarantees the freedom to exercise one's faith.

42 | According to Mohammed Madani, the constitution does not clarify the hierarchy of international and national law. There is no unequivocal commitment to the supremacy of international conventions over national law. See Mohammed Madani, “La Liberté de conscience, de conviction et de religion au Maroc: aspects juridiques et constitutionnels”, in: Helmut Reifeld and Farid El Bacha (eds.), *La Liberté de Religion*, Konrad-Adenauer-Stiftung, Rabat, 2013, 67-68.



The only woman in the cabinet up to the formation of the new government in 2013: Family minister Bassima Hakkaoui (PJD), in office since 2011. | Source: Foreign and Commonwealth Office (FCO), flickr, ©©©.

All in all, there seems to be a contradiction in the King having a monopoly on religious and state power, yet he himself emphasising the secular tradition of the monarchy.⁴³ In his dual role as head of a state that is secularised in many areas on the one hand and as Commander of the Faithful on the other, the monarch makes efforts to “reconcile the country’s various secular, lay and religious interests”.⁴⁴ As is the case in many other Arab states that are in part secular in their outlook, Moroccan civil status laws are influenced by religion. Other areas of law are independent of religious principles, but can reflect religious-cultural traditions and values as can be seen in criminal law, for instance. The government is not granted any religious competences whatsoever. Similarly, political parties are prohibited from

43 | In his royal speech of July 2013, King Mohammed VI mentioned Morocco’s secular tradition and culture. A similar concept can be found in the UK, where the Queen is both the head of state and head of the Anglican Church of England.

44 | Helmut Reifeld, “Exception or Pioneer? Political Islam in Morocco”, *KAS International Reports*, 10/2013, 6-21, here: 9, <http://kas.de/wf/en/33.35674> (accessed 22 Jan 2014).

basing their programmes on religious, linguistic, ethnic or regional principles (article 7). These provisions can also be seen as protecting the royal prerogative on interpretation in religious matters as well as protecting national unity and continuity rather than constituting an expression of the consistent separation of state and religion.

GENDER EQUALITY

Moroccan women's rights activists have been fighting for legal and social gender equality since the 1970s. The Moroccan state began to address these demands in the 1990s. Ever since, it has pursued an approach aimed at improving the legal, political and economic position of women. The state has thus become an essential actor of change in this area and has been working hand in hand with various secular women's rights organisations. With the 2004 reform of family law and the most recent constitutional reform of 2011, the top-down "state feminism"⁴⁵ inspired by King Mohammed VI has resulted in considerable improvements in the equality of women in front of the law.⁴⁶ This longstanding pact between the elites and decision-makers close to the King on the one hand and secular women's rights movements on the other is now being challenged by alternative ideas about women's and family policies on the part of the government led by Islamists.

In article 19, the 2011 constitution enshrined a clear commitment to men and women being treated entirely equally in legal, political, economic, social and cultural matters and an absolute ban on discrimination. The constitution thus represents a further milestone in the process of achieving legal gender equality in Morocco. It was celebrated as an achievement by the Moroccan women's rights movement. Political equality had already been enshrined in the 1996 constitution. In addition, the 2009 *Charte communale* had introduced an equality strategy at the local level. However, the most influential innovation in the area of equality

45 | According to Houria Alami Mchichi, "Les effets du printemps arabe sur la participation des femmes dans les sphères publiques et politique au Maroc", CARE International Maroc, 20 Nov 2012, 29.

46 | King Mohammed VI also initiated the reform of the citizenship law. Under the new citizenship law of 2006, a woman can now also pass her Moroccan citizenship on to her children.

during the last decade was the 2004 reform of Moroccan family law (Moudawana reform). This reform introduced the principle of joint responsibility (*coresponsabilité*) of man and wife as well as enshrining clear legal improvements for women with respect to marriage, divorce and conduct within marriage.⁴⁷

The new constitution of 2011 envisages the establishment of a new Equality Authority,⁴⁸ charged with defending the rights pursuant to article 19. However, the authority is intended more as an advisory body, which records cases of discrimination, produces annual progress

reports and renders account to parliament. **Women's rights activists have commented that the equality laid down in article 19 is described more as a goal than an enforceable right.**

To what extent it will be able to bring about real change in women's daily lives is still completely unclear. Women's rights activists have commented that the equality set forth in article 19 is described more as a goal than an enforceable right.⁴⁹ Furthermore, the goal of equality also comes up against "constants", which are also mentioned in article 19 without being described in any greater detail. These constants can, for instance, include the "immutable national identity" mentioned in the preamble, which is to be respected irrespective of international conventions.

The implementation of the new equality principles is now conducted by a government led by Islamists for the first time. However, the implementation plan of family minister Bassima Hakkaoui (PJD), *the Plan gouvernemental pour l'égalité des genres 2012-2016*, "Ikram" for short, does not at first glance appear to be very different from the plan of the previous family minister Nouzha Skalli. The action plan that Hakkaoui presented in July 2013 addresses issues in the areas of education, health, equality of opportunity in the labour market and specifically equal access to public office, the strengthening of women's economic and social

47 | The wife's duty to obey her husband was abolished. Women have since been able to marry without their father's consent and file for divorce on their own account. The conditions of polygamy have been made considerably more onerous. The duty to be faithful in marriage was shared between both partners. The legal age for women to be married was raised from 15 to 18.

48 | Autorité chargée de la parité et la lutte contre toutes les formes de discrimination (articles 19 and 164).

49 | See Mchichi, n. 45.

independence and political participation among others and receives financial support from the European Union to the amount of 45 million euros.⁵⁰

The wording and comments used by the Islamist family minister, in particular, are causing distrust among secular feminists and intellectuals. In the opinion of some women's rights activists, the name of the action plan, *Ikram*, reduces the urgent issue of equality to "welfare and charity".⁵¹ Hakkaoui's comment that her programme should be implemented in harmony with Islam and Moroccan family values has imposed further limitations on the action plan, which are entirely open to interpretation. In 2012, Hakkaoui had already caused some protests in the local media when she described article 475 of the Penal Code, which provides for rapists to go unpunished if they subsequently marry the victim, as not necessarily detrimental to the victim. After the suicide of underage Amina Filali in March 2012, who also suffered violence in the marital home after marriage to her rapist, large parts of the population had demanded the amendment of article 475. In mid-January 2014, the controversial clause of article 475 was unanimously abolished by the Moroccan parliament. The law against sexual violence and harassment that Hakkaoui planned in 2013 has attracted further criticism from women's rights organisations. Hakkaoui was accused of a lack of transparency and insufficient involvement of civil society in the drafting of the law. The bill is also said to concentrate too much on the punishment and criminalisation of the perpetrators and not offer a flexible and comprehensive solution to deal with the social discrimination against women.⁵²

Despite an equality policy having been pursued by the state for many years with the support of the Moroccan elites and a way of life that appears modern in many respects,

50 | See also "Mme Hakkaoui présente le programme gouvernemental de parité 'Ikram'", Kingdom of Morocco, 5 Jul 2013, <http://maroc.ma/fr/actualites/mme-hakkaoui-presente-le-programme-gouvernemental-de-parite-ikram> (accessed 13 Jan 2014).

51 | See Jaouad Mdidech, "La parité? Les femmes veulent plus que cela, elles parlent d'égalité", *La Vie éco*, 20 Jul 2012, 41-42.

52 | See also Ayla Mrabet, "Législation. Hakkaoui fâche les féministes", *TelQuel*, 3 Dec 2013, <http://telquel-online.com/content/legislation-hakkaoui-fache-les-feministes> (accessed 29 Jan 2014).

a detailed report by Care International Maroc on the situation of women in Morocco after the unrest of the Arab Spring⁵³ reports continuing inequality in pay, in access to the labour market, in illiteracy, in appointments to high-ranking positions in public administration and in political participation. In the area of political participation, women's representation has gradually improved. In 1993, two women were voted into the national parliament for the first time. In 2002, a women's quota of 30 seats was set for the national parliament for the first time on the basis of a party consensus. This was increased to 60 seats (of 395) in 2011.⁵⁴ In spite of this, at 17 per cent in the national parliament and 12 per cent at local level, women still make up considerably less than the critical mass of 30 per cent that would be required to make an impact on parliamentary decisions.⁵⁵ Women first held ministerial positions in government in 1997. The government prior to 2011 already had five female ministers, while the Islamist-led government after 2011 only gave one ministerial post (Ministry for Solidarity, Women, Family and Social Development) to a woman. The new governing coalition since 2013, which is also led by the PJD, at least has several female "Minister Delegates". In 2012, Nabila Mounib became the first female Secretary General of the secular socialist PSU. In the world of private enterprise, Miriem Bensalah-Chaqroun was the first woman to be elected head of the influential business association CGEM in 2012.

The government prior to 2011 already had five female ministers, while the Islamist-led government after 2011 only gave one ministerial post to a woman.

According to Houria Alami Mchichi from Care International, the now almost irrelevant Moroccan protest movement of the Arab Spring, the "20 February movement", has shown neither a clear commitment to equality nor had a positive impact on the position of women.⁵⁶ While the protest movement counted numerous Islamist women amongst its ranks, only two secular women's associations had joined. And although many members of the M20 movement had

53 | See Mchichi, n. 45.

54 | There is, however, no women's quota in public administration. But some ministries have committed themselves to give special consideration to women in their appointments.

55 | See Aicha Akalay, "Femmes. De plus en plus libres, malgré tout", *TelQuel*, 10 Dec 2013, <http://telquel-online.com/content/femmes-de-plus-en-plus-libres-malgre-tout> (accessed 29 Jan 2014).

56 | See Mchichi, n. 45, 14-18.

called for a boycott of the 2011 constitutional referendum, the constitutional reform received public support from many women's rights associations. Once again, it was the Palace that gave the strongest impulse for women's legal equality through its 'pre-emptive' constitutional reform. Where gender equality in front of the law is concerned, the interests of the Palace appear to be aligned more closely with those of secular rather than Islamist feminism. Support for the secular women's rights movement helps to promote the image of Morocco as a "showcase" of enlightened Islam. In addition, it counters the risk of other religious interpretations for social coexistence competing with the course taken by the King.



M20 activist face to face with Moroccan security forces: Members of the movement had called for a boycott of the 2011 constitutional referendum. | Source: © Abdelhak Senna, Agence France Press (AFP).

PRESS FREEDOM AND FREEDOM OF SPEECH

Articles 25, 27 and 28 of the constitution guarantee press freedom and freedom of speech, enshrine the right for information and preclude any form of advance censorship. The authority responsible for the media (Haute Autorité de la Communication Audiovisuelle) is charged with monitoring adherence to press freedom and freedom of speech and the right to access to information. The limits to press freedom and freedom of speech are defined in Moroccan press law (Code de la Presse of 2003). These cover matters such as incitement to criminal acts, violation of

personal rights, violation of morality and damage to the community and public interest. Article 41 of the Press Code sets the punishment for insulting the royal family as well as publishing material undermining religion, the monarchy or territorial integrity at three to five years in prison.

Over the last few years, critics and human rights organisations have noticed a deterioration with respect to the freedom of the media and of the press as well as increased self-censorship in Morocco.⁵⁷ On the *World*

Press Freedom Index 2013 compiled by Reporters without Borders,⁵⁸ Morocco is ranked 136th (of 179), clearly below Algeria and Libya but above Tunisia and Egypt. In

In practice, freedom of speech and the right to information are occasionally balanced against the interests of internal security as well as the protection of personal rights.

practice, freedom of speech and the right to information are occasionally balanced against the interests of internal security as well as the protection of personal rights. Legal proceedings against critical journalists and newspapers can make free and critical journalism more difficult and increase self-censorship.

A case that drew a great deal of attention and which international human rights and press freedom organisations saw as a blow to critical journalism and as a curtailment of freedom of speech and press freedom involved the arrest of journalist Ali Anouzla in September 2013. The editor-in-chief of the Arab-language issue of the online magazine *Lakome* was indicted on 25 September for providing material support to terrorism and for praising and inciting terrorist criminal acts. Anouzla had inserted a link to a video by Al-Qaida in the Islamic Maghreb (AQIM), which was published in the Spanish newspaper *El País*. To many observers, Anouzla's prosecution under the 2003 anti-terrorism law represented a pretext, as the (secular)

57 | See Aida Alami, "Morocco journalist accused of 'terrorism'", *Al Jazeera*, 25 Sep 2013, <http://aljazeera.com/indepth/features/2013/09/morocco-journalist-accused-terrorism-2013923103640898755.html> (accessed 13 Jan 2014).

58 | The *World Press Freedom Index* is calculated on the basis of the criteria of plurality (of opinion), media independence, the media environment and self-censorship, the legal framework, transparency as well as infrastructure (for the production and generation of information). *World Press Freedom Index 2013*, Reporters without Borders, 30 Jan 2013, 18, http://fr.rsf.org/IMG/pdf/classement_2013_gb-bd.pdf (accessed 13 Jan 2014).

journalist had marked the video clearly as propaganda and other websites that had also disseminated the video had not been prosecuted.⁵⁹ According to the anti-terrorism law, Anouzla may be looking at five to 30 years in prison. He was released on bail in October.

In the media landscape, Anouzla is described as one of the few remaining critical journalists in Morocco, who has come under the scrutiny of the security forces repeatedly because of critical articles about corruption, the extent of the royal budget and the lack of accountability on the part of the King. He had uncovered the paedophile scandal centred on Daniel Galván in July 2013, thereby triggering an uncomfortable, albeit brief crisis in the rule of King Mohammed VI.⁶⁰ In the opinion of civil rights activists and media

In 2012, the editor of the *Al-Massae* newspaper was given a one year prison sentence because he had published a report on an alleged corruption scandal involving the head of the secret service.

representatives, critical journalists and regime critics in Morocco must expect smear campaigns involving accusations of drug use or rumours about their mental state⁶¹ as well as high fines.⁶² In April 2012, the editor of the *Al-Massae* newspaper, Rachid Nini, was

given a one-year prison sentence on the basis of the Penal Code (*Code Pénal*) because he had published a report on an alleged corruption scandal involving the head of the secret service Adellatif Hammouchi and denounced the abuse of anti-terror legislation by the Moroccan authorities. He was accused of libel and contempt of court.

In a communiqué addressed to the public dated 23 September 2013, the Minister of Communications Mustapha El Khalfi (PJD)⁶³ justified Anouzla's prosecution by stating

59 | Maâti Monjib, "What's Become of Freedom of Expression?", *Sada*, 3 Oct 2013, <http://carnegieendowment.org/sada/2013/10/03/what-s-become-of-freedom-of-expression/goz9> (accessed 13 Jan 2014).

60 | The scandal was described as the "Danielgate" of Mohammed VI in the international media.

61 | See Monjib, n. 59.

62 | At the beginning of 2010, the first critical Moroccan weekly newspaper, *Le Journal Hebdomadaire*, had to close due to excessive fines. See Cerise Maréchaud, "Le Journal le plus indépendant du Maroc poussé à la fermeture", *Rue89*, 1 Feb 2010, <http://rue89.com/2010/02/01/le-journal-le-plus-independant-du-maroc-pousse-a-la-fermeture-136442> (accessed 13 Jan 2014).

63 | Accessible at: Kingdom of Morocco, "Press releases", <http://mincom.gov.ma/ar/communiqués.html> (accessed 13 Jan 2014).

that incitement to terrorism had to be excluded from freedom of speech and the right to information. With a view to drafting a new press code, El Khalfi announced his intention to delete all prison sentences from the press law. But potential prison sentences for journalists under the anti-terrorism legislation or the Penal Code will remain in place.

LINGUISTIC-CULTURAL RIGHTS: AMAZIGH AS A NEW OFFICIAL NATIONAL LANGUAGE

Morocco's linguistic-cultural identity has long been an integral component of the debate on social issues and has therefore also been reassessed in the current constitution. This acknowledges Morocco's ethnic-cultural heterogeneity and lists seven different ethnic-regional components as sources of national identity in its preamble. The preamble speaks of a convergence of Arabo-Islamic, Amazigh and Saharo-Hassani components as well as an enrichment by African, Andalusian, Hebraic and Mediterranean elements.

A particular new aspect is the upgrading of the Amazigh (Berber) language⁶⁴ to an official national language besides Arabic.⁶⁵ This fulfilled a longstanding demand of the Amazigh movement. In article 5, Arabic is mentioned as the official national language, which has to be protected and developed. Next, the Amazigh language is enshrined as an additional official national language, whose integration into the school system and public life is to be ensured through concrete implementation legislation.

The Kingdom of Morocco already had a long journey of searching for its linguistic-cultural identity behind it, going back all the way to the end of the era of the French protectorate. As far as the Amazigh issue and the recognition

64 | The Amazigh language is some 3,000 years old and regarded as one of the oldest languages in Africa. The homeland of the Amazigh-speaking groups (called Tamazgha) stretches from the Egyptian-Libyan Border to Burkina Faso and comprises some five million square kilometres. An estimated 30 million people speak a Berber language.

65 | In the 1992 constitution, French was still the second official national language. In the 1996 constitution, only Arabic was mentioned as an official language. Furthermore, Morocco was described as part of the Arab Maghreb.

of the Berber identity⁶⁶ are concerned, the Moroccan state has chosen to proceed by way of a gradual integration of the Amazigh language. As far back as 1994, Hassan II had announced in a royal speech that Amazigh would be taught in Moroccan primary schools and that TV magazine shows in the three Amazigh dialects of Tamazight, Tachelhit and Tarifit would be introduced. These promises were not realised until 2003 with the gradual introduction of the Amazigh language in Moroccan primary schools. In 2001, King Mohammed VI sent further positive signals to the Amazigh movement. The establishment of the Institut Royal de la Culture Amazighe (IRCAM) in 2001 was a first major step, as the recognition of Amazigh as an official language is mentioned in the decree about the founding of the IRCAM. In his royal speech of 9 March 2011, Mohammed VI described the Amazigh identity as a component of Moroccan society. Today, official inscriptions at ministries, authorities and state institutes are in Arabic, Amazigh and French.

Contrary to other, partly violent responses to the various Amazigh movements in the region, the Moroccan state has decided to take the route of progressive integration and recognition of linguistic pluralism. However, the language issue in Morocco is somewhat more complex than an Arabic-Amazigh dualism.⁶⁷ The debate on languages has produced various social and political dividing lines.⁶⁸ On the one hand, mastering and using a particular language demonstrates a person's social origin, but it can also be seen as a political statement.

The country's francophone elite is retaining its close links with the French language. French is still considered the language of the elite, and its mastery is essential for social and professional advancement.

The country's francophone elite is retaining its close links with the French language. French is still considered the language of the elite, and its mastery is essential for social and professional advancement. Advocates of the Moroccan

66 | There is no reliable information on the proportion of Berber people among the Moroccan population. But according to estimates, half of all Moroccans are at least partly of Berber descent.

67 | Younes Abouyoub, for instance, argues that the Amazigh and Arab identities are not mutually exclusive. Large numbers of Moroccans thus speak Arabic, but are of Berber descent. See Abouyoub, n. 22.

68 | On the language issue and the different debates see Fouad Bouali, *The Language Debate and the Constitution Amendment in Morocco*, 21 Feb 2012, Arab Center for Research and Policy Studies, Doha.

Arabic dialect (Darija), on the other hand, promote the use of the dialect in the state media in order to reach poorly educated sections of society as well. Darija devotees thereby also set themselves apart from the defenders of Classic Arabic and emphasise their genuine Moroccan identity in distinction from that of Arabs from the Levant. The conflict about the Arabic language is the context in which the Amazigh movement is most prominent. However, the Moroccan intellectual and historian Hassan Aourid emphasises that the Amazigh character does not only refer to a language, but also represents a view of history.⁶⁹ The demands of the Amazigh movement include the "correction" of Moroccan history in textbooks, development of the poorer regions with a high proportion of Berber inhabitants, more airtime for Amazigh programmes on the state media and the recognition of Amazigh first names.⁷⁰

Despite the official recognition of Amazigh, the language still does not have a major presence in schools and public media. The reasons include not only a lack of political will⁷¹ but also practical problems such as poorly trained teachers, a dearth of textbooks and differences between Amazigh dialects, which hinder standardised teaching. In addition, national-conservative and Islamist forces have obstructed the recognition of the Amazigh language in everyday life.

69 | According to Hassan Aourid speaking at a political debate organised by the Konrad-Adenauer-Stiftung on 20 Jun 2013 in Casablanca. Aourid made reference to Moroccan history preceding the arrival of the Arabs and recalled the female Amazigh freedom fighter Kahina, who is celebrated by the Berbers as a heroine, among others.

70 | The recognition of Amazigh first names still frequently fails to be applied due to ignorance on the part of authorities and officials. According to the law, first names may not be "foreign to the Moroccan ear". See Sanaa Eddaif, "Comment les prénoms amazighs retrouvent un traitement... presque normal", *L'Economiste*, 31 May 2013, 32 et seq.

71 | The activist and intellectual Ahmed Assid accuses the Minister of National Education of ignoring the Amazigh issue and focusing exclusively on retaining foreign languages. In addition, Assid demands implementation of the statutory quota of 30 per cent of airtime to be reserved for the Amazigh language in the public TV channels. Quoted according to Brahim El Guabli, "La Langue Amazighe: Par-cours et Entraves de Son Enseignement au Maroc", *Jadaliyya*, 18 Feb 2013, <http://jadaliyya.com/pages/index/10256> (accessed 22 Jan 2014); as well as Mohammed Boudarham, "Identité. En avant l'Amazigh!", *TelQuel*, 16 May 2012, <http://telquel-online.com/Actualites/Maroc/Identite-En-avant-l-Amazigh/522> (accessed 29 Jan 2014).

They emphasise the Arab identity of Moroccan society as well as the (classic) Arabic language as the language of religion and unity.⁷² However, the PJD-led Ministry in Charge of Relations with Parliament and Civil Society declared in April 2013 that NGOs could in future submit queries to the ministry in Amazigh as well.⁷³

For now, the current constitution has helped to establish a balance in the language issue and thus counteracted a potential culture struggle.⁷⁴ Furthermore, the constitutional reform embodies the assertion of a separate Moroccan identity as well as a more complex understanding of national identity. The emphasis on linguistic-cultural pluralism in the constitution and its future recognition in practice may help to prevent potential social conflicts. The fact is that the language issue reflects above all social conflict potential resulting from the polarisation between an elite that speaks French or (classic) Arabic on the one hand and marginalised, poorly educated sections of the population on the other.

ACHIEVEMENTS TO DATE AND OUTLOOK: REACTIONARY TREND AND A MONARCHY “WITH TWO FACES”

The purpose of the Moroccan constitutional reform was to renew the monarchy-based political system so as to enhance its capacity for survival and for managing the future while not making itself redundant.

The Moroccan constitutional reform and its implementation are caught in a constant conflict between the preservation of the traditional monarchical system and its democratic renewal. The purpose of the reform was to renew the monarchy-based political system so as to enhance its capacity for survival and for managing the future while not making itself redundant. According to civil rights advocate and activist Ahmed Assid, the Kingdom of

72 | The political parties supporting Morocco's Arab identity include the Istiqlal Party, the PJD as well as the SU. The parties advocating a more widespread use of Amazigh on the other hand are the PAM, MP, RNI, USFP and PPS.

73 | Furthermore, ministry officials have been allowed to submit sick notes in Amazigh as well since May 2013. See Boudarham, n. 71.

74 | Fouad Bouali, on the other hand, fears that through its recognition of the Amazigh language the current constitution may open up new socio-cultural fronts and form a basis for further conflicts of identity. According to Bouali, the recognition of seven different components of national identity was meant to satisfy all sides and ultimately served specific interests. See Bouali, n. 68, 32, 34 and 37.

Morocco continues to appear as a state “with two faces”: a traditional religious monarchy on the one hand and a modern monarchy on the other, which maintains close links to foreign partners and advocates modern concepts and human rights.⁷⁵



Solidarity march for Palestine in Rabat, 2012: Demonstrations on foreign policy issues bring many more people to the streets than processions on domestic or constitutional issues. | Source: © Ellinor Zeino-Mahmalat.

An assessment of the impact of the 2011 constitutional reform must be differentiated and can only draw preliminary conclusions in view of the delayed implementation. The constitution claims to lay the foundations for a constitutional democracy. A comprehensive catalogue of basic rights and the integration of stronger institutional counterbalances in the constitution have produced a first legal basis for a parliamentary monarchy and for a civil state. Success and credibility of the constitutional reform now depend on the consistent implementation and application of the constitutional principles. There are still deficiencies in the adoption of concrete laws, the reforming and adaptation of existing laws (for instance of criminal and press legislation) and the strengthening of structures of the rule of law (particularly the justice system). In some instances, the persistence of tensions and legal ambivalences in

75 | Interview with Ahmed Assid, *TelQuel*, 22 Aug 2012, <http://telquel-online.com/Actualite/Maroc/Entretien-La-monarchie-le-makhzen-les-islamistes/533> (accessed 29 Jan 2014).

sensitive areas, including internal security, faith issues and ideas on social values, are having a negative impact on personal liberties. The constitutional “constants” of an “immutable national identity” can be used as an explanation for many disagreements or conflicts of interest or as a buffer to prevent rapid changes. The inclusion of these constants and the requirement for concrete implementation laws have effectively put the brakes on the reform process.

Furthermore, the behaviour of various actors in political practice has also strengthened continuity instead of introducing new approaches in governance. The government’s course characterised by loyalty to the King, which many observers have described, has set a precedent of continuity and subordination for the government’s future positioning with respect to the King. There is no hope for a stronger emancipation of the government and of the Head of Government from the power apparatus around the King under the new coalition either. The inability of the parties to promote a consistent political direction and manage crises has strengthened the King as national mediator and symbol of national stability. It is the informal power centres of the elites close to the King and the security services that continue to determine the strategic developments in the country, illustrating how powerless the government is against the *makhzan* in practice.⁷⁶ The separation of powers described in the constitution consequently does not always correspond to political reality or constitutional practice.

The “top down” constitutional reform aims at creating stability through reform, defusing social and political conflict potential and retaining the status quo, albeit with numerous courageous innovations. As Abdellatif Laâbi comments, the monarchy has shaped the political system to suit its own requirements ever since independence.⁷⁷ The Palace has provided crucial impulses for democratic renewal, for instance where women’s equality is concerned or in the area of linguistic-cultural pluralism.

76 | Thierry Desrués sees the consequences of this powerlessness in the increasing level of populism among the political parties (e.g. the PJD and Istiqlal). See Desrués, n. 14, 172.

77 | Quoted according to Stauffer, n. 12.

How democratic the stability is depends partly on the perceived risks to the monarchy as well as the reactions by and interaction between the actors in the socio-political arena. The traditional power centre around the Palace, the Ministry of the Interior and the security forces can restrict the newly gained civil liberties again at any time to control its opponents. Examples of such action have been observed on several occasions when critics, journalists and activists were subjected to harsh treatment. According to some observers, the composition of the new governing coalition, which now includes a number of technocrats close to the Palace in its cabinet, indicates a renewed authoritarian and reactionary trend and a strengthening of the old regime.⁷⁸

Compared to many crisis-ridden countries of the region, the Moroccan monarchy has shown clever and above all quick thinking and acting with its preventive constitutional reform of 2011. With its strong orientation towards Europe, the monarchy has also demonstrated modern thinking and followed promising strategies in the assimilation of laws and in the area of renewable energies.

Bearing in mind the failure of the democratic revolution in Egypt so far, the polarised society in Tunisia as well as the continuing civil war in Syria, stability under a monarchy appears more attractive to many Moroccans than a radical political renewal with unpredictable political, social and economic consequences. This may well also be a reason why there has not been a revival of the Moroccan “20 February” protest movement. However, Morocco’s political and economic elite must overcome its reliance on unearned income, privileges and favouritism, create equality of opportunity and prospects in the job market, strengthen structures of the rule of law and follow principles of good governance, including above all the accountability of people in positions of responsibility. Otherwise, the much-praised Moroccan stability might in retrospect prove to be a “precarious stability”.⁷⁹

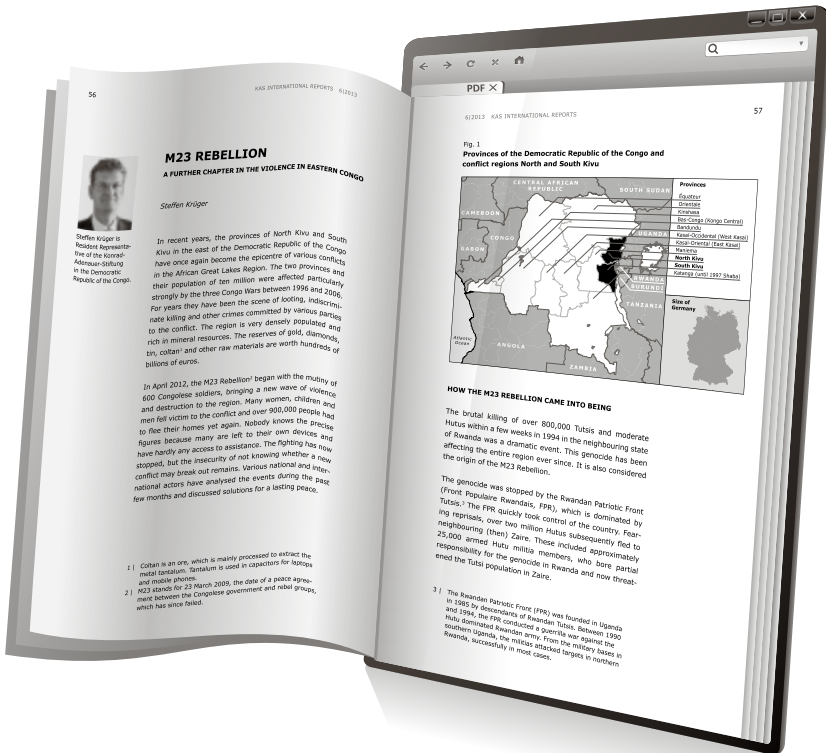
78 | Also according to Samia Errazzouki, “Out with the Old and In with the Old: Morocco’s New Cabinet”, *Jadaliyya*, 16 Oct 2013, http://jadaliyya.com/pages/index/14616/out-with-the-old-and-in-with-the-old_morocco (accessed 13 Jan 2014).

79 | Mohammed Madani, quoted by Stauffer, n. 12.

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