

**Democratisation through the backdoor: Civilian Power Europe and the European Neighbourhood Policy. A Republican interpretation of political conditionality**  
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**ABSTRACT**

Is the European Union still a civilian power? This paper looks at the EU's international agency in the promotion of democracy in third countries, namely its neighbours, and how political conditionality is and should be employed in the pursuit of such goals. Everybody agrees that democracy is a noble end. I argue that, however good the ends are, the means are not always justified. When the means comply with the principles of civic virtue, then the democratising policy is more legitimate and qualifies the agents as a civilian power. This paper offers a republican theoretical interpretation of how political conditionality should be employed and how it is used in practice by the EU.

Keywords: democratisation, political conditionality, civilian-power, freedom as non-domination, republicanism.

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Democratisation has been a normative foreign policy objective for several decades. Although scholars agree that democracy is desirable and beneficial both to transition societies and those who foster it, disagreements persist on the modality and the extent of how such goal should be pursued. History teaches us that there have been many instances of 'just wars', fought in the name of democracy, human rights and, quite paradoxically, peace. Although force has been used only in extreme cases, other coercive means, mostly economic, have also been employed, leading to the delegitimisation of the policy, and making it less effective, if not a failure. Until the late 1980s democracy often had to make room for other, more selfish interests, as shown by an inconsistent application of aid and development policies, and the employment of force and coercive economic sanctions for putative normative purposes. Democracy, in other words, has been often used as an excuse for the pursuit of a hidden, less altruistic agenda.

After the end of the cold war, democratisation has become once more a major issue in an international environment where powerful economic and military states are not longer the only agents. Increasingly, subnational actors and transnational networks of individuals, or groups with varying objectives, play an important role in the shaping of international politics. In such a fast changing environment the forces of globalisation have made the military action of a single superpower less effective, when not irrelevant. Exporting democracy, in whatever form, is important in order to keep the equilibrium of a deeply interconnected and interdependent global community, formed by states and several actors at sub- and supra-state level. However, discourses of economic interests and physical security aside, democracy is also desirable because it is the collective government system that redistributes power in a manner that best guarantees personal and civil liberties. Thus democracy, human rights, the rule of law and good governance have become attached, often under pressures from civil societies, to the international agency of states and international organisations. Starting from the assumption that democracy is good, and that attempting to spread it is a legitimate foreign policy objective, we must ask what is the best way to do so. In other words, international actors need to find the more effective means for exporting democracy, so that it is perceived as a legitimate action by the peoples affected, thus standing a better chance of being successful.

In this paper I argue that using force to topple a non-democratic regime does not guarantee a successful democratic transition. As Nye (2004) put it, winning the war is relatively easy,

whereas winning the peace is a whole different matter. Although forcing democratic transition in a non-democratic country is possible, democratic stabilisation requires, as transitology scholars (Linz and Stepan,1996) argue, a softer approach, that is, one that is perceived as legitimate, while allowing for the process costs to be cushioned by a policy package of economic incentives. Thus, in order to foster democracy in third countries, a 'civilian power' should employ 'civilian means', in order to achieve a successful transition and a durable stabilisation. However, what make a means 'civilian' is subject of contention. The definition must go beyond a mere military/non-military dichotomy, which would allow for coercive economic measures to be employed in order to push through democratic reforms. Political conditionality is the foreign policy tool that promotes legitimate democratising policies, without being coercive or unduly interfering with peoples' choices. Yet, conditionality is intrinsically coercive, as it relies on the relative standing power of the agents involved. Power relationship regulated by conditionality are, in other words, the result of unequal access to resources, whether they be political, economic or other. The aim of this paper is twofold: to offer a theoretical model as a rationale for the legitimate employment of political conditionality, and to discuss how political conditionality should be employed for the pursuit of democratising policies. For that purpose I firstly outline Rawls' theory of international relations, specifically how democratic societies should behave towards non-democratic peoples. I then analyse how political conditionality has been used by international agents, especially the EU, and how its employment has developed with the launch of the European Neighbourhood Policy. Finally I discuss a conceptual model which prescribes how conditionality should be employed in order to fulfil the criteria outlined in the theory described in the first part of the paper.

### How to democratise a country

*The average person thinks that morality can be applied as directly to the conduct of states to each other as it can to human relations. That is not always the case, because sometimes statesmen have to choose among evils (Henry A. Kissinger).*

In the Law of Peoples, Rawls (2002) draws a theory for the conduct of international relations, namely guidelines for democratic states' foreign policies towards what he calls decent peoples, that is, those peoples, which possess some democratic traits, but have not yet fully developed into liberal societies, and which thus rightfully belong to the just Society of Peoples. In Rawls' theory, the same domestic rules and principles, which regulate the life of

democratic societies, ideally apply to the Society of Peoples, where peoples are to the international community what citizens are in a liberal society (ibid. 23). Rawls speaks of peoples, as opposed to states, as they have moral qualities that the state lacks. The state, Rawls explains, is, in traditional theories of international relations, a rational actor concerned by power and guided by its own selfish interests. 'If *rationality* excludes the *reasonable* (that is, if a state is moved by the aims it has and ignores the criterion of reciprocity in dealing with other societies); if a state's concern with power is predominant; and if its interests include such things as converting other societies to the state's religion, enlarging its empire and winning territory, gaining dynastic or imperial or national prestige and glory, and increasing its relative economic strength – then the difference between states and peoples is enormous' (ibid, 28). Unlike states, whose interests do not allow them to act reasonably in accordance with the principles of the Law of Peoples, liberal peoples only seek to protect their territorial and physical integrity, their institutions and civil societies. Beyond that, liberal peoples act according to the principles of right and justice, for citizens and other peoples (ibid. 29). Conversely, states, even when representative of constitutional democratic regimes, may intervene in weaker countries in the pursuit of expansionist or selfish interests, often without the knowledge of the people they represent, or under the false pretext of defending the people's democratic regime. The Law of Peoples underwrites the Kantian hypothesis of *foedus pacificum*, in which the the 'conditions of a family of constitutional regimes' are met, leading to the disappearance of war, which peoples will engage in only in self defence' (ibid. 54).

In the Society of Peoples, liberal democracies should always restrain from waging war to other peoples, including outlaw states, except for self defence or in extreme cases of human rights violations. Liberal peoples should rather engage in some form of cooperation with decent societies, which are not fully liberal, but which show some of the traits of democracy. Decent societies are characterised by a decent consultation hierarchy, in which 'the basic structure of the society must include a family of representative bodies whose role in the hierarchy is to take part in an established procedure of consultation and to look after what the people's common good idea of justice regards as the important interests of all members of the people [...] Although all persons in a decent hierarchical society are not regarded as free and equal citizens, [...] they are seen as decent and rational and as capable of moral learning as recognized in their society' (ibid.71). A decent society is thus not a fully fledged democracy, in that it lacks certain basic characteristics of a liberal society, namely the recognition of

citizens' equality, though 'in political decisions a decent consultation hierarchy allows an opportunity for different voices to be heard – not, to be sure, in a way allowed by democratic institutions, but appropriately in view of the religious and philosophical values of the society as expressed in its idea of the common good' (ibid. 72). A decent society values and tracks the interests of its members, albeit it does not treat them equally. What makes a society decent is not its failure to grant equal treatment to its citizens, but rather its providing them with a chance to have their opinions expressed. 'Judged by the principles of a liberal society, a decent hierarchical society does not treat its members equally. A decent society does, however, have a common good political conception of justice, and this conception is honored in its decent consultation hierarchy' (ibid. 83).

Rawls stresses the importance of tolerance towards societies which are not yet fully democratic because if constitutional liberalism is really superior, as he grants, unduly and coercive interference into the democratisation process of a decent society, trusting that this will take place in time, is illegitimate and counter-productive. Moreover, such interference would contradict the principles which define a democratic society itself. Liberal people should then tolerate decent ones, refraining from exercising military, economic or diplomatic pressures in order to make them change their ways. In fact it ought not to be assumed that decent peoples are unable to evolve into a full liberal democratic society. 'By recognizing these societies as *bona fide* members of the Society of Peoples, liberal peoples encourage this change' (ibid, 62). Rawls' theory of international relations rests on the assumption that not all peoples are either fully democratic or non democratic at all, but there are rather different degrees of democratic development, and therefore democratic peoples should relate to others according to their democratic status.

Democratic peoples can and should engage decent societies who are in the process of turning to democracy. That does not mean that they are allowed to exercise unduly political or economic influence, in order to coerce decent societies or catalyse the transition process. In fact, 'it is not reasonable for a liberal people to adopt as a part of its own foreign policy the granting of subsidies to other peoples as incentives to become more liberal' (ibid, 85). Rather liberal societies should consider their duty of assistance to peoples 'burdened by unfavourable conditions' (ibid). Hence liberal peoples should recognize that self determination is an important good for decent societies, and therefore foreign policies should not appear to be coercive. The freedom of decent peoples should be paramount when liberal democracies

assist them in the transition process. However, having stated that liberal societies do not have the right to interfere with or coerce decent societies, the ultimate goal of democratic peoples' foreign policies should be to help decent societies to evolve into liberal ones. Such goal is ultimately embodied by the duty of assistance, which prescribes that 'the aim is to realize and preserve just (or decent) institutions and not simply to increase, much less to maximize indefinitely, the average level of wealth, or the wealth of any society or any particular class in society' (ibid.107 ). Wealth is not a precondition for a well-ordered society to develop into a just society, as there are observable cases of wealthy societies who have failed to democratise, as well as instances of economically burdened societies, which have successfully transited to liberal democracy. More important factors are the political culture and virtues and the civil society of the country. 'Merely dispensing funds will not suffice to rectify basic political and social injustices', while 'an emphasis on human rights may work to change ineffective regimes and the conduct of their rulers' (ibid, 108-109). Rather than subsidising a decent society, the aim of a democratic people should be to share the know-how and expertise through technical assistance programmes. As Rawls point out, 'there is no easy recipe for helping a burdened society to change its political culture. Throwing funds at it is usually undesirable, and the the use of force is ruled out by the Law of Peoples. But certain kinds of advice may be helpful [...] All kinds of well ordered societies affirm human rights and have at least the features of a decent consultation hierarchy or its analogue [...] The idea is that any conditions of the consultation procedure that are necessary to prevent he violation human rights [...] are to be adopted. This is not a peculiar idea but one that is also common to all decent peoples. We can, then, bring this idea to bear as a condition on offered assistance without being subject to the charge of improperly undermining a society's religion and culture' (ibid, 110-111).

Rawls suggests that requiring that decent societies meet certain political conditions for the supply of technical assistance is legitimate, as long as it does not interfere with a society's freedom to choose how to democratise. Political conditionality, however, has been used improperly, and thus it has been largely unsuccessful, at least as far as its normative goals were concerned. As many examples of aid policies suggest, conditionality has been used, more often than not, as an excuse to pursue self-interested goals, which, make a state incapable of being a moral agent. A brief account of the employment of political conditionality in the provision of aid and development subsidies shows that states have used normative ends to justify coercive policies, hiding the actual goals from their own citizens,

and the result of such action has often made things worse. Even in the best case scenarios conditionality has seldom hindered rather than fostered democratisation, and how it has become the EU's most notable foreign policy tool in its relations with accession and neighbouring countries.

#### Political conditionality and democratic transition

Political conditions have always been attached to aid and development policies. However, such conditions often hide, as Rawls argues, more selfish goals. As a consequence, development policies have produced increased economic dependence of recipients on donor's aid. Such policies have thus proved to be politically illegitimate and economically unsound, undermining the successful achievement of the objective they were supposed to pursue to begin with. Scholars believe that development is essentially a domestic matter. Developing countries need resources to develop, and development is favoured by a propitious external environment. However donors have not created that environment, and aid has been often misdirected, for either historical, geo-political or economic interests. 'Aid has offered externally crafted solutions, and, in many cases, has actually undermined the capacity of the recipients to direct their own affairs. Empirically, we can claim that the countries who have done better were those who learnt soonest to reduce their dependence from aid (Browne, 2006:10).

The usefulness of aid has been criticised, as foreign capitals, which should favour economic growth, have often increased consumption rather than saving. Moreover, when aid takes the form of food handouts it has a deleterious impact on internal markets. 'A major reason for the popularity of long term food aid with some donors is that it allows the major food producing donors to dispose of substantial quantities of surplus produce (which in the case of the European Union have been accumulated as a result of overproduction stimulated by farm subsidies)' (Browne, 2006:28). Food aid can be beneficial in the short term, especially in times of crisis or food shortages. However the usefulness of food aid over the long term has been more questionable. Food aid has thus showed to have deleterious macro consequences. Moreover, the balance of international trade has been, in the post war period, unfairly tilted towards rich countries: developing countries cannot, due to their higher need and their lower bargaining position, face western protectionism. 'The costs to the developing countries of unequal access to markets are substantially larger than the value of net aid transfers, prompting the conclusion that developing countries would be better off with less aid, but

fairer trading rules'. (ibid, 29).

Aid can also take the form of technical assistance. The rationale behind technical assistance is that lowly skilled populations can be trained in order to favour economic growth and independence. In other words, it is better to teach developing countries to farm rather than dumping agricultural produce on their markets. That has not always been the case for geopolitical and ideological self interests. Technical assistance can be provided in the form of institution building, for the transfer of knowledge is equally as important as financial aid. But in this case, the 'complexities of institutional and societal context are to be taken into account' (ibid, 30). Such factors can indeed slow down or fatally hinder the process of democratisation, and donors' self interests, as well as ideological objectives, have often been in conflict with normative ends, thus jeopardising the effectiveness of aid policies.

Since the end of the Cold War, good governance has become more prominent in the allocation of aid funds. The collapse of the Soviet Union and of communism has been an ideological victory for the West and its liberal democratic models. While it is true that in the new climate of diminished ideological struggle aid has fallen considerably (ibid), the almost unconditional support of undemocratic regimes has been gradually replaced by increasing concerns about good governance, although 'the new aid programmes aimed at Eastern Europe and the former Soviet Union demonstrated the historically familiar and maladroit determination by Western donors to influence development with limited reference to local political and historical realities' (ibid, 35). In fact, the transition from the planned communist economic and political system has not been free from hardships and the outcome was by no means granted. Private donors fostered growth and the establishment of a civil society, but they were not accountable and their operation not transparent. 'In the 1990s aid became an adjunct to of foreign policy [...] But [...] democracy and good governance do not enjoy a linear relationship, sometimes travelling in opposite directions' (ibid, 38). The EU's accession process is widely credited for playing a huge role in the democratisation of central and eastern European countries in the run up to the 2004 round of enlargement (Pridham, 2008). Was the EU's employment of political conditionality coercive or illegitimately interfering? Was the EU a soft power, or a 'civilian power'? While a soft (economic) power could be just as coercive as a hard (military) power, the only difference being the means used, a civilian power is not, both with regard to its normative ends and, more importantly, the means it employs. When conditionality is applied asymmetrically, arbitrarily and for selfish interests,

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then it certainly is coercive. However, since democracy and good governance have become an EU's objective, political conditionality has been used in a way that satisfies the requirements of civic duty, and it thus fulfils the criteria of republican freedom, which I will discuss in the last section of the paper. In the following pages I argue that political conditionality is non coercive and non dominating when it satisfies the following principles: 1) the respect of individual's liberties must be institutionalized, 2) the policy must be reciprocal, 3) any potentially interfering action must be dictated by non-selfish interests, and 4) people must be consulted and their interests tracked.

Political conditionality has been used by many countries to complement harder foreign policies and diplomacy, but it has also been the foremost external relations instrument of the EU's, which, born as a free trade organization, has lacked a foreign policy for decades. However, even after the Maastricht Treaty, the Union's Common Foreign and Security Policy has been all but 'common'. Thus the EU has kept on relying on its economic clout for the pursuit of foreign policy objectives mostly, but not only, through political conditionality. In fact, the Copenhagen criteria, which imposed conditions on pre-accession states in the 2004 enlargement, have been decisive, in a measure which is open to debate, to the advancement of democracy in applicant countries. After 2004 the EU has suffered from 'enlargement fatigue', thus its power to influence democratic change has decreased, as the membership carrot was no longer available to justify the sacrifices required by the conditionality stick. Therefore a different approach to the application of political conditions had to be adopted, notably in the relations with European neighbouring countries. This approach brings the employment of conditionality closer to the Rawlsian requirement that peoples should not interfere with decent societies' transition process, while absolving to the duty to assist them.

When, after the Cold War, democratic transition became a foreign policy priority for states and international organizations, the EU acquired a prominent role in effort to spread democratic values for several of reasons. Firstly, although the EU is not able to behave as effectively and quickly as a nation state, it makes up for these shortcomings in democratic legitimacy. If democracy is, in fact, a characteristic of the international organization, then the effectiveness of the foreign policy of that organization increases, as it is perceived to be more legitimate than a single state-actor (Dimitrova and Pridham, 2004). The notion that the EU's foreign policy might be perceived by third parties as more democratically legitimate would seem to clash with the heated debate over the EU's democratic deficit. However, even where

the EU may fall short of fulfilling certain democratic criteria, a concept that Moravcsik convincingly argues against<sup>1</sup> (Moravcsik, 2002), it is certainly more democratic than any other international organization. What is more, third parties engaged by the EU know that democratic requirements apply both ways, thus fulfilling the reciprocity requirement outlined above. The legitimacy of the EU's international role is thus legitimized by the fact that all member states are constitutionally committed to democratic norms and by the very institutional nature of the EU.

Although the European constitution has been put on indefinite hold, its commitment to democratic values has been enshrined in its treaties since 1992, when 'the General Affairs Council decided that all the new co-operation and association agreements to be signed with the Central and Eastern European Countries should contain a clause explicitly permitting suspension should human rights, democracy, and the principles of the market economy not continue to be respected' (Youngs, 2001:35). In 1994 The Commission Initiative for the Promotion of Democracy and Human Rights was also established. The principle regulated the practice, though it was subject to criticisms of double standards (Youngs, 2001:36), while it depoliticized the clause and allowed the EU to be more credible and legitimate in its democratic pursuit. The clause, however, lacked implementation procedures, and did not specify how much of a democratic infringement should take place, and what would the reaction (sanction) be. There also was the legal problem of who was to take the decision to suspend aid. The commission stressed that the clause was not about imposing conditions, but about a constructive approach (Youngs, 2001:37), a feature which has become more relevant in the ENP.

The importance of democratization is further stressed in the EU's bilateral and regional agreement with third countries. It is however difficult to quantify the effects of the EU's democratizing actions for a number of reasons. First of all, the economic resources allocated are spread throughout the EU's supranational and intergovernmental range of institutions, agencies and committees. Because of the complexity and the variety of the policies interested, coupled with the lack of centralized coordination, the amounts of assistance directly or indirectly linked to democratisation policies is hard to quantify. Secondly, the

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<sup>1</sup> For Moravcsik, the EU has made national governments more accountable to European citizens. If that was not enough, the elections of the European Parliament, and the transfer of new powers to it, have made the EU certainly more democratic.

EU's seems to lack a clear benchmark for what constitutes democratisation (Smith, 2003b). Although the importance of democracy and human rights is stressed in the Treaties and in secondary legislation and bilateral agreements, there is no clear nor unique definition or measurement for democratic standards, which are applied inconsistently across the range of policies implemented by the EU. Finally, institutional shortcomings hinder not just the effectiveness of the EU's democratizing action, but also its credibility, because of the internal rivalries between the Commission (and even within the Commission itself), the Council (Member States) and the European Parliament (Youngs, 2001). Yet, notwithstanding its institutional problems, and thanks to the high degree of political integration, never achieved before by supranational organizations, the EU's remains the most effective international organization and, given its institutional nature, also the most legitimate actor in the international effort to spread democracy and good governance.

One obvious example, though a controversial one, is the democratization of CEE countries after 1989. It seems clear that the EU did play a part in the region's transition to democracy after the collapse of communism. However, the lack of a rigorous quantitative analysis makes that claim hard to prove. Critics of Europe's influence over the transition to democracy in CEE stress that when those countries applied for EU's membership, they were already on the path of democratic transition. This would therefore downplay the role of the EU in the stabilization process, as from theories of democratic transition and consolidation, which support the claim that external actors can only play a major role in the transition process, while consolidation must be supported mainly by domestic actors (Linz and Stepan, 1996). Another criticism would point out that countries which indeed failed to democratize - like, for instance, Belarus - did not apply at all. However that those countries who did democratize could have done so having in mind the aim of full accession, which may have constituted a relevant carrot, though not the only one, in the decision to start the transition process. This alternative point of view stresses the indirect action of the EU, which would exercise attraction rather than direct influence.<sup>2</sup> Influence would rather come at a later stage in the form of technical assistance during the lengthy accession process, conditional to the fulfilment of the Copenhagen criteria.

One indirect mechanism of influence is contagion (Youngs, 2001), which is what has also

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<sup>2</sup> Nye (2004) describes 'soft power' as the power of attraction or seduction.

been described as the power of attraction, that is, the capacity of the liberal western democratic model to motivate social actors who were instrumental in bringing down eastern Europe's communist regimes. Thus emulation underlay the new democratizing dynamics (Youngs, 2001). Information plays a fundamental role in the contagion mechanism. For instance, in the CEE case, as ideas became more difficult to control, governments became increasingly subordinate to a 'cosmopolitan civil society' (Youngs, 2001), whose actors – academics, NGOs, party foundations – form a strong cooperative network. Therefore information alone, with its capacity to spread ideas and values throughout the social fabric of civil society, plays a fundamental role in bringing about that very change from within, which is essential for a successful democratic transition. On the other hand globalization created heterogeneity rather than uniformity, threatening local cultural and political identities, thus requiring a new governance method, which would replace the iron fist of communist social and national cohesion. Bringing identification with the new state in a democratic way is hard, but not impossible.

The constitutionalization and institutionalization of individual and minority rights is a necessary condition to avoid the exclusion from citizenship and the consequent rise of nationalistic destabilization. In that respect, the EU has also been a model of unity in diversity, a model which balances the benefits of democratic transition with the perceived threats of globalization to local identities. While state actors' importance should not be underestimated, the combination of the action of both national governments and other transnational actors – that is, subnational civil society actors forming a transnational network – should also be stressed in the formation of the response to external requests for democratic transition, which also takes place as a result of spontaneous internal demands. This mechanism alone is however insufficient to explain agency in the democratization process.

Convergence and conditionality are the two most important instruments available to the EU. Convergence is a 'system conformity produced by the spread and acceptance of democratic norms. It can be distinguished from conditionality in that convergence results less from a cost/benefit assessment and more from genuine internalization of norms, the result of persuasion, dialogue, and socialization, or exposure to new ideas [...] The effectiveness of international norms will be conditioned by the saliency of the norm as well as well as structural context of the domestic policy debate'(Kubicek, 2003:12). The convergence mechanism relies on a degree of cultural match between the parties involved. If the norms

subject to the dialogue are more related to the local culture, then they will stand a better chance of taking root (ibid). However, because of the normative nature of democratic values, different cultural backgrounds do not preclude the possibility of democratic transition from taking place. It can rather be expected that it would take longer and that the process may be more costly. In case of failure then, the lack of success should not be attributed to the norms being foreign to that particular culture, but rather to the lack of time and resources available for the implementation of the democratic transition and consolidation processes. Other factors involved in the convergence mechanism are nationalism in the emerging democracy (like in the case of eastern Europe), transnational networks, and a combination of soft and tough tactics (Kubicek, 2003). Convergence is the development of contagion. In the ENP it can be best seen in the political dialogue tool, through which the EU and third countries find common ground to work on and to develop a successful cooperation partnership.

Conditionality is the foremost instrument of democratization. Some scholars (Smith 2003a, Browne 2006) believe this instrument to be coercive. However, there is a difference between conditionality per se and political conditionality applied as a civilian tool. It is true that conditionality, which does not fulfil certain criteria, is coercive and thus contravenes the Law of Peoples. The main question is whether and when will conditionality work. The reward must be such as to justify the required effort. If certain basic needs (food and shelter) are guaranteed, then it is reasonable to assume that democracy will be welcome. Furthermore, for conditionality to be effective, the stick must be credible. The EU has seldom and reluctantly applied sanctions, mostly in the form of withdrawal of assistance or delays in concluding agreements (Kubicek, 2003:18). The action's effectiveness may also be weakened if alternatives are presented to the target country, that is, if a member state acts in disagreement with the EU policy, or if an international actor does so, hence requiring both a coherent and unitary European foreign policy, which would also discourage other actors from hindering the transition process.

The main goal of EU's technical assistance is to ease the difficult transition to democracy, supporting political and economic reforms, and preventing the rise of hindering factors, like economic recession and political nationalism. When CEE countries started their own democratic transition, after the collapse of their respective communist regimes, they found themselves in unfavourable conditions. Although democracy is – and I realize that this is not an uncontroversial statement – desirable, the costs for achieving it may be high enough to

stop the process. And even if the benefits would, in the long term, justify the initial effort, the sacrifices required simply would be too dire. Some basic prerequisites, like economic and physical security, must be guaranteed in order to initiate the democratization process. If a non-democratic regime is more able to cater for such interests, that regime may well be freely preferred by the population of the state to a democratic one. However, if democratic transition can be supported and made less painful, it is more likely to take place successfully, though the positive outcome is by no means certain due to the number of variables involved.

In the ENP a path dependency with the experience of enlargement can be already noticed (Kelley, 2006). The European Commission has already borrowed heavily from its 1990s policies, learning and adapting to the requirements of the ENP. In fact, where conditionality can not have the same effects as enlargement, due to the absence of the membership goal, socialization has assumed a more prominent role under the form of political dialogue, which could be regarded as the EU's method for inducing contagion. In other words, by talking to partner countries about democratic issues, it is expected that those countries will be 'infected' by democratic ideas to different extents – from very effective to not effective at all – and in different times, all depending from a number of variables, such as the willingness of national governments to change, the strength and cohesiveness of internal civil society actors, economic interests and rewards both within transition countries and the EU itself. It is therefore clear that, as far as the ENP is concerned, the use of conditionality alone is not a viable option. Moreover, conditionality is used in a less strict way, which has led to criticisms of double standards and of lack of clear benchmark when speaking of democratic values (Kelley, 2006). While this may also be caused by the EU's institutional shortcomings, it is worth mentioning how the Commission stresses the fact that conditionality is not intended as an imposition, but rather as a form of dialogue (socialization), where third countries are free to choose the lengths to which they are prepared to go in the democratic transition process, thus tailoring their relationship with the EU around their own needs and their ability and willingness to respond to the demands for reform (European Commission, 2004). This still leaves us with the problem of the EU's inconsistency. If partial compliance is still rewarded, this might signal the EU's weakness because it means that the lack of progress is acceptable. The Commission's target is, however, much broader, with the aim to achieve less ambitious goals in the long term, as opposed to a total disengagement, which would instead have no result at all and, in the case of sanctions (negative conditionality), could even backfire, raising nationalist resentment and support for undemocratic regimes.

Another problem when assessing the legitimacy of the EU's external relations, whether in the form of socialization or political conditionality, is to make clear toward whom that action is directed. A country is generally regarded, in international relations, as a political unit, and its government as the legitimate representative of the peoples of that country. However subnational and supranational actors play an ever more important role in relationships between countries and international organization. The EU itself is a clear example of an ever changing model of governance, where nation-states no longer hold the monopoly of international actorness. Member states compete for power with supranational institutions, where subnational actors lobby for interests representing competing social groups, with different economic, political, or cultural interests (multi-level governance). In such a multi-layered system, power is exercised horizontally, between nation states, or vertically, between different actors at different institutional and non-governmental levels. Similarly, in its external relations, the EU's adopts two different approaches when seeking to 'export' its democratic norms to a third country. In the top-down approach, it starts a political dialogue with the government of the country. In the bottom-up approach, it engages, more or less directly, with other subnational actors within the country, which usually constitute the country's civil society, its economic society, opposition parties, etc. The ideal approach is a combination of top-down and bottom-up methods. In fact, top-down invests the government as gatekeeper, which filters the EU demands. It depends on the willingness of that government to give up its privileges. The bottom-up approach, softer, creates demands from below (Dimitrova and Pridham, 2004). Conditionality would normally be considered as a top-down approach. However, political conditionality, positively applied by the EU, has been used quite loosely, in order to bypass the central government and maintain a certain degree of communication with other subnational governmental actors as well as with the civil society where there is one, or trying to support the formation of one. This is the most salient difference in the use of political conditionality between the accession process and the new ENP. For accession countries the carrot of full membership was quite consistent – indeed, it was a carrot so big that it looked like a stick; the same was not true for the new neighbours policy. Accession has been a consistent reward, thus it has been easy for the EU to invest accession countries' governments with the duty to acquire norms and translate them into their own legal framework, thus forcing them to put aside normative discourses, which have occasionally re-emerged after 2004 (Pridham, 2008). As accession has become unavailable, the EU has had to change its approach, seeking a strategy for the stimulation, among others, of a national debate through the resurrection of civil society. Whether the new approach has

been developed because of the new circumstances or because it was deemed to be a more effective one, the ENP is the result of an adaptation process. Thus political conditionality reflects the need for consultation and interest tracking both between the EU and neighbouring countries and within the recipients themselves, namely with civil societies, in the best republican tradition.

Civil society is, for Youngs, one of three political spheres of a country, the others being political and economic societies (Youngs, 2001, Browne, 2006). Civil society is non-office seeking and is placed between the family and the state, and it is an essential component of democracy, especially in the transition of CEE countries in the 1990s, since 'through civil society activity the articulation of interests was improved, information disseminated and the quality of governance thereby improved' (Youngs, 2001:15). The role of civil society is sometimes underplayed by critics. Although civil society may not be enough to create momentum for transition, its role has nevertheless importance in creating demands from below, all depending on the relative empowerment of the domestic actors, including all societal spheres. Have CEE countries formed their own conception of democracy or have they largely followed the preferences of western Europe? The answer from the available evidence of elite thinking seems overwhelmingly to be the latter, at least given the absence of CEE elites spelling out their own conceptions (Dimitrova and Pridham, 2004, 106). Market reforms have also been important (economic liberalization). The better off a society is, the more it is likely to demand rights. (Youngs, 2001:16)

Interests and norms are constructed through interaction, building inter-subjective understandings around collective identities. Although the economic sphere of a society is important, material interests are not the only ones who play a role in the decision of a political elite to ignite the democratization process. 'The role of transnational civil society advocacy networks was seen as crucial to the spread of human rights norms, but the key was in the way these networks succeeded in activating governmental action [...] Governments initially incorporated the human rights dialogue for deflecting the attention from NGO networks, but eventually got caught in the web, and could not get out of their own rhetoric. International and internal factors functioned together, in the same process' (Youngs, 2001). While the power of attraction of western capitalist, liberal democratic model faded out, it could have been assumed that economic prosperity brings peace. But it could also be argued that prosperity is brought about by peace. Therefore the model of Europe as a mere soft-

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economic power is not necessarily more valid than the civilian power model, as the enlargement experience has shown (Youngs, 2001), as a causal relationship between wealth and democracy is hard to prove (Rawls 2002, Pettit, 1999).

A mix of different approaches is important for the achievement of a successful norm diffusion, where a balance between conditionality and socialization is actively sought. Socialization is the most salient aspect of the civilian/normative power through the use of shame and dialogue. Norms are transmitted through dialogue, while participation of internal opposition as well as institutional contacts at multiple levels are actively sought. Within the ENP, based on the experience of the enlargement process, policies are therefore drafted by common consent. 'To socialize domestic actors towards EU values, the EU Commission also co-operates with domestic NGOs and funds the development of civil society. When negotiating the action plans, the EU aimed to align with reform-minded forces within the countries' (Kelley, 2006: 40). What is more, the absence of membership is not the only difference between the ENP and enlargement. The countries included within the ENP do not have the accession option because of their very different statuses, economic and political, from that of CEE countries. Even though scholars still debate of what conditions are to be obtained for the achievement of democracy, some factors are the ones that ENP countries clearly lack: the elimination of absolute poverty; lack of gross income and power inequality; education and literacy; the resolution of domestic conflicts; a vibrant civil society and a flourishing market economy (Kelley, 2006: 28). Although the EU's approach to democratization in the ENP may be dismissed as a diluted version of the rigour applied to enlargement<sup>3</sup>, some countries do show to be enthusiastic about the ENP, seeing it as the waiting room for full accession, a feeling that, in truth, is not returned by the Commission.

The European governance model applied to the external policies may be the answer to the legitimacy problem for what may seem to be European interference in sovereign states' (whether democratic or not) internal affairs. The normative character of the EU's political conditionality represents the missing link between dogmatic universalism and cultural relativism (Youngs, 2001). However neo-Hegelian communitarians argue that national communities need to develop their own rationality through an historical development process,

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<sup>3</sup> Criticisms can be moved to the EU for applying political conditionality inconsistently. Member states are often reluctant to impose sanctions or to cut funding because of historical, cultural and commercial ties with former colonies.

and it is inappropriate to interfere with it (ibid, 8). Democratization may then suffer from normative weaknesses, as it is up to democratic actors to prove that the state is not doing enough for its citizens, and it is not up to the government of the developing country to prove that non liberal forms of government are acceptable. 'It was argued that democracy itself suffered from normative weaknesses: not only might the 'liberal component' of liberal democracy overprioritize the rights of the individual to the detriment of the communalism vital to many societies, but its 'democratic' component – government based on a majoritarian rule – might legitimize the suppression of minority interests in fragile, divided societies' (ibid, 10). If the communitarian assumption for interference is that a state is not being able to provide for its citizens, then it might be argued that there are various forms of government, even non democratic ones, which could do that.

A Rawlsian approach to international relations and to democratic transition is inclusive of all actors because makes a distinction between state and people. If political conditionality is to be effective, it must meet the Law of People's requirement that it be non coercive and that it does not interfere with the recipient society right to self determination and its freedom to choose how to turn to democracy, if at all. Since any relationship, which is based on demands of compliance with conditions, even when the ends are normative, produces interference. Political conditionality has been used in aid and development policies inconsistently and coercively because it was concerned with ends but not with means. Even conditionality's most notable success, the EU's enlargement to CEE countries, has been incomplete and overshadowed by an almost exclusive concern with political ends. This has been due to the consistency of the reward which made the offer almost impossible to refuse. Conditionality has been applied coercively by the EU and other international actors, in the firm belief that the ends justify the means. As full membership becomes unavailable, the carrot's size shrinks, thus it is no longer possible to impose conditions, trusting that their intrinsic goodness justifies an agent's interference with a people's freedom to choose whether to democratize and how. Interference between peoples is as inevitable as it is among individuals. However, a republican account of freedom, with its focus on procedures as well as on objectives, provides a normative model for the employment of interfering action in the absence of arbitrariness.

### Political conditionality as non-domination

Freedom from interference is a concept, which belongs to the liberal tradition and whose popularity is relatively recent. The idea of non-interference was famously outlined by Isaiah Berlin's in 'Two concepts of liberty' (2002), where the distinction between negative and positive freedom is drawn. The two concepts may appear to be the two faces of the same coin. In fact they are rather divergent. Berlin, like many liberals, criticises the concept of positive freedom (self mastery) because it leads to the paradox of being coercive, and thus reductive of freedom itself. The same paradox is underlined by Rawls when he argues that a liberal society, when coercing decent or outlaw ones for their own good, contradicts its own liberalism, however noble the intentions are. Although freedom is the highest good for both negative and positive theorists of liberty, self-mastery leads to the imposition on individuals, or groups, of certain behaviours, when it is judged that those individuals act irrationally or against their own interests. This results in an overall reduction of their freedom. Berlin also underlines a further paradox: not only self-mastery leads to coercion, but it also leads to the belief that no coercion is being carried out because of one's better understanding of other's self-interests. This line of thinking about one's liberty ultimately ends into the quicksands of manipulation as 'conceptions of freedom directly derive from views of what constitutes a self, a person, a man. Enough manipulation with the definition of man, and freedom can be made to mean whatever the manipulator wishes' (Berlin, 2002:134).

Negative freedom, or freedom from interference, on the other hand, counters that very problem, as it defines the boundaries between 'private life and public authority' (ibid. 124). Coercion is, according to Berlin, bad as such, whereas non-interference, that is, the opposite of coercion, is good as such, though it is by no means the only good. What is more, liberty as non-interference is intended as a private sphere of an individual and collective actors, and no agent, including the state, is allowed to interfere with it, although in a political society some of our freedoms must inevitable be surrendered in order to preserve those of others. And whatever principle we choose to apply to draw the boundaries of our private sphere nobody should be allowed to interfere with, freedom remains essentially a negative concept. Berlin does however suggest that freedom from interference can also be achieved in non democratic states, as it is concerned with 'the area of control, not with its source [...] Self government may, on the whole, provide a better guarantee of the preservation of civil liberties than other regimes, and has been defended as such by libertarians. But there is no necessary connection between individual liberty and democratic rule' (Berlin, 2002: 129-130). In fact, for some

classical republican thinkers like Machiavelli, non democratic forms of government are not incompatible with negative freedom, like in the case of the benign despot, as long as an enlightened ruler abstains from interfering with the lives of its subjects.

Thus the negative conception of liberty has been further discussed by republican scholars (Skinner, 1984, 1990, 2007; Pettit, 1999), as it seems that non-interference alone is not enough to grant personal freedom. The absence of actual interference with one's private sphere does not guarantee that there will never be interference, let alone coercion. In the case of the benevolent despot, the ruler may choose not to exercise his power over his subject, providing them with the kind of negative liberty described by Berlin. However that does not rule out potential interference which, when perceived by the subjects, may influence their choices, thus indirectly affecting their freedom. In order to achieve full (negative) freedom, the benign despot must then be deprived of his capacity to interfere or coerce, regardless of the fact that he chooses to exercise that power or not (Pettit, 1999). If we think of the same problems in terms of the interaction between peoples, then a liberal society should not only refrain from interfering with a decent society's transition to democracy, but should also be unable to potentially do so.

The focus on freedom as a result of agent's inability to interfere, as opposed to actual interference, results in a new concept of liberty, which, though essentially negative, (Pettit, 1999) is quite different from non-interference. In rejecting the notion of positive liberty, Skinner (1984, 1990) develops a concept of freedom which departs from a purely negative one. In his analysis, based on the Aristotelian premises of social liberty (that is, men are both moral beings with specific purposes and social and political entities) he grants that political liberty is 'the extent of the freedom or liberty of action available to individual agents within the confines imposed on them by their membership of political society' (ibid, 1984). In fact, the republican conception of freedom is one of civil freedom, the freedom of the Roman *liber*, where *libertas* is *civitas* (Pettit, 1999:66), as opposed to an unlikely natural freedom.

Personal freedom is, for republicans and liberals alike, the liberty to pursue one's chosen goals. The unrestricted opportunity to pursue such ends, however, is not enough to be truly free. In a positive theory of freedom one must act virtuously in the pursuit of such goals. Skinner thus invokes neo-republican theories of freedom, especially those formulated by Machiavelli, to reconcile the negative concept of freedom with an active and virtuous pursuit

of an agent's goals. Therefore 'a theory of liberty which links the idea of social freedom with the performance of virtuous acts of public service would have to begin by posting certain ends as rational for everyone to pursue' (Skinner, 1984:217). The right to one's political freedom (from interference) must be reconciled with one's duty to provide a service to the political community in defence of that freedom. In Machiavellian thought 'the performance of public services, and the cultivation of virtues needed to perform them, both prove upon examination to be instrumentally necessary to the avoidance of coercion and servitude' (ibid).

In the republican tradition of the Renaissance freedom is not merely an end, but also a means to such ends, whose realization allows human beings and societies to be free. According to Skinner, people 'will value their liberty as a means to attain varying ends' (ibid, 302). Therefore in neo-republican thought, to be free is 'to be unconstrained from pursuing whatever goals we may happen to set ourselves' (ibid.). This state of freedom is best achieved in a republican system of government, where all citizens are free to pursue their goals and indeed must pursue those goals, whatever they may be, in order to guarantee liberty for the community as a whole and thus for its members. The reciprocity of citizens' freedom is best achieved in a republic, whose laws, although coercive in nature, also provide the best possible freedom for its citizens. Hence 'if you wish to maintain your liberty, you must ensure that you live under a political system in which there is no element of discretionary power, and hence no possibility that your civil rights will be dependent on the goodwill of a ruler, a ruling group, or any other agent of the state' (ibid, 74).

The republican concept of freedom seeks to reconcile freedom from-interference and self-mastery, and can also be conceptualised as non-mastery (Pettit, 1999). In republican thought a distinction is made between interference and domination, as one can be present in the absence of the other. Pettit (1999) defines domination as an agent's capacity to interfere arbitrarily with the choices of a subject. A person is thus said to have the power to dominate another to the extent that they have the capacity to interfere on an arbitrary basis and in certain choices that the other is in a position to make. The capacity to interfere must also be actual, not one yet to be fully developed. Thus liberty as non-domination is a distinctively republican idea, which differs from both positive and negative conceptions of freedom. Republican freedom is 'negative to the extent that it requires the absence of domination by others, not necessarily the presence of self-mastery, whatever that is thought to involve. The conception is positive to the extent that, at least in one respect, it needs something more than the absence of

interference, in particular against interference on an arbitrary basis' (ibid, 51). The idea of freedom as non-domination is an answer to the Hobbesian criticism that physical coercion or its threat (interference) would constitute an hindrance to men's freedom, and thus any law, even the most benign, is a limitation of freedom. By extending the concept of negative freedom to non-domination, the republican conception of liberty becomes creative of liberty in a Lockean fashion. In other words, there is a distinction between freedom from the law and freedom by the law (ibid).

The concept of domination allows for a degree of interference, as long as it does not pose arbitrary limitations on individuals' liberties. Such interference is inevitable and indeed desirable, because the very idea of social freedom presupposes that citizens must interact with one another, since all individuals have varying and often conflicting interests. However, the constitutional nature of the republican law, while interfering with people's lives, also grants that such interference is not arbitrary, hence it does not pose limits to the civil rights of its members or their freedom. In a republic 'liberty is explicated within the republican tradition in such a way that not only can liberty be lost without actual interference; equally, interference may occur, under the scenario of the non-mastering interferer, without people being rendered thereby unfree' (ibid. 31). In fact 'interference occurs without any loss of liberty when the interference is not arbitrary and does not represent a form of domination: when it is controlled by the interests and opinions of those affected, being required to serve those interests in a way that conforms with those opinions' (ibid. 35). A satisfactory theory of freedom must then allow for both lack of arbitrariness and selfishness in the pursuit of certain ends.

Pettit describes, two scenarios, among the possible ones: one in which there is domination without interference, and one in which there is interference without domination. The former results in a loss of freedom, while the latter does not. In fact, domination can occur without actual interference, like in the case of the non-interfering or benign master. In that case, domination produces a status of psychological deference in a subject, de facto restricting the choices available and thus resulting in his inability to pursue all the goals he would otherwise set to himself. In the case of interference without domination, which is consistent with a republican system of government, 'the public official or authority who interferes with people in a way that is forced to track their interests and ideas fails to enjoy subjugating power over the person affected' (Pettit. 1999:65). Interference is thus reductive of one's freedom only

when it is arbitrary, that is, when it takes place without consulting and tracking an agent's interests. Whether arbitrary interference is coercive or manipulative, it worsens or restricts an agent's choice range because it is aimed at promoting the interferer's own chosen ends.

How is then a state of non-domination best achieved? Pettit suggests it can be done either through mutual agreements or through constitutional provisions. The former is unlikely to be effective, as it can still be productive of domination, because it relies on the relative power of the parties entering the agreement, that is, their relative strengths and access to resources. Conversely, the latter relies on the introduction of a constitutional authority, which acts as guarantor of the parties' non-domination by removing their ability to dominate. Even a relationships governed by constitutional provision must be entered and mutually agreed. That itself does not guarantee the absence of domination, as 'consent to a form of interference is not sufficient as guard against arbitrariness', whereas a theory of free contract, which legitimises one of the contracting parties' interference with the others' freedom, because a contract has not been entered into coercively, claims that mutually agreed rules are sufficient conditions for the presence of freedom. For republicans, however, this assumption does not guarantee that future actions will not be arbitrary, thus consent is not enough to provide freedom from interference. Indeed, actual consent is not even necessary, as long as the terms are subject to contestability. When it is possible for 'the people in the society, no matter what corner they occupy, to contest the assumption that the guiding interests and ideas really are shared and, if the challenge proves sustainable, to alter the patterns of state activity', the arbitrariness, and thus domination, can be avoided' (Pettit, 1999:63).

The importance of constitutional provisions' contestability is also stressed by Bellamy, who argues that domination can only be avoided through a 'self-governing political system that recognises our fellow citizens as autonomous reasoners who are entitled to an equal status as potential sources of argument and reasonable information' (Bellamy, 2007:146). The tracking of peoples' interests also occupies a prominent place in the Law of Peoples, where not only the consultation hierarchy makes a society more decent than an outlaw state, but it is necessary in the performance of a people's duty to assist a decent society. Consultation implies the possibility to contest certain decisions, therefore it is consistent with the enjoyment of non-domination, which, although a negative concept, also requires a degree of active participation for the achievement of freedom, and therefore is also the expression of civic virtue. In order to be free, in fact, an area of personal freedom from domination by

others' is not enough, but actively contesting their decisions is also a means to enjoy freedom to pursue our chosen ends. In Bellamy's words, 'the only way to ensure our concerns get taken into account is through having some say in, and exercising an element of control through, the political process that decide such matters' (ibid.153). In fact, as noted by Pettit, a contract freely entered through the consultation procedure does not guarantee against the dangers of future domination, which can be achieved through the uneven access to resources, such as physical strength, technical advantage, financial clout, political authority, social connections, communal standing, informational access, ideological position and cultural legitimation (Pettit, 59).

Domination can still take place by virtue of access to those resources even when contracts are mutually agreed. The ability to contest the decisions after the contract has been entered is a precondition for the avoidance of arbitrariness, as 'domination depends on the relative standing and power of citizens [...] so, the avoidance of domination will tend to the equalisation of the degree to which any agent or agency, government included, can dominate others' (Bellamy, 2007:161). Different possession or access to resources can allow individuals to dictate the terms of the agreement. Both Pettit and Bellamy agree that this does not require material, but political equality (ibid, 162). Rawls also argues that wealth is not a precondition for a society to become democratic. Similarly, in international relations, material equality is not necessary as long as political equality is present, mirroring a liberal desire to provide 'equal respect and concern for autonomous individuals through a suitable constitutional settlement' (ibid.). A higher institutional authority may be unnecessary as long as others do not act in a wilful or whimsical way, that is, their actions are not dictated by self interest. Thus interference is not considered arbitrary if the interfering 'agents or agency has consulted with [the interfered party], gauged their opinions and interest, and then acted with those interests in mind' (Maynor, 2003:40). Although determining people's interests is a controversial task, republicans would see interests as legitimate ones as long as they do not aim to arbitrarily interfere with other people's freedom. As Maynor puts it, 'an agent's legitimate interests cannot be simply their own self-serving preferences, especially if those preferences involve dominating others' (ibid, 38).

When freedom is seen as what defines power relationships between potentially conflicting ends, non-domination can also be seen as a form of power itself, furthered by constitutional provisions or the equal redistribution of relevant resources (Pettit, 1999:69). How does this



then apply to a Just Society of Peoples, where a liberal peoples have a duty of assistance towards burdened societies, but also a duty to refrain from exercising coercion or (arbitrary) interference, in order to preserve those societies' right of self-determination? A theory of freedom as non-domination applies to the Law of Peoples, specifically insofar consultation (and contestability) and interests are concerned. If consultation makes a society decent, then non-domination provides both freedom from arbitrary interference and, most notably, the kind of liberty achieved through the exercise of civic virtue advocated by republicans. In fact where civic virtue requires the active participation in the public life of the community, including a Just Society of Peoples, consultation is indispensable in providing the freedom to exercise the Roman *virtus*. In a Society of Peoples, where liberal peoples must seek to promote the democratisation of burdened societies, the consultation procedure, applied both domestically and to the relationships between peoples, enhances their freedom to pursue chosen goals, without hindering their right to self determination.

Political conditionality, used as a foreign policy tool, encourages, and is implemented according to, that very consultation procedure which is one of the requirements of the republican concept of non-domination. By fostering consultation with and within peoples, political conditionality allows citizens to actively pursue their goals by taking part in the political life of the community, and, at the same time, it abides by the same principle, in that it consults decent societies, as required by the Law of Peoples. To that extent, political conditionality increases the range of undominated choices available to the members of the people affected by it. In other words, international actors who apply political conditionality 'can introduce choices in areas where they do not currently exist or are very costly. The choices may be unavailable because the relevant options are not culturally accessible [...] or because the options are curtailed by an excessively constraining law or because the hard facts of life put them beyond reach' (Pettit, 1999:75). Although Rawls suggests that a decent or liberal society needs not be wealthy, the transition to democracy can be costly, and therefore, by requiring the opening of the consultation procedure with civil society actors as a precondition for the provision of technical assistance or the contractual formalization of commercial relations, 'we can increase the extent of people's freedom as non-domination by reducing the compromises to which they are subject: that is, by reducing domination by others. But we may also increase the extent of people's freedom as non-domination by reducing the influence of conditioning factors and by expanding the range or ease of undominated choices they enjoy' (ibid, 76), where conditioning factors often happen to be

economic, as well as political and cultural. Political conditionality can fulfil the criteria of freedom of non-domination by allowing the improvement of the consultation procedure, and thus encouraging the performance of the peoples' civic duties, while consulting the parties affected, tracking their interests, and thus abstaining from arbitrary interference. Financial and material aid does not constitute arbitrary interference as long as consultation takes place and unselfish interests are pursued.

If on the one hand the use of conditionality is consistent with the positive aspects of freedom as non-domination insofar as it fosters an active consultation procedure, thus promoting the positive pursuit of liberty through the exercise of civic duties, on the other hand it needs to satisfy the negative requirements of non-domination, that is, freedom from arbitrary interference. Mutual agreements and contracts are unlikely to guarantee the absence of arbitrary interference in international relations, as they would always reflect an asymmetry in available resources, thus restricting the available choices to the 'weaker' parties involved, bringing them into a state of psychological deference. It is also true, however, that, short of an ideal cosmopolitan system of government, a higher political authority, which deprives the most resourceful actors of their power to dominate, would be effective only insofar as it had actual powers to enforce the rules. Moreover, the Law of Peoples puts forward a model whereby relations are conducted among peoples, who possess moral qualities which states lack, because of their pursuit of self-interests and their illegitimate use of force and coercive subsidies. Let us consider, for instance, the international role of the EU. Although its international actorness is undisputed, the EU certainly falls short of many definitions of what constitutes a state. However, as critics would point out, the EU is not a people either, as there seems to be no clear 'European identity', although identity itself is a fairly elusive concept. As far as the EU's employment of political conditionality is concerned though, its rationale is dictated by a core of common values, those of democracy, the rule of law and the respect of human rights. From this point of view the EU can then be regarded as a liberal society, whose democratic values are enshrined in the treaties. Even though the EU can be perceived as a higher constitutional authority which grants non-domination to the parties involved on behalf of its members, its institutional character leaves it open to criticisms of partiality at best. What makes the EU's employment of conditionality consistent with non-domination is rather its concern and respect of other peoples' interests, whose pursuit makes, as noted above, an agent more or less free. Political conditionality does in fact require that civil societies may be allowed to thrive and be consulted, that human rights be respected, that the rule of law be

upheld, and so on. These are clearly unselfish interests. Although it may be argued that democratic countries are less likely to pose security risks to the EU, it is a fact that liberal peoples do have commercial relations with societies which clearly fall short of many democratic criteria, therefore requiring that a society turns to democracy and liberalism is not a necessary precondition, at least in the real world, for the establishment of commercial relations.

Political conditions are then unselfish and, at best, in the common interests of the parties involved. In the case of the EU, in fact, it may well be easier to trade with neighbouring countries, regardless of their democratic advancement. Putting conditions on commercial relationship is reciprocally burdensome, reflecting the moral behaviour that distinguishes peoples from states (Rawls, 2002). Therefore, when political conditionality meets non-domination's requirements of interests consultation, contestability, equality, lack of selfishness, respect and reciprocity, it does not constitute coercion or indeed arbitrary interference and can and should be used as a foreign policy instrument to absolve to the duty of assistance to non liberal societies in their transition process to democracy. The EU has used conditionality for decades, often relying on big carrots to obtain compliance, rather than on a method consistent with civic virtue. In this paper I have shown that simple rewards in exchange for behaviour modification is coercive and illegitimate at best, and ineffective at worst. When the objective of conditionality is democratisation, the EU should, and indeed has begun to, act in accordance with the requirements of the republican theory of freedom as non-domination. The bi-dimensional application of consultation procedures, which encourages dialogue with societies and within societies, and the unselfish nature of political ends are consistent with the qualities of civic virtue. Any agent should act accordingly to civic virtue in order to safeguard and promote the liberties of all members of the Society of Peoples. An international actor which does so, could rightfully call itself a civilian power.

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