



PROMOTING HUMAN RIGHTS IN ACP COUNTRIES BY CONDITIONALITY: EUROPEAN UNION'S DEVELOPMENT ASSISTANCE



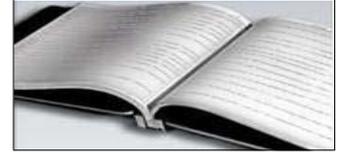
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Abstract

EU's development policy on the African, Caribbean and Pacific (ACP) countries begins with Treaty of Rome (1957). Over the following decade, these states gained their sovereignty and because of the ex-colonial bounds with EU member states, it was important to build up a co-operation within a brand new approach. The Lomé Conventions; aimed to have a broader and enhanced relation between the partners. At Lomé IV (1990-2000) introduced an updated clause confirmed human rights as an 'essential element' of cooperation, signifying that any violation could lead to partial or total suspension of development aid by European Union after prior consultation of other ACP nations and the abusing party. EU changed its route from a sole aid provider to, so to say an actor who is referring to political conditionality towards its ACP partners. This paper intends to argue, if this conditionality clause really indicates a greater EU influence on ACP countries for improving their poor conditions on human rights and providing human security throughout the region and also if the EU development assistance is really a motive for these developing countries to reform their policies and instruments on human security by improving human rights practices in their countries or not.

Key Words: European Union, the African, Caribbean and Pacific Countries, Conditionality, Development Assistance, Human Rights

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AFRİKA, KARAYİP VE PASİFİK ÜLKERİ'NDE KOŞULLULUK ARACILIĞIYLA İNSAN HAKLARINI İYİLEŞTİRMEK: AVRUPA BİRLİĞİNİN KALKINMA YARDIMI

Öz

Avrupa Birliği (AB)'nin Afrika, Karayip ve Pasifik (AKP) ülkelerine yönelik kalkınma politikası Avrupa Ekonomik Topluluğu'nu kuran Roma Anlaşması (1957) ile başlamıştır. Gelecek yıllarda bu ülkeler bağımsızlıklarını bir bir kazansalar da, AB ülkelerinin bu bölgelerdeki eski koloniyel bağları ve tarihleri, yeni bir yaklaşımla işbirliğinin kurulması ihtiyacını doğurmuştur ve Lome Anlaşmaları ile birlikte de amaçlanan ilişki kurulmaya başlanmıştır. 4.Lome Anlaşması (1990-2000) ile bu ilişki farklılaşmaya başlamış; kalkınma yardımı artık insan haklarını iyileştirmek koşuluna bağlanarak, bu ülkelerde ki insan hakları ihlallerine göz yumulmasının bu yardımı kısmen veya tamamen askıya alacağı maddesi ile anlaşmada yer bulmuş; böylece, AB sadece yardım veren bir kimlikten çıkıp, yardım ortakları olan bu ülkelere siyasi şart koşan bir aktör konumuna gelmeye çalışmıştır. Bu çalışma, koşulluluk ilkesi ile birlikte AKP ülkelerindeki zayıf insan hakları karnesini düzeltmede, AB'nin kalkınma yardımının bir ateşleyici güç olduğunu göstererek , bu ülkelerde ki insani güvenlik sorununa yönelik politika ve araçları olumlu yönde etkilediğini ve AB'nin insan hakları koşulunu getirerek normatif bir aktör olarak yardım sağlayıcı rolde bu bölgelerde var olma isteğinin bu ülkeleri olumlu etkilerini göstermeye çalışmaktadır.

Anahtar Kelimeler: Avrupa Birliği, Afrika, Karayip ve Pasifik Ülkeri, , Koşulluluk, Kalkınma Yardımı, İnsan Hakları

I-Introduction

The European Union (EU) and the African, Caribbean and Pacific countries (ACP countries) share special relations that take their roots from the history. These political, economic and social relations are revealed under the framework of development cooperation of the EU. The Cotonou Agreement signed in 2000, follows on from the previous conventions (Yaoundé, Lomé) and currently provides the general framework for relations between the Union and the 79 ACP countries. This framework is reinforced by EU, regional and national agencies and actors and supplemented by a financial instrument called European Development Fund (EDF).



From Lome IV onwards, it has been seen, that EU changed its route from a sole aid provider to, one can call; an actor who is referring to political conditionality towards its ACP partners. This paper intends to argue, if this path change really indicates a greater EU influence on ACP countries for improving their poor conditions on human rights and providing human security throughout the region and also if this aid conditionality on EU development assistance is really a motive for these developing countries to reform their policies and instruments on human security by improving human rights practices in their countries or not.

II-Historical Background

EU's development policy lays its foundation on the association of certain overseas countries and territories (OCTs) and sub-Africa, the Caribbean and the Pacific states (ACP) to the European Community when it was created in 1957 with the Treaty of Rome. Over the following decade, these states gained their sovereignty and because of the ex-colonial bounds with EU member states, it was important to build up a co-operation within a brand new approach.

The two successive Yaoundé Conventions in 1963 and 1969 grounded the relations on a legal basis and gave a start for enhancing the partnership between European Economic Community and these states.

However 1970's came along with huge changes in the world and Community's development policy had to change as well. After the accession of United Kingdom, this urgent need has grown because with United Kingdom's membership, new states within the British Commonwealth System had been added in the Community's partnership perspective. These changes led to the first Lomé Convention in 1975. This period was also important for European Economic Community (EEC) enhancing its relations with Maghreb and Mashreq countries and also with Asian and Latin Countries.

The Lomé Convention focused on two key elements of co-operation which are economic and commercial and also development cooperation. The main financial and technical instruments of the cooperation are the European Development Fund (EDF). This



cooperation is based on three main institutions: the Council of Ministers, the Committee of Ambassadors and the Joint Assembly. Lomé Conventions has expired in 2000. Until the year 2000, four Lomé conventions had been signed. Each one of them aimed to have a broader and enhanced relation between the partners. But Lomé IV (1990-2000) had some different features than the others. Lomé IV became the first development agreement to incorporate a human rights clause as a 'fundamental' part of cooperation (article 5). Further changes were made at Lomé's IV revision five years later (1995-2000). An updated clause confirmed human rights as an 'essential element' of cooperation, meaning that any violation could lead to partial or total suspension of development aid by European Union after prior consultation of other ACP nations and the abusing party. It was the first development agreement to set such a clause of conditionality. Another important feature is the decentralized cooperation, which involves other actors in the development process as civil society that gives a more social perspective to the partnership rather than a sole economic one (Daerden 2003).

After the expiration of Lomé IV on 29 February 2000, the new partnership agreement between the European Union and the ACP countries was signed on 23 June 2000 in Cotonou, capital of Benin. The Cotonou Agreement introduced a new approach and a broader partnership while preserving the fundamental instruments of the partnership from the Lomé Conventions. Its aims are to strengthen the political dimension of the partnership, and to leave more space to the ACP countries for the implementation process of the policies by giving them more responsibility as the owner of the development projects.

It is based on five pillars:

- a comprehensive political dimension,
- participatory approaches including civil society
- a strengthened focus on poverty reduction,
- a new framework for economic and trade cooperation,
- a reform of financial cooperation.



Cotonou agreement also preserved the conditionality that Lomé IV brought about the human rights, democracy and rule of law which leads one to ask why EU changed its route from an aid provider, to so to say a normative actor and referred to political conditionality towards its ACP partners.

II- What Is Conditionality Clause for Aid Programs?

Basically, conditionality attach conditions to aid that have to be ‘met by the recipient as a prerequisite for entering into an aid agreement or for keeping up aid’ (Stokke, 1995a: 11). Therefore, aid is used as a policy instrument to push for specific changes in developing countries. The main focus of conditionality is ‘the use of pressure, by the donor, in terms of threatening to terminate aid, or actually terminating or reducing it, if conditions are not met by the recipient’ (Stokke, 1995a: 12). Indeed, This the asymmetric power relationship between donor and recipient is obvious in this case.

During the cold war era, the aid programs, mostly are involved with economic conditionality, which was intended to implement liberal economic reforms in recipients (Stokke, 1996). After the collapse of the Berlin Wall, and the democratization movements in developing countries legitimized the use of political conditionality.

For instance, Burnell (1997) emphasizes that part of the reason for political conditionality not surfacing earlier was that, during the decolonialization era, too much emphasis was placed on national sovereignty and on the ideological struggle between the capitalist West and other parts of the world. In this sense, in the beginning, the donor countries did not give so much impetus for policy issues such as democracy and human rights in the developing world.

Therefore emergence of political conditionality can also be related to the new perception of the state and its relationship to development sfte the cold war. At this time, the state’s centrality was back on the development agenda, now with a focus on ‘poor governance’ (Evans, 1992). Corruption and the absence of transparency and accountability were identified as the main reasons for poor economic performances in developing countries. Good governance became an important aspect for the evaluation of the success of development assistance. Therefore, donors started to give more importance to political pluralism, the rule of law, respect for human rights, and low military expenditure.



One can see this tendency through EU's development programme as well. EU concentrates on the human rights aspect of conditionality, focusing on the right to personal integrity, which means being free from torture, political imprisonment, disappearance, and extrajudicial killings.

III- Assessing the Evolving Nature of EU's Development Assistance

The answer lies in the question itself. EU has an important position in international affairs such as being the world's largest trading bloc or being the fourth largest donor after Japan, the US and Germany and so on. However EU is not always able to transfer its position into "actress" in the international system. K. Smith indicates two reasons for this. The first is the multi-headed EU decision making system with its three pillars and the second reason is that all member states have to decide unanimously especially for the matters of EU external action which democratic assistance and aid programs are also part of. However the EU is a major contributor to development assistance, it was seen as an aid agency rather than a development partner. After then, EU evolved the approach of adding political dimension to its development assistance for to be taken seriously as a partner rather than a funding agency. Indeed this was not the only reason leads to a change in EU's perspective to its development assistance programme.

In 1995, Council of Ministers asked for an overall review of EU aid. The results were quite discouraging. In the Lomé Conventions, the partnership between ACP and EU countries was based on the functioning of ACP governments as co-managers. But it was seen that the inadequacies of ACP countries' civil services and bureaucracy could not handle this task. Therefore this was another reason why EU has intervened by shifting from aid entitlements to aid conditionality. However, local ownership in the ACP countries is at stake of losing their commitment to reform after EU takes the lead in development policy formulation. Additionally, Brussels was not able to provide the necessary support to ACP countries, because of Commission's work load and slow processing. Therefore the degree of micro management by the Commission and the extent of conditionality were perceived to be a problem (Dearden, 2003 p.107).



Until Lomé III in 1985, the framework of EC's development policy was not even explicit. The poverty reduction was first introduced in Lomé III and then it is followed by gender equality objectives of Lomé IV in 1990 and then by human rights, good governance and the rule of law in Lomé IV bis (1995). Lack of coordination between the member states because of the complicate decision-making of EC, slowed down the processing of European Development Fund Committee as the administrator of Lomé Conventions. Besides donor coordination with International monetary Fund and World Bank had also been not effective.

Under these concerns about the quality and effectiveness of EC development assistance, in order to prevent the shortcomings, the Council and the Commission adopted a joint statement to clarify the strategic thrust of the EC Development policy which stated that while poverty reduction is the main objective of EC development co-operation, it will be only sustained where there are functioning democracies and accountable governments (Santioso 2002, p.108). The statement foresees firstly a political reform as it is defining the promotion of democratic institutions, good governance and the rule of law for the new framework of EC democracy assistance and secondly an administrative reform which led to the reunification of the project cycle management under an autonomous implementing agency; the Europe Aid Cooperation Office. This statement was also sort of an outline of Cotonou Agreement. Cotonou Agreement presented a more compaq structure of Lomé Treaties with small differences. The numbers of instruments are reduced and the simplification of the process and the effective allocation of the funds tried to be achieved for becoming more responsive to the needs of the partner countries.

The legal grounds for democracy assistance has found ground in treaties and regulations, directives and decisions while in 1991 democracy promotion became the main objective of foreign aid for the community and its members. These regulations also talked about the possibility of partial or complete suspension of co-operation agreements in case of human rights violations or an interruption of democracy. It is also stated that democracy clause will be inserted in all future co-operation agreements with third countries. Such clauses also took place in revised Lomé IV and Cotonou Agreements under the heading of essential elements. Cotonou Agreement includes good governance but it has not got the legally binding grounds of the essential elements so it does not lead to a suspension however corruption are



now grounds for suspending the cooperation (article 97). Another reform of Cotonou is that the performance based management has replaced aid entitlements which countries had fixed amount of aid regardless to their performance. Cotonou also provides a consultation mechanism in the case of serious breach of the agreement. However this mechanism is pretty unstructured and is under the discretion of the EU. Also it did not predict how it will be requalified and the rehabilitation takes place in case of a country has confronted the suspension.

However to make financial assistance conditional on the recipient country's political performance might be seen useful, on the other hand, how to apply and to make conditionality be realized, should be questioned as well. Aid conditionality is a motive for developing countries to reform their policies and instruments (Santioso, 2002).

Although, EU always gives importance to human rights and democracy by declaratory diplomatic means, it was not aimed to set a precedent for relations with the countries until the Luxembourg European Council in June stating “the community and its Member States undertake to pursue their policy of promoting and safeguarding human rights and fundamental freedoms throughout the world.” It continues “economic and cooperation agreements with third countries could include clauses on human rights” (European Council, 1991). Indeed, the end of Cold War has affected this policy change because Community was hoping to rebind its Central and East European neighbours to Europe by giving them EU membership conditional on satisfying democracy, the rule of law, human rights and respect for and protection of minorities criteria. Maastricht Treaty (1992) had also this policy change under the headings of development cooperation (article 130u) and the Common Foreign and Security policy (article J.1) includes the objectives of improving democracy, the rule of law and respect for human rights.

Besides its legal basis, public support was also important for foreign assistance programs and conditionality had given the chance to show to the public that only deserving recipients can be utilized from the assistance because until that time these assistance programs were not seen as a very effective way of having relations with third countries by looking at



the evaluations of these aids. For instance World Bank reported that the reforms were not successful at Sub-Saharan Africa related to bad governance (Smith 2000).

However, realists see conditionality clause as an excuse to cut off aid from strategically or commercially unimportant states or they think that these principles would benefit Western investors in those countries. As E. H. Carr said, “so-called universal principles are really the unconscious reflexions of national policy based on a particular interpretation of national interest at a particular time” (1946:87)

IV- Conclusion

EU’s APC partners have confronted political conditionality in 1995 with revised Lomé IV. This clause involves positive conditionality which promises benefits to the state if it fulfills democracy and human rights clauses and also negative conditionality which is reducing, suspending and terminating those benefits if the state violates the conditions. In practice, no agreement has been suspended or cancelled so far because of the violations of the clause however aid has been suspended or reduced in several cases such as after the coup d’etat at Haiti, Niger, Gambia and so on. Nevertheless, some criticisms have risen about the different treatment applied to third countries while they are having the same human rights and democracy records. This inconsistency in the EU’s conditionality clause can be seen in several places; like Nigeria. However it suffered economic and diplomatic sanctions over its human rights and democracy record, the sanctions did not include oil or in Algeria democratic elections were cancelled in 1992 and community did not take any punitive actions or 1999 coup d’etat in Pakistan did not cause a suspension of aid. K. Smith gave three reasons for these inconsistencies. First one is commercial interests and second one is the country’s politically and strategically importance and third is the doubts about the effectiveness of negative measures in general because cutting off the aid to poor countries might worsen the situation and would not affect the root cause of violation (2000 p:197). The inconsistency of EU also originates from the characteristics of EU that applying negative measures required consensus among member states. Also the organizational chaos of EU makes the aid programming more difficult. So many instruments and so many DG’s involved in the process like trade, development, external relations and so on and the the area of competences has



embedded among these DG's. It is not certain that who is responsible from what in development assistance.

Indeed, the progress has been seen through the years but EC democracy assistance policy still lacks of clarity, coherence and consistency. However Cotonou convention aimed to clarify these issues, there remain some problematic issues. For instance, the performance based programming is likely to be more demanding and EU delegations are likely to deal with more burden. Also for assessing the democracy and governance in partner countries, however Cotonou determines indicators, these indicators are so vague and hard to measure.

EU's attempts to become a world actor have evolved within several aspects since last decade. EU has chosen a way to make it realize by conditionality which made human rights, democracy and good governance the key issues for identifying itself in the world arena. However it is seen that, we can not still talking about a coherent foreign policy for EU. Still national interests of the member states precede instead of a real common foreign and security policy and intergovernmental essence of it lead to an inconsistency eventually. Nonetheless, by incorporating human rights and democracy into foreign policy, EU is shaping the international environment and makes these objectives part of its international identity.

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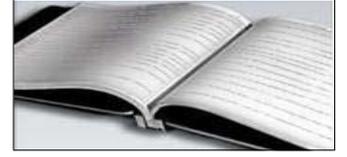
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