



The EU's Human Rights Policy

Unpacking the literature on the EU's implementation of aid conditionality

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Abstract

The European Union (EU) is often denoted as a sui generis international actor. Assessing this putative uniqueness, this paper examines one key aspect of the EU's foreign policy: the linking of development aid to compliance with human rights and democracy principles, commonly referred to as conditionality. The chapter unpacks the literature on the EU's conditionality policy and systematically evaluates the record of implementing the human rights clause. The literature has largely followed realist theory arguing that the EU's foreign policy decisions are driven by economic interest or security considerations. I find that existing studies have used a biased selection of cases. A combination of (implicit) theoretical assumptions and methodological choices appears to be guiding the selection process. Existing hypotheses are not sought falsified, as they are tested only on a set of cases where 'interest' of some sort is already known to exist. I find non-implementation of the clause also in countries where the EU has no such specific 'interests'. Given these additional cases the account of the EU's policy regarding aid conditionality must be reconsidered.

So, what does this tell us about the EU's uniqueness as an international actor? According to the conventional conception of a foreign policy actor, one would expect the EU to act in line with its interests. Although I suggest that there is more to the EU's performance than its interest, this might not be a particular trait of the EU. It is plausible that a similar analysis would find that nation states do not act only according to interests either. Thus, what is needed are concepts and research designs that allow for hypothesizing alternative explanatory factors, both in the study of the EU and in foreign policy in general.

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Introduction

In 1995, the European Union decided that it would include political conditionality in form of a human rights clause in all of its cooperation agreements with non-EU countries. The term political conditionality is used to refer to a situation in which the validity of an international agreement is made dependent upon the partner's mutual respect for certain principles, normally related to human rights, democracy, good governance and the rule of law. The human rights clause is usually formulated in two articles: an essential elements clause describing the principles which the agreement is dependent upon, and a non-execution clause enabling the suspension of the agreement or parts of the agreement (normally aid allocations) in case of breaches. In the literature analysing the EU's implementation of the clause it is usually argued that the EU has acted inconsistently. Indeed, the EU has been accused of being 'selective and inconsistent' (Crawford 2000: 240) and of 'the use of double-standards' (Fierro 2003: 378). Overall, the literature holds that the EU puts their own interest above norms, so that norms are sidestepped if respecting them involves cost (Moravcsik and Schimmelfennig 2009). Policies promoting human rights are assumed to be simple rhetoric, disguising the 'real' objectives of national interest (Schimmelfennig 2001, Waltz 1979).

However, some observations suggest that this is not correct. For example, the EU cut aid to Nigeria after irregularities in the 1993 elections (European Political Cooperation Bulletin 1993: 364). The EU adopted new sanctions in 1995 following the controversial trial and public execution of ten environmental activists (Council 1995). Even though Nigeria is considered to be of economic importance to the EU because of its oil-exports, sanctions were adopted after breaches of both democratic and human rights principles.

The example suggests that the literature rests on a shaky empirical foundation. In this paper I re-examine the empirical basis for the existing literature and find that there is a selection bias in the literature on the human rights clause. The bias concerns the so-called 'non-cases', which are cases where punitive measures are not implemented although breaches have occurred. Only non-cases where 'interest' of some sort is already known to exist are examined, thus the hypothesis is not sought falsified. In addition to the ones used in the literature, I find many instances of such non-cases where economic and strategic interest does not exist. I further argue that this bias results from a combination of (implicit) theoretical assumptions and explicit methodological choices. Consequently, there is a need for systematic empirical scrutiny of the evidence provided in the literature. The aim of the paper is thus mainly empi-

rical, namely to establish a full universe of cases on which further research on the EU's implementation could be tested.

The paper proceeds as follows: Section two unpacks the theoretical foundations of existing contributions and systematizes the hypotheses put forward in the literature. Section three provides evidence of selection bias in existing studies. I identify all cases of implementation and non-implementation of the human rights clause in ACP-states. In section four, I revisit the hypotheses identified in the third section of the paper in light of the new universe of cases. Through this empirical groundwork I challenge the theory and method applied by existing accounts, and open a path for further research into the question of why the clause is implemented incoherently. In section five I identify key questions for further research and discuss a few possible alternatives.

The Conditionality Debate: Domination of Interest-Driven Perspectives

The EU's human rights clause has only been used in 23 instances and only towards ACP-states. Therefore, the research focusing exclusively on the clause's implementation is limited. Yet, the human rights clause is often discussed in more general literatures on sanctions and democracy promotion, and thus the following review includes such contributions.

The primacy of economic interest?

The conditionality clause is included in broad cooperation agreements regulating the trading rules between the EU and third states. In the literature it is often asserted that possible economic gains through trade trump normative foreign policy objectives and that this in turn can explain the variance we find in the implementation of political conditionality. Several contributions argue that poorer and smaller states are more likely to be targeted with sanctions than bigger and richer states. This is done by showing that political conditionality is more often implemented in countries from Sub-Saharan Africa than countries from other regions (Crawford 1997, 2000, Smith 1998, Uvin 2004). Sub-Saharan countries are generally poorer than countries from other regions of the world, but this is not sufficient information to establish a causal relationship between the economic interest in a target state and the likelihood of implementing conditionality. The fact that the poorer countries are more often targeted with sanctions, could also be explained by the spurious effect of democratization or human rights violations taking place to a greater extent in these states. The implicit expectation of interest governing the

choice of sanctions seems to lead the above studies to conclude without taking alternative accounts into consideration.

Furthermore, quantitative and qualitative studies present conflicting results on the importance of economic interest. The hypothesis is only found to be valid in research based on case studies (Crawford 2000, del Biondo 2011, Smith, 1998) and not in studies testing a wider set of cases (Warkotsch 2010). Using the case of Nigeria, it has for example been claimed that the EU's economic interest accounted for the late implementation of sanctions and absence of hard sanctions such as an oil-embargo in the early 1990s (Arts 2000, Crawford 1997, 2000, Smith 1998, Tomaševski 1997). The same explanation is used for non-implementation of the human rights clause after fraudulent elections in Nigeria in 2003 and 2007 (del Biondo 2011, Meyer-Resende 2008). Yet, the EU has not refrained from implementing sanctions against Nigeria. Development cooperation was suspended in 1993 due to irregularities in the election process and sanctions were renewed in 1995 after the execution of eight environmental activists (Council 1995, European Political Cooperation Bulletin 1993). The sanctions were not lifted until Nigeria's return to a democratically elected government in 1999 (Council 1999). Although the contributions rightly identify the EU's economic interests in Nigeria, it cannot be concluded that it was the concern for cost that explains the non-use of the human rights clause.

The primacy of security considerations?

A second strand of hypotheses ties to the argument of security interests. First it is posited that countries situated in the sender's neighbourhood are more likely to be targeted with sanctions than countries that are further away (Warkotsch 2010). However, as none of the ACP states are situated in the European neighbourhood, the distance hypothesis has only limited relevance for understanding when the conditionality clause is used. Moreover, the clause has been implemented in ACP countries that are relatively close to the EU, as in the case of Niger, and in countries that are geographically further away, as in the cases of Haiti and Fiji.

A second hypothesis concerns a donor's reluctance to sanction a state because of its putatively important position towards other states. A stable country in an unstable region can, for example, become an ally to donors because of its position vis-à-vis its neighbours. Ethiopia is often pointed to, being a stable country at the Horn of Africa and an ally of the United States (US) in the fight against terror (Brüne 2007, Jünemann and Knodt 2007, Meyer-Resende 2008). Del Biondo (2011: 386) argues that security interest accounts for the lack of implementation of the human rights clause in Nigeria, Ethiopia and Kenya, as

they are countries that are considered key partners of the West in the fight against terrorism, and are important to maintaining peace in their respective regions. Yet again, the conclusions are based on an implicit expectation of interest-based behaviour without explicitly accounting for the theoretical mechanisms that supposedly trigger specific behaviour. The identification of security interests is correct, however, the hypothesis is not sought falsified since it is tested only on cases where such interest is known to exist.

Thirdly, various contributions argue that variation in the use of conditionality can be explained by the colliding foreign policy objectives of security and democracy promotion (Crawford 2000, Olsen 1998, 2000, 2002a, 2002b, Santiso 2003). The claim reminds us of the hypothesis forwarded by structural realists stating that, due to structural constraints in the international system, normative ideas stop determining policy when in conflict with vital national or common interests (Hyde-Price 2008, Mearsheimer 2005). Nevertheless, the articles are based only on the identification of security concerns in a limited selection of cases. This raises questions with regard to the contributions' validity. Furthermore, the categories that are used lack specificity and clear definitions. A typical example is the following quote from Olsen (2002a: 133):

“(...) if there is a conflict between democracy promotion and security, the EU will always give higher priority to security. Only in those cases where other, more important issues are not at stake will the EU seek to promote democracy with considerable consistency and vigor”

In this instance, there seems to be no limit to what can be understood as more ‘important issues’. Almost any empirical finding can easily fit this category, and thus support the expectations of the author.

‘Special relationships’

Another category of arguments suggest that negative measures will be less frequent towards countries that have a ‘special relationship’ with donors. Close bilateral relations combined with the lack of negative measures has been labelled the ‘foreign-policy paradox’ (Feliu 2003), suggesting that the closer the relations between a sender and receiver state the larger the possibility for influence, yet equally less the chance of the donor state adopting punitive measures. In the literature there is, however, no attempt to specify when or under what conditions this paradox occurs or indeed to define a ‘special relationship’. The alleged special relationships are not sufficiently specified to stand out as a clear analytical category. Smith (1998: 273) holds that sanctions following the violations of democratic principles in Cameroon have been

blocked by France because the target state is in France's 'sphere of influence'. Seen in an historical context, it has been argued that colonial powers would be more reluctant to punish their former colonies with sanctions than other countries, especially France (Alesina and Dollar 2000, Olsen 1998, Stokke 1995). Two questions arise: What are the main ingredients defining such a 'special relationship'? When is it 'strong enough' to account for the alleged behaviour? The empirical record shows conflicting results: Jünemann and Knodt (2007: 354) find the paradox to be of importance in the EU's relations with northern Africa but not with sub-Saharan Africa, whereas Warkotsch (2010) finds no support for the hypothesis at all. Furthermore, contrary to the hypothesis, Hazelzet (2001) finds that the EU punishes former colonies in a harsher way than other countries, but at the same time former colonies are rewarded more than others.

Complementary hypotheses

Some contributions in the conditionality literature do explore alternative explanations. Portela (2007) argues that the EU implements the human rights clause only when "it considers that it stands a reasonable chance of influencing the leadership responsible for the breaches" (2007: 42). Similarly, Laakso (2007: 125) states that "there is no willingness to use the instrument if prospects of its usefulness are low". In the following I refer to it as the usefulness-hypothesis. The claims are nevertheless neither supported by empirical evidence nor theoretically accounted for. It seems like there is an underlying expectation of calculative and/or strategic decision-making by the actors involved, however this is not discussed explicitly.

Civil war and conflict has also been suggested as a possible reason for the non-implementation of the human rights clause. Laakso (2007) and Portela (2007) use the cases of Sudan and Eritrea as empirical evidence supporting this hypothesis. Whether this reasoning is tied to the hypothesis of usefulness, e.g. prospects of achieving a positive result using the human rights clause when conflict or war is waging is low, or if there is another type of reasoning, is not clear. Furthermore, the hypothesis must be tested on a broader set of cases before its explanatory strength can be evaluated.

A recent contribution suggests that the so-called 'democratisation-development dilemma' can partially explain lack of donor sanctions. Del Biondo (2011) argues that high economic growth, significant progress towards reaching the Millennium Development Goals and technocratic good governance of aid programmes can account for the absence of Article 96 consultations in Rwanda and Ethiopia in the aftermath of fraudulent elections in 2003 and 2005. In this study, it is argued that the EU refrains from using the conditionality clause

because it prioritizes the foreign policy goal of promotion of development over democratization. Del Biondo's hypothesis is an interesting and novel contribution to the debate. Nevertheless, with limited empirical evidence the hypothesis must be subjected to further testing before it can be confirmed.

Summing up, two weaknesses can be discerned in the literature: First, there is a lack of explicit theoretical foundations. The majority of studies are conducted without clarifying the theoretical assumptions underpinning their hypotheses. The implicit assumption is that actors calculate costs and benefits, and choose the best option accordingly. Even when theory is used explicitly there are rarely alternative hypotheses to the ones based on interest. The second weakness concerns methodology. When comparing cases where sanctions have been implemented with the so-called 'non-cases', it becomes clear that only countries where 'interest' of some sort is already known to exist are empirically tested. The biased selection of cases results in that the hypotheses are not sought falsified. The selection bias is most notable in the literature that focuses specifically on the EU's human rights clause but it is also evident in a number of contributions to the general literature on sanctions and democracy promotion.

Implementation of Conditionality: Establishing Variance

As a retort to the weaknesses in the literature I conduct in the following a more comprehensive study of the human rights clause's implementation. The study constitutes a first step towards a more nuanced understanding of conditionality by identifying all possible cases. I conduct a systematic empirical tracing of the human rights clause's use and non-use by the EU towards ACP states. In total, 40 cases were identified. They constitute 23 cases of implementation of the human rights clause and seventeen (non-)cases where the clause could have been used. I used data in the forms of official documents from the Council and Commission, existing datasets on coup d'états, and election observation reports from international organisations (see below).

One caveat applies. First, the identification of the seventeen non-cases is based on the analysis of official documents and cannot be regarded as a constant population. The record in respect to democratic principles has for example been constructed according to the EU's earlier record of implementation including a narrow definition of democratic quality based on holding elections and winning party holding power. In addition, the fact that the election reports assessed are developed by eight organisations increases the possibility of inconsistencies in the selection process.

Invoked conditionality

Table 1 below lists the 23 instances of official consultations initiated by the EU in accordance with the human rights clause, together with the reason for the triggering of the consultations. The clause was in fifteen out of twenty-three cases initiated due to a coup d'état while the remaining eight cases were initiated following a deterioration of the respect for democratic principles, human rights or the rule of law.

Table 1: Consultations according to the human rights clause*

Year, Country	Coup d'état	Flawed Elections	Human Rights	Rule of Law
2011 Guinea-Bissau			X	X
2010 Niger	X			
2009 Niger		X		
2009 Madagascar	X			
2009 Guinea	X			
2008 Mauritania	X			
2007 Fiji	X			
2005 Mauritania	X			
2004 Guinea		X		
2004 Togo		X	X	
2003 Guinea-Bissau	X			
2003 Central African Republic	X			
2001 Zimbabwe		X	X	X
2001 Liberia		X	X	X
2001 Côte d'Ivoire		X		
2000 Fiji	X			
2000 Haiti		X		
2000 Côte d'Ivoire	X			
1999 Guinea-Bissau	X			
1999 Comoros	X			
1999 Niger	X			
1998 Togo		X		
1996 Niger	X			

*The cases listed here comprise Article 366a of the Lomé-agreement and Article 96 and 97 of the Cotonou-agreement.

Source: Council (2010) and General Secretariat, DG F, Press Communication and Transparency.

The data clearly shows a tendency to implement the clause where there are breaches of democratic norms, with a coup d'état being the single most important trigger. The second most important reason is irregularities in

elections. Human rights and good governance are only rarely important reasons for the initiation of the clause. As pointed out by earlier studies on political conditionality, this pattern depicts a minimalist conception of democracy, focusing on clear-cut breaches such as coups and elections (del Biondo 2011, Diamond 1999, Tomaševski 1997). Sharply defined breaches are considered 'easier' to react to than human rights breaches, the latter being more problematic to judge in terms of 'cut-off points' for reaction (Smith 2001).

The Non-Cases

When exploring the variance in the clause's implementation, that is identifying non-cases, I have focussed on breaches of democratic norms. I conducted an assessment of narrowly defined democratic quality, operationalized as electoral record and coup d'états, of all ACP states between 1995 and 2012. Six cases of coup d'états that were not followed by the human rights clause were identified by a search in the CSP dataset 'Coup d'état events 1946-2010' and cross-checked with the Conflict Barometer developed by the Heidelberg Institute for International Conflict Research and Keesing's World News Archive . In addition, all elections taking place in ACP countries in the time-span 1995-2012 were identified (169 elections) followed by an assessment of election reports (118 reports). The 51 elections that were not observed by an international team were checked for irregularities by Keesing's World News Archive. The latter search did not result in the identification of any major irregularities. The former assessment resulted in the identification of eleven non-cases being reported as majorly flawed elections according to the election observation reports. In addition, Côte d'Ivoire (2004) was added as a non-case because of a Commission proposal for the opening of consultations under the Cotonou-agreement's Article 96 which was not followed up by the Council. The proposal was put forward due to the deteriorating human rights situation, delays in preparations for elections and obstacles put in the way for an EU financed audit in the cocoa-sector (European Commission 2004). Table 2 lists the seventeen non-cases identified sorted by the nature of the breach.

Table 2 Identified breaches, not subject to the human rights clause

Year, Country	Coup d'état	Flawed Elections	Human Rights	Rule of Law
2012 Mali	X			
2010 Côte d'Ivoire		X		
2007 Nigeria		X		
2007 Kenya		X	X	
2005 Ethiopia		X	X	
2004 Côte d'Ivoire		X	X	X
2003 Nigeria		X		
2002 Papua New Guinea		X		
2002 Equatorial Guinea		X		
2000 Solomon Islands	X			
2001 Chad		X		
2000 Mauritania		X		
2000 Tanzania		X	X	
1997 Sierra Leone	X			
1997 Congo–Brazzaville	X			
1996 Burundi	X			
1996 Sierra Leone	X			

Two observations can immediately be made based on the data. First, it challenges the current consensus in the literature claiming that the EU has acted coherently by implementing Article 96 consultations in all cases of a coup d'état in an ACP country (del Biondo 2011, Laakso et al. 2007: 49). Four coups in 1996–97, one in 2000, and the recent 2012 coup in Mali were not followed the initiation of the human rights clause. Second, as many as eleven cases of flawed elections not followed by the human rights clause were identified. In earlier studies, only a few such non-cases have been identified, which were normally countries with a relatively strong link to the EU through development cooperation or trade, for instance Ethiopia, Kenya and Nigeria. The systematic examination in this study, however, also pins down cases where no such strong link between the EU and the non-cases exist, as for example in Papua New Guinea and Solomon Islands.

The human rights clause's historical development is also relevant. In the beginning of its existence the human rights clause was contested at the European level. In 1994, Portugal challenged the legal basis of the human rights clause included in the EU's external cooperation agreement with India. Portugal argued that such a clause should contain a reference to Article 235 TEC which would require unanimous decisions in cases of suspension of development cooperation. The Council, on the other hand, argued that the EU

could include such a provision on specific matters without recurring to other legal bases. The ECJ gave its judgement in December 1996 (European Court of Justice 1996), finding that there was sufficient legal basis for the inclusion of a human rights clause without referring to Article 235. Hypothetically, this process of questioning the legal status of the clause may have contributed to the lack of implementation following the coups in Sierra Leone in January 1996 and Burundi in July 1996. However, Niger was subjected to the human rights clause after a coup in January 1996. Thus, the ECJ case cannot be a sufficient explanation of non-implementation towards Sierra Leone and Burundi.

Examining Explanations

Operationalizations of interest-based hypotheses are challenging. 'Interest' as such is not easy to define. Definitions are often lacking details and it must be questioned if economic and security interest can be measured objectively. Most contributions in the field of political conditionality use existing datasets as proxies for economic and security interest. For example, oil production and trade statistics are used as proxies for economic interest and geographic location measured in distance to donor or to conflict areas for security interest. Although I find several weaknesses with these operationalizations I use them to replicate data for the set of (non-)cases identified in the previous section.

The most frequent proxies used for assessing economic importance in the literature are oil production and trade link with the EU (Crawford 1997, del Biondo 2011, Smith 1998). Assessing oil production, only Nigeria can be said to have an extensive production of oil, amounting to 2000 barrels per day and ranked as the 12th producer in the world in 2011. Also Equatorial Guinea, Congo-Brazzaville, Papua New Guinea and Côte d'Ivoire produce oil ranked respectively 36, 35, 69 and 65 in the world on production. The state's import and export rates with the EU vary significantly. The countries represented in the non-cases have an overall higher average and median both for import and export with the EU than the implementation cases. Thus, some support for the economic interest hypothesis is found. However, the trend is strongly reduced when controlling for the outlier case of Nigeria which has exceptionally high values.

When it comes to security considerations, the hypothesis of sanctions being implemented to a lesser extent towards states with an important position towards another state or region (Brüne 2007, Jünemann and Knodt 2007, Meyer-Resende 2008), is relevant for several cases in our universe. Following del Biondo (2011), I argue that Nigeria, Ethiopia and Kenya are cases of relatively stable countries in an unstable region. Nigeria, situated in West Africa, is the main economic driver in the region and hosts the headquarters

for the regional integration organisation ECOWAS. Ethiopia and Kenya are situated in East Africa, both bordering unstable Somalia and Ethiopia bordering Sudan, Djibouti and Eritrea in the north. Furthermore, Ethiopia has been considered to be a key ally of the US in the war against terror. One could argue that Chad has also played an important role over the last years as cooperation partners for the EU in hosting the protection forces for refugees fleeing from Darfur. However, apart from these considerations none of the other non-cases can be regarded as being of key security interests to the EU.

When it comes to the hypothesis relating to special relationships between specific countries, existing studies argue that sanctions are less likely to be used towards target states that are in a political or historical way closely tied to the sender, be this either due to colonial background or close political relations. The literature claims that this is most notably seen in the case of France (Alesina and Dollar 2000, Olsen 1998, Stokke 1995). I do not find support for this hypothesis. The human rights clause has been implemented towards French ex-colonies in 70 per cent of cases, and it has been refrained from being implemented in only 35 per cent of cases. Thus, negative measures are more frequently used towards French ex-colonies than British. Furthermore, it must be reiterated that such alleged special relationships are difficult to measure precisely. The hypothesis' operationalization into mere dichotomies such as British or French ex-colony or close political ties or not, have obvious weaknesses tied to validity for the former and measurement error for the latter.

Of the alternative hypotheses, the first concerned the reduction of sanctions towards countries showing signs of democratization. Del Biondo (2011) argues that countries showing stable signs of development are less likely to be punished for democratic wrong-doing by looking at data on GDP growth (over 10 per cent), Millennium Development Goal (MDG) Monitor (amount of goals achieved/expected to be achieved) and the World Bank's governance indicators. The replication shows that of the non-cases, only Ethiopia and Equatorial Guinea have growth rates over 10 per cent in the years leading up to the democratic breach. In addition, Chad, Kenya, Nigeria and Côte d'Ivoire show almost only positive growth during the period, although below 10 per cent. Similarly, Ethiopia and Equatorial Guinea show a positive trend in the MDG indicator, with six and four goals respectively, on track to be achieved by 2015. The remaining countries in the non-case group are reporting poorly with respect to the MDGs on track to be fulfilled before 2015. As for the indicators for worldwide governance, all non-cases score below the 50th percentile of world average. Most cases are situated in the lowest 0-10th percentile. Thus, del Biondo's hypothesis can only be confirmed in two out of sixteen cases presented here.

When it comes to the civil-war hypothesis, systematic data was not presented in any of the contributions where it is used (Laakso 2007, Portela 2007). Using an existing dataset I find that there was civil war in three of the non-cases (Congo in 1997, Cote d'Ivoire in 2004 and Sierra Leone in 1996). On the other hand, I also find that in four of the cases where the human rights clause was implemented, civil war was occurring (Cote d'Ivoire in 2000 and 2001, Guinea-Bissau in 1999 and Liberia in 2001). Thus, the hypothesis is not supported by data in the cases identified in this study.

Revisiting Core Concepts

The main purpose of this paper is to establish a better empirical basis for the study the human rights clause as a first step towards a more nuanced understanding of the EU's conditionality policy. As such, it fills gaps and holes in our knowledge of the EU's actual policy. This being established, I will in the following suggest a few possible ways forward for studying the question of why the human rights clause is implemented inconsistently.

The conditionality literature claims that the EU's decisions to implement conditionality are a result of the member states national interests. It claims that strategically important states are exempted from sanctions and that less important countries are targeted to a larger extent. Nevertheless, in this study I found many cases of non-implementation that previously have not been addressed. I also found that many of these (non-)cases cannot at first sight be explained by the hypotheses commonly used in the literature. Thus, we have a series of cases that remain unexplained. For example, the coup d'états in Mali in 2012 and Solomon Islands in 2000 were not followed by the EU implementing the human rights clause. Being cases of no evident 'interest' to the EU, how can the non-implementation in these cases be explained? Moreover, Cote d'Ivoire was subjected to the human rights clause after a coup in 2000 and after flawed elections in 2001, but on the contrary the 2004 Commission proposal to implement the human rights clause after flawed elections in 2004 was not followed up by the Council. How can the cases of implementation and non-implementation towards the same country be accounted for?

Looking at all the cases identified in the third section of this paper, the EU's implementation appear accidental. Some questions immediately arise. Is the EU aware of all breaches that take place? To what extent are human rights and democracy monitored? We know that the EU disposes of several different policy instruments and that economic sanctions have been adopted earlier without referring to the human rights clause, for example towards Nigeria (European Political Cooperation Bulletin 1993). Thus when the human rights

clause fails to materialize, perhaps it is because other instruments are applied. There might also be certain situations where the clause is not considered legitimate to implement, or perhaps not useful. As some contributions have argued, calculations of the probability for success or effectiveness of implementing the clause might influence the choice (Laakso 2007, Portela 2007). The answers to these questions can probably tell us something more about the choice of (non-)implementation. They might also show that the implementation of conditionality is not so inconsistent after all. However, what remains to be explored is how these decisions can be accounted for.

As pointed out earlier, there are several problems connected to defining, operationalizing and measuring 'interests'. It is important to make sure that we have clear analytical categories that enable us to distinguish interest from other putative explanatory variables. The identification of any type of 'interest' in a certain case is not enough to draw the conclusion that it was this interest that caused the non-implementation. Moreover, looking closely enough at each case, we are bound to find 'interest' of some sort. Thus, one could ask whether the main problem is that interests are operationalized inaccurately or if 'interests' alone cannot explain the implementation of conditionality. Given the latter, what other theories presents plausible explanations?

Considering the normative aim of the policy, the influence of norms on decision-making presents itself as a possible hypothesis. Is there evidence to support that implementation was conducted on the basis of the norms? If so, which norms? Among many, new institutionalist perspectives bring the influence of norms into focus. Following a 'logic of appropriateness' actors make decisions linking particular situations to particular identities (March and Olsen 1989). Actors evaluate what kind of action would be 'the right thing to do' given their particular role. Thus, rather than calculating costs and benefits actors are understood as rule-followers with the capacity of evaluating what rule is appropriate in a given situation. One hypothesis could be that the clear pattern of implementing the human rights clause after clear-cut breaches such as coup d'états and election fraud has emerged as an informal rule of implementation. Likewise, one could hypothesize similar rules for non-implementation. If we are to believe Laakso (2007) and Portela (2007) the clause is not implemented towards countries experiencing civil war, a finding that is more easily understood if actors are conceived of as rule-followers rather than utility-maximisers.

In the realm of EU foreign policy a widely discussed hypothesis has been forwarded under the idiom 'normative power Europe'. It is argued that the EU is constructed on a normative basis, 'and that this predisposes it to act in a

normative way in world politics' (Manners 2002). A hypothesis based on this framework would expect the EU to implement the human rights clause consistently in all breaches of human rights, democracy and good governance. The problem with many of the contributions that study the influence of norms on EU policy, is that norms are treated statically, as a predetermined given. However, norms and institutions may and often do change over time. In addition, we need to be able to account for actors distinguishing between different types of norms. In a given situation norms may collide or point us in different directions. It is through communicative processes that norms are scrutinized and that their relevance and binding character is rationally assessed (Sjursen 2004). It is thus necessary to take the power of words and arguments seriously. Instead of a conception of actors that presumes them having a pre-given set of preferences one could hypothesize that actors are able to reach agreements through the use of dialogue and arguments. In the context of the EU's conditionality policy such a hypothesis could be particularly interesting because the policy puts strong focus on political dialogue and consultations. Following a breach, the offender is asked to give reasons for its failure to comply with its obligation. Based on the reasons that are put forward to justify the breach the other party can make a distinction between compliance and non-compliance. Depending on their validity, these arguments can be an important factor in deciding whether to retaliate by hard sanctions, the human rights clause or to continue already established political dialogue.

Yet, looking at the foreign policy literature more generally, there are other alternatives approaches to understanding foreign policy decisions. For example, Graham Allison's (1971) seminal study on the Cuban missile crisis paved way for exploring the role of institutions in decision-making. One of his hypotheses, the bureaucratic politics model, part from the observation that decision-making processes cannot be traced back to one unitary actor, but rather to a complex of many actors, i.e. ministries, directorates and other public administration units. These actors, parallel to making foreign policy decisions, compete for power and resources. Thus, decisions are assumed to be the result of not only pre-existing goals, but also a result of internal conflict, compromise and bargaining between competing actors. Although used to study the foreign policy of the United States, Allison's hypothesis can be relevant also for studying the foreign policy of the EU. In order to initiate the human rights clause three units are involved: the Commission issues the official proposal for implementation, either at its own initiative or at request from the Council, civil servants in Council working groups do the preparatory work, and the final decision is made in the Foreign Affairs Council with qualified majority voting. It could be interesting to investigate whether there is evidence of particular organizational interests that can be traced back to these

particular units. The earlier mentioned hypothesis of implementation depending on the possibility for success can be more easily understood if we assume that these different units compete for influence and power. A successful outcome can redeem influence and increased power. The ACP working group in the Council might be of particular interest in the testing of this hypothesis.

Arguably, various alternative perspectives provide plausible hypotheses to understanding the EU's conditionality policy. Why, then should we rely only on interest-based perspectives, knowing that they cannot paint the whole picture?

Conclusion

In this paper I have established that the literature on the EU's use of conditionality rests on a biased empirical foundation. A systematic assessment of the human rights clause shows that both strategically important and non-important states have been exempted from consultations in the aftermath of a breach of the essential elements. In previous studies, only strategically important states such as Ethiopia and Nigeria have been used as examples, resulting in existing claims becoming a self-fulfilling prophecy: the hypotheses are only tested on the cases where it is already known that interest exist. Further, it is argued that this bias results from a combination of (implicit) theoretical assumptions and explicit methodological choices. The study constitutes a first step towards a more nuanced understanding of conditionality and has proposed a few alternative paths for further research.

The paper seeks to contribute to the broader debate about the EU's international role and the tools we use to analyse it. First of all, the findings establish the need for systematic empirical investigation. Conclusions made on a biased set of cases, as found in the assessment of the human rights clause, can lead to wrongful conclusions. Furthermore, the findings raise doubts about the validity and dominance of interest-based explanations more generally. The exercise of systematic identification of non-cases proves that empirical reality does not provide unified support for the hypotheses based on economic and security interest. This lesson can probably also be of benefit to the wider debate on the EU's foreign policy and role in the world. Although I suggest that there is more to the EU's performance than its interest, this might not be a particular trait of the EU. It is plausible that a similar analysis would find that nation states do not only act according to interests either. Thus, what is needed are concepts and research designs that allow for hypothesizing alternative explanatory factors, both in the study of the EU and in foreign policy in general.

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