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 Between Sanctions & Elections:
 Aid Donors & their Human
 Rights Performance
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Individual donors

Students at American universities attribute to Karl Lewellyn, a proponent of legal realism, this initial advice: do not look at what individual judges said, look at what they have subsequently done with what they said. Lewellyn's advice is shared by numerous realists and neo-realists in international relations because his adage is well suited to the study of donors' human rights policies. Foreign affairs is on the very margin of domestic constraints upon governmental behaviour embodied in the rule of law or democracy. When the focus of inquiry is human rights, constraints upon governmental behaviour become even more pertinent because human rights are defined as safeguards against abuse of power.

An inquiry into the effect of donors' policies on the human rights of people in recipient countries requires an examination of what donors said first, because their human rights policies legitimize such inquiry. Comparing what they did with what they said shows that a rhetorical commitment to human rights can be irrelevant for their practice. While domestic human rights safeguards empower people to claim their rights from their government, beneficiaries of aid have no voice in the formulation or implementation of donors' policies. Results of research into donors' practices reveals arbitrariness: granting and withholding aid is an exercise in political discretion. Discretion is exercised without the constraints necessary by the very definition of human rights as safeguards against abuse of power. Because human rights were designed to protect people against their own governments, safeguards against abuse by other governments have not yet been designed.

The purpose of this chapter is to outline how human rights conditionality evolved in bilateral donors' policies so to situate it in its historical and geopolitical perspective. Chapter 4 describes and discusses the effects of human rights policies on aid allocations, while Chapters 5 and 6 document how punitive conditionality evolved in the previous decades. Even donors without official human rights policies, such as France, the United Kingdom or Sweden, sometimes resorted to cutting off aid as a response to human rights violations. Donors' practice thus preceded design of a policy and extended beyond it.

Donors' policies are presented in chronological order. Because a mere

recipient is neither informative nor representative of the meaning attributed to 'human rights', a few illustrative cases are described for each donor, while many more follow in the subsequent chapters of the book. One aim of this book is to contribute to ongoing debates about human rights conditionality in aid, which routinely take place without reference to the existing experience with its design and implementation. All donors that adopted explicit human rights policies did so in response to real-life situations, under pressure of domestic constituencies. The first (the USA in 1973) and the latest (Belgium in 1994) illustrate that process. The US policy evolved towards the end of Vietnam war, and in Belgium it was adopted as a response to the genocide in Rwanda. In donor countries which were not entangled in warfare in far-away countries nor had a colonial heritage, human rights were placed on the agenda by domestic constituencies protesting against support for tyrants abroad. The target was donor's responsibility for its action – or inaction – with regard to the government which was aided, and donor's response to abuses by that government. The chain of causality becomes very long indeed if donors are expected to mould the conduct of recipient governments so to benefit the rights of people in recipient countries. The influence donors can exert upon a recipient government may be minuscule if the recipient does not depend on aid, or if a donor provides a mere 1 per cent of total aid to that country. Even the most militant adherents of punitive conditionality were aware of limitations inherent in external policing of governmental conduct, hence the principal aim was to dissociate the donor from abuses committed by the recipient.

The focus was thus on violations rather than rights, donors responded by cutting off aid, while a specific recipient or incident was a rallying point to affect change. The thrust of this book is to emphasize the importance of domestic agendas and constituencies. Research into the role of domestic constituencies in foreign policy is scarce because it is customary to concentrate on behaviour of states towards other states without looking for domestic determinants of external conduct. 'Human rights' provide ample evidence for the crucial role which domestic constituencies played – and continue to play – in defining donors' international human rights policies and practices.

The USA set the tone in the 1970s and was followed by donors that defined 'human rights' differently, sometimes in (implicit) opposition to the US model. 'Like-minded donors' (Canada, Denmark, The Netherlands, Norway and Sweden) had a commitment to the welfare state model and their external policies reflected internally shared values.¹ However, the like-minded donors did not depart much from a narrow definition of 'human rights', as established by the USA, in their aid. Policies aimed at elimination of poverty or reduction of inequalities were never transformed into conditionalities nor included in the definition of 'human rights', nor has there been a single case where a donor cut off aid because

a recipient pursued a policy of impoverishment or of increasing income inequalities. During the 1990s human rights policies departed further from development and/or human welfare by placing human rights within the area of conflict resolution.

USA

The purpose of this section is to elucidate the basic features of US policy and practice, and it has been kept to a minimum because numerous cases and issues discussed in the rest of the book necessarily deal with the USA, and my two previous books extensively dealt with earlier developments.²

The US dominance in the donor community goes back to the end of the Second World War, when the Marshall Plan set the much quoted precedent of a successful aid programme. US aid starting decreasing after the cold war. In 1995 it amounted to \$13.7 billion but had been \$20 billion ten years earlier, at purchasing power parity rate. As before, half of the aid follows a security rather than development rationale, thus the Middle East accounts for 40 per cent of the total aid available. Allocations guided by national security are not affected by human rights or development criteria. Israel gets about \$3 billion a year from the United States. About \$1.8 billion is for loans to buy U.S. weapons essential to Israeli defence. The rest is used to pay interest on past military loans to Israel.³

The US definition of human rights excludes social or economic rights. Despite a rhetorical acquiescence of the USA to the right to development at the 1993 Vienna Conference on Human Rights, its interpretation opposed any implication of a legal right to demand/receive resource transfers, debt relief, termination of structural adjustment programs required by donors and international financial institutions, or other mandatory steps to redress imbalance of wealth.⁴ The US definition of human rights excludes necessary investment, internally or internationally. Moreover, the US government opposes the very notion of aid as an accepted commitment of donors: she is 'not one of the countries that have accepted an "agreed target" for official development assistance or have made a commitment to fulfil such a target'.⁵

The definition of human rights was embedded in the cold war. From 1951 US aid was tied to anti-communism, and containment of communism was subsequently reinforced through human rights rhetoric. The antagonism towards Cuba (evidenced by sanctions imposed in 1960 and not yet lifted), Grenada (evidenced by suspension of aid in 1981 followed by a US military intervention in 1983) or towards Nicaragua⁶ was often cloaked in human rights language. Cuba, Vietnam and Cambodia were ineligible for US aid, while Angola, Laos, Mozambique, Nicaragua, and South Yemen were subsequently added to the list. Cuba exemplifies the interplay between different justifications, and is discussed in Chapter 5.

The evolution of the US model for linking human rights to aid is indicative of its underlying rationale. Domestic pressure against US involvement in repression and warfare abroad combined incipient human rights groups with much more developed anti-Vietnam-war movements. The first target was police training (which included both hardware and software) and military and/or security assistance. Despite legislative constraints, curtailment of US police/military/security aid has not been effective because too little was (and is) publicly known to enable efficient monitoring.⁷ What *was* known showed that national security overwhelmed all competing criteria. The Philippines was an abundantly used example because of the priority attached to the US military bases at the time of the international outcry against the Marcos regime.⁸ Indeed, following the removal of Marcos by the people-power movement of 1986, aid negotiations continued revolving around the US bases, and US aid decreased by two-thirds following their closure.⁹

In 1973 the Subcommittee on International Organizations of the Congressional Foreign Affairs Committee started hearings on human rights in the major recipients of US military aid (Argentina, Brazil, Chile, El Salvador, Guatemala, Nicaragua, Paraguay and Uruguay). That process led to the preparation of a report on human rights in the 82 recipients of US military assistance, which later became the first issue of the annual review of human rights practices.¹⁰ The US military assistance was first tied to absence of political prisoners in recipient countries and then broadened to absence of serious and systemic human rights violations. In 1976 human rights became a criterion of the US vote for loans in international development finance agencies; most of those affected were cold-war enemies.¹¹

Expectations were high because the linkage between human rights (violations) and aid became part of law. The USA was going through the aftermath of the Watergate scandal, which reinforced the search for safeguards against abuse of power by the executive. Statutory requirements were first formulated in 1973-4, when the Vietnam war was approaching its end and protests against it politicized the USA as never before. The thrust of including human rights in the US aid criteria was thus not to remould the recipients, but to constrain the behaviour of the USA abroad:

President Carter is uneasily conscious that most of the Latin American military regimes came into power with a degree of United States encouragement and support. In raising the issue of human rights, therefore, he is not gratuitously intervening in the internal affairs of the countries in question but trying to undo some of the damage done by earlier U.S. interference.¹²

The record of the Carter administration was subject to intense scrutiny because of its vehement human rights rhetoric. Twenty-eight countries were on the agenda, token sanctions affected some (such as against

Indonesia, South Korea, the Philippines and Zaire), others (such as Italy) were not penalized despite announcements to the contrary, and penalties remained slanted against cold-war enemies.¹³ One of the prominent gestures of the Carter administration was to decrease (not suspend) military aid to Argentina in February 1977. That gesture created much publicity because it pitted the US against a 'friendly' military regime rather than a communist adversary.¹⁴ Cases described in this book illustrate how much of a patchwork the US record represents.

During the Reagan administration aid recipients were classified as 'authoritarian' (friendly dictatorships) or 'totalitarian' (communist) on the basis of a scholarly justification for such a classification developed by Jean Kirkpatrick. The former were exempt from sanctions. The assumption was that authoritarian regimes could be civilized and would ultimately evolve into democracies (as defined by the USA and described in Chapter 8). The US President was obliged to certify improvement of the human rights situation in (authoritarian) recipient countries in order to avoid imposition of sanctions, while the State Department assessed annually the human rights situation in recipient countries, sometimes reaching the opposite conclusion. President Reagan thus certified that El Salvador was making progress in human rights, while the State Department reported serious violations.¹⁵

As the first Democratic president after Jimmy Carter, President Clinton had created high expectations by his electoral rhetoric. The heritage of previous aid allocations (Liberia, Somalia, Sudan and Zaire were among the largest recipients during the 1970s) and continuing priorities (Israel and Egypt) discredited human rights as their determinant. No change was introduced by the Clinton administration and the pattern remains patchy. The Clinton administration introduced (similarly to the Reagan administration) a categorization of recipients into 'democracies' and 'non-democracies'. The former includes countries which have had multiparty elections (such as Russia), while the latter are remaining cold-war enemies (such as Cuba and North Korea). China, classified amongst the latter, was nevertheless exempt from sanctions. For Nigeria, US sanctions were not triggered by the military government's rejection of electoral results nor by repression but by its 'uncooperativeness on anti-narcotic efforts'.¹⁶ US aid to Pakistan was suspended because of a breach of nuclear non-proliferation,¹⁷ not on human rights grounds. For Russia US aid had been conditioned by withdrawal of the armed forces from the Baltics,¹⁸ but human rights rhetoric disappeared with the dissolution of the Soviet Union.

The Netherlands

The Dutch aid policy was first laid down in 1975 and envisaged reduction or discontinuation of development aid in response to human rights

VIOLENCE. FUTURE CONTINUITY WAS INITIALLY EXPECTED. AND SHOULD BEAR TO THE NEEDS OF THE PEOPLE AND NOT TO THE CONDUCT OF GOVERNMENTS.¹⁹ Controversies necessarily emerged when the two approaches had to be applied in practice.

The first case, the cutting off of Dutch aid to Surinam in 1983, caused much discord. Surinam had been a Dutch colony, attained political independence in 1975 and had a civilian government during the first five years. A military coup took place in 1980 and introduced military rule. Fifteen opposition leaders were abducted and killed in December 1982. Those killings were not investigated by the military rulers, while numerous international investigations, ranging from the International Commission of Jurists to the Inter-American Commission on Human Rights and to the International Labour Organization, found that reluctance to investigate indicated that killings had been carried out upon military orders. The Human Rights Committee confirmed the responsibility of the military government following a complaint by families of the killed opposition leaders.²⁰

In response to those killings, the Netherlands suspended its 15-year development co-operation treaty with Surinam and the disbursement of \$110 million in aid committed for 1983. Human rights were not mentioned in that decision, the government claimed that changed circumstances made the continuation of aid to Surinam unfeasible, but the government's Human Rights Advisory Committee reached the opposite conclusion.²¹ The loss of Dutch aid translated into a 25 per cent decrease of Surinam's budget and GNP declined during 1983-6. Towards the end of that period, aid from Libya and trade with Brazil compensated for some of the shortfall. Dutch aid was suspended until Surinam met specified conditions, one of which was protection of human rights. In January 1987, the Dutch Ambassador to Surinam was expelled for interfering in Surinam's internal affairs, while the UN investigated another series of killings.²² The Netherlands resumed humanitarian aid in 1987, and towards the end of that year a new constitution was adopted by referendum, elections held, and at the beginning of 1988 a new civilian government was inaugurated in Surinam.

Changes of government in Surinam are thus described: 'when in trouble, try a military coup; when that does not work, try an election.'²³ The former leader of the military government, Desi Bouterse, carried out a military coup in 1980, ruled seven years, yielded power to an elected government in 1987, organized another coup in 1990, whereupon another round of elections took place. In 1996, Desi Bouterse faced the electorate for a third time, but his civilian opponent won, to applause from the Netherlands.²⁴ The military coup of 1980 had happened before donors reacted to such events; the coup of 1990 was duly condemned by the European Union (European Community at the time) and aid was suspended. Elections in May 1991 ended the second period of military rule, and the European Community congratulated the people of Surinam on free and fair elections,

and expressed hope that 'the people of Surinam will be spared all military interference in the democratic process' in the future.²⁵ Aid was resumed after the elections. In April 1993, a statement on behalf of the European Political Co-operation (EPC) pointed out 'negative consequences for the cooperation between the European Community and Surinam' which would follow from the appointment of the new commander of the Surinamese armed forces', and emphasized subordination of the military to civilian authorities.²⁶ Aid was subsequently suspended because of Surinam's failure to implement structural adjustment programme. Moiwana '86, a Surinamese non-governmental organization, reported that aid was suspended 'awaiting monitoring of the implementation of the Structural Adjustment Programme by the International Monetary Fund'.²⁷ The conditionality in Dutch aid thus changed in practice although the human rights policy was not altered.

Controversies prompted by the suspension of aid to Surinam during 1983-9 were followed by suspension of aid to Indonesia in 1991. (Indonesia is dealt with in detail in Chapter 6.) While the former controversy, Surinam, exemplifies typically unequal relations between donor and recipient, the latter, Indonesia, shows how roles can be reversed. The Netherlands as a small donor was not able to influence either the rest of the donor community or Indonesia. The Netherlands cut off aid to Indonesia in response to the Dili massacre in November 1991. The rest of the donor community did not. The subsequent donors' meeting was held in July 1992 in Paris (it was moved there from The Hague) and chaired by the World Bank (the Netherlands had been the chair before). Donors committed \$5 billion, more than the previous year and more than the World Bank had recommended.

The Netherlands, as a small donor, did not make a significant contribution to the total aid to Indonesia, nor did it sway the donor community, but her actions prompted a vehement reaction by Indonesia. Following the Dutch announcement, Indonesia responded that it did not want any aid from the Netherlands,²⁸ and prohibited Indonesian NGOs from receiving any Dutch financial assistance: 'Professional associations, legal aid institutes, social organizations and consumer agencies were obliged to reject any aid from the Netherlands, even if assistance was channelled through Dutch NGOs.'²⁹

The emphasis attached to promotion of human rights *within* and *through* economic development in aid policy was described in my two previous books,³⁰ and so a recent change can be described here instead. The Ministry of Foreign Affairs announced in *A World of Dispute* that its new aid policy will focus on ongoing conflicts in the world. That reorientation attempted to link development co-operation to foreign policy, and defence, but 'it may have lost sight of the core of development co-operation.'³¹ The DAC review of Dutch aid was less outspoken but not less doubtful as to whether a developmentally orientated conflict resolution would

prove successful, while detracting from long-term development objectives in the meantime.³²

Similarities between the Netherlands and Norway are many. The Netherlands-Indonesia controversy is similar to the Norway-Kenya case described below. In both, a small donor (by the absolute volume of aid) but a generous one (by aid/GNP ratio) found itself in difficulties because the imposition of human rights conditionality upon a recipient did not work out as intended.³³ Similarities go further to vocal and militant human rights constituencies in both countries, lobbying to replicate such a vocal and militant human rights policy in relations with aid recipients.

Norway

Norway elaborated its own approach to linking human rights to its aid in 1984,³⁴ prompted by an acknowledgment that human rights violations were taking place in virtually all recipients. The 1984 White Paper consequently envisaged aid cut-offs 'when the government of the recipient country takes part in, tolerates or directly executes violations of human rights', and when such violations were persistent or gross and systematic. Following thus determined violations aid could be rechannelled from the government to non-governmental entities, especially to benefit 'groups which on an impartial basis offer legal relief or material or moral assistance to the persecuted and their families'.³⁵

Norway, much as many other donors, had withdrawn aid from the government of Chile in 1973. That had not provoked discord, but Norway's suspension of aid to Sri Lanka in 1987 did. (The Sri Lanka example is described in Chapter 6.) Publicity for violations prompted reviews of Norwegian and Canadian aid to Sri Lanka, but the donor community was divided and total aid to Sri Lanka did not decrease. At a donors meeting in June 1987 pledges amounted to \$625 million and fully met Sri Lanka's demands,

donors urged the Government to negotiate a settlement and the World Bank announced that it would make a special effort to commit additional resources for reconstruction of affected areas should the Government and the Tamils agree on a peaceful settlement.³⁶

Norway's rationale was the opposite to that of the donor community: rather than increasing aid as an inducement for peace-making, Norway decreased aid because the government of Sri Lanka failed 'to do its utmost to assure the security and human rights for the citizens of the country'.³⁷ A 1986 review of Norwegian aid to Sri Lanka had recommended discontinuation of direct budgetary support to the government of Sri Lanka, but continued Norway's support for a rural development

programme, a welfare programme for plantation workers and aid for rehabilitation of victims of the armed conflict, as well as increased aid to non-governmental organizations, particularly those working to promote communal harmony and peace.³⁸

Norway's aid to Kenya became an object of political and public controversy in the summer of 1987.³⁹ Aid was not cut off or decreased at that time, but three years later. Norway's Ambassador to Kenya was expelled in October 1990, ostensibly not in retaliation for cutting off aid, but because of a court case against a Kenyan refugee in Norway, who returned to Kenya and was promptly prosecuted. Norway resumed diplomatic relations with Kenya in March 1993 and encountered criticism because 'no concessions [were given] by Kenya'.⁴⁰ (This is described in more detail in the section on Kenya in Chapter 10.)

In its 1992 principles of bilateral aid, Norway - as other donors - merged democracy and human rights, but economic and social rights were not mentioned. That slant created a gap between democracy/human rights and mainstream Norwegian development aid. Although promotion of human rights is defined broadly - to improve 'the living conditions of the poor' - measures to achieve that aim are not specified.⁴¹ In 1995 human rights were subsumed under conflict resolution, as part of a policy package consisting of 'peace efforts, conflict resolution, democratization measures', which were to be integrated into Norwegian aid and emergency relief.⁴² That change reinforced dissociation between human rights and (economic) development and, similar to the reorientation announced in the Dutch *A World of Dispute* (1993), situated human rights into the realm of politics.

Also in 1992 the meaning of human rights in Norwegian practice became an object of professional and political debate because China, Indonesia and Pakistan emerged as the major recipients, contradicting priorities of Norway's aid policy.⁴³ Those allocations were challenged by a claim that the expected rate of return on aid overwhelmed explicit objectives laid down in aid policy. The new criterion of 'democracy' raised additional challenges because a correlation was noted between democratization in recipients and accompanying decreases in Norwegian aid, particularly in the cases of Madagascar and Tanzania,⁴⁴ thus indicating that practice may indeed conflict with policy.

Canada

Canada's aid is facing a 20 per cent decrease in the period 1995-8, and a gloomy tone has coloured debates about human rights in Canadian aid. In 1993 the Canadian International Development Agency (CIDA) announced a 10 per cent decrease of aid budget, especially targeting Africa, while projects in 'human rights and good governance' (in Afghanistan, Bhutan, Burma, Cambodia, Laos and the Maldives) were exempt from

budgetary cuts.⁵⁴ Critics attributed that exemption to the fact that the projects in question were relatively small and carried out by Canadian organizations. The three focal principles of aid were defined as Canada's prosperity and employment-creation in Canada, the need to respond to global security threats, and to protect Canadian values and culture.⁵⁶ The first pillar of the new focus – economic self-interest – became, according to NGO critiques 'both a cornerstone and a yardstick of Canadian foreign policy'.⁵⁷

Human rights were included in Canadian aid policy following the Winegard Report.⁵⁸ While a commitment to human rights was made, criteria for translating this commitment into practice were never elaborated. In 1992 Canadian NGOs called on the government to implement the 1987 guidelines on the basis of Winegard Report.⁵⁹ Cutting off aid was viewed as a political decision, and no provision was made to identify the sources of information to be used or criteria for their interpretation and assessment:

Cabinet will be provided annually with information on the relevant human rights situations as part of their determination of channels through which Canadian assistance will be provided and what level of bilateral assistance will be allocated. Where there are systematic, gross and continuous violations of basic human rights, Cabinet will deny or reduce government-to-government aid.⁶⁰

Much as for other donors, inconsistent application of human rights violations as an eliminatory criterion was noted and criticized. Canada had cut off aid to Indonesia in 1965 because of its aggression against Malaysia, but aid was not cut off following the 1975 annexation of East Timor. Aid was withdrawn from Uganda, Cambodia, Equatorial Guinea and Vietnam in the 1970s, and to El Salvador, Guatemala and Surinam, but not from Zaire, Indonesia, Bangladesh and Pakistan.⁶¹ Following the Tiananmen Square massacre, Canada suspended its aid to China, which was resumed in 1991 and soon thereafter reached its pre-Tiananmen level.⁶² With Canadian commercial interests figuring prominently in the foreign policy reorientation of 1994, an official visit to China 'ignored sensitive human rights concerns, reasoning that Canada possessed no leverage with the Chinese government'.⁶³

Denmark

Denmark adopted its own policy on human rights and development aid following that of Norway and almost at the same time as Canada. The inspiration came from other donors:

The human rights initiatives by the politicians took place in a situation where nearly no research had been done on the topic, and no public debate had paved

the way for political decisions. The initiatives may have been inspired by an increasing focus on human rights by the 'like-minded' countries and especially the Norwegian policy of development assistance.⁶⁴

Human rights conditionality was laid down in 1989, and immediately applied when aid to China was suspended as response to the Tiananmen Square massacre. Punitive conditionality was accompanied by the introduction of human rights projects. Much as other 'like-minded' donors Denmark established an apartheid fund in 1965, and in the 1980s human rights funding was provided within humanitarian aid, with specific human rights projects emerging from 1987 onwards. The 1994 long-term strategy for Danish development co-operation included human rights among the four cross-cutting themes, to be 'pursued at all levels within the assistance programme'. These four cross-cutting aims are poverty alleviation, advancement of women, environmental protection, good governance and human rights. There is, however, no authoritative definition of good governance or human rights to determine what each means, and what the two mean taken together. Moreover, democratization has been added as a defining component of both good governance and human rights.

Denmark's aid strategy emphasizes 'positive incentives' to be used in order to enhance developments towards democratic government and respect for human rights, and then alludes to 'negative incentives': 'Continued violation of human rights and lack of interest within the programme countries to enter into a dialogue on these issues will be reflected in the extent and character of Danish development assistance.'⁶⁵ Three principal criteria should guide aid allocations: poverty alleviation, potential for influencing development policy of the recipient and the potential for Danish business opportunities in relation to the assistance.⁶⁶ The bulk of Denmark's aid is not formally tied to purchases in Denmark, but the rate of return on aid is set at 50 per cent. When the government claimed in 1993 that rate of return was 61 per cent a lively debate ensued.⁶⁷ The relative weight of each principal criterion, and the weight attached to human rights as an additional criterion, is thus influenced by the commitment to a high rate of return.

Denmark's policy on human rights in development co-operation was criticized within the Ministry of Foreign Affairs itself as 'dialoguing with recipient governments and withholding funds if conditions are not met'.⁶⁸ Denmark has indeed been a frequent user of sanctions on human rights grounds: it suspended aid to Uganda in 1972, to Chile in 1973, to Vietnam in 1979, to Burma and Sri Lanka in 1988, to China and Somalia in 1989, and to Malawi in 1991. Moreover, Denmark decided not to initiate new projects in Ethiopia in 1989 and in Thailand in 1991, and it reduced aid to Kenya in 1990 and to India in 1992.⁶⁹ In October 1993 Denmark decided to discontinue aid to nine African countries; only for one, Sudan, were human rights violations cited as justification.⁶⁰

Jørgen Estrup, a Member of Parliament, in 1994 initiated a debate about

the use of punitive conditionality in Denmark's aid. He pointed to the many cases in 1989-93 when aid was suspended, claiming that Parliament had not intended human rights to be applied punitively: 'The criterion was meant as a foundation for a dialogue with the recipients, not as a legitimization of spontaneous cuts in assistance.' Estrup also objected to the broadening of punitive conditionality to 'demanding democratization in the recipient countries'.⁶¹ Denmark's aid to Thailand was suspended in 1991 following a military coup, 'but after free elections in September Denmark re-established co-operation'.⁶² Besides the interplay of violations/elections criteria, Denmark's aid to Thailand, one of the Asian economic miracles, also raised the issue of poverty as a criterion in aid allocations.

Controversies relating to Denmark's aid to India revealed difficulties in the application of human rights criteria. In 1992 India was the third largest recipient of Denmark's aid. Aid was divided into two parts, one 'devoted to the modern sector thought to result in export possibilities for Danish companies', and the other devoted to the alleviation of poverty. Human rights concerns were raised in 1992 and a debate as to whether Denmark should continue its aid to India ensued. That debate coincided with a detected failure to secure procurement in Denmark for 50 per cent of Denmark's aid to India, which was identified as the bottleneck for disbursing aid.⁶³ Parliament decided to decrease aid to India on, *inter alia*, human rights grounds, and aid was switched from poverty alleviation to 'assistance to the modern sector' and reorientated to private sector and to mixed credits.⁶⁴ No other donor paid attention to India's human rights record, pleas for sanctions against India because of ongoing abuses, especially in Kashmir, resulted in an acknowledgment that 'Washington has offered nothing but rhetoric'.⁶⁵ Donors have been generous after India adopted a structural adjustment programme in 1991; annual meetings pledged \$6-7 billion⁶⁶ and human rights have never been mentioned at donors' annual meetings.

Germany

Germany's aid is comparable to Japan's aid in its relative neglect of social sectors (10 per cent is allocated to education and health combined) and its orientation to export promotion (37 per cent of aid is nominally tied, and an additional 15 per cent used as mixed credits).⁶⁷ Following the trend within the Western donor community, Germany's aid decreased in 1995 by 6 per cent,⁶⁸ but an Asian rather than Western approach was evidenced by a commitment to constructive engagement rather than sanctions or aid cut-offs.

In October 1991, the Federal Ministry for Economic Co-operation and Development (BMZ) inaugurated five criteria for Germany's development co-operation:

1. Human rights (indicators: freedom of religion, rights of arrest and in legal proceedings; no law, no punishment; freedom of religion; protection of minorities)
2. Participation of the population in the political decision-making process (indicators: democratic electoral practices; opportunity for free expression by the political opposition inside and outside Parliament; freedom of association for parties, trade unions, associations, self-help organizations, etc.; freedom of the press and of information)
3. Certainty of law (indicators: independence of the judiciary; 'one law for all'; transparency and predictability of government action)
4. Economic and social order (indicators: protection of property; nature of land law; determination of prices by the market; realistic rate of exchange; right to conduct trade/set up in business; competition in all major areas of the economy)
5. Nature of government action in relation to development (indicators: gearing of government policy to improvements in the economic and social situation of the poorer sections of the population and to the protection of the natural bases of life; population policy; arms expenditure in relation to total expenditure).⁶⁹

The interpretation of these criteria in practice, much as for other donors, necessitates an extensive investigation. Even without such an investigation, the very enumeration of different items reveals a narrow definition of human rights and possible conflicts between different requirements upon recipients. The separation between 'human rights' and 'economic and social order' indicates that land rights would not be treated as a human rights issue, but subsumed under protection of property. A separate item relating to the nature of government action in relation to development nudges recipients to improve the economic situation of the poor, which often requires land reform and thus requires governments to limit existing property rights. The listing of these different items which all represent criteria for German aid, although conflicts between them are due to emerge both in theory and in practice, well illustrates the range of aims and purposes to which aid ought to conform.

According to Heinz, democracy appeared as a separate item in Germany's aid in 1991 because of criticism of Germany's military aid. As complete abolition of military aid was impossible, a part of funds allocated to the military programme were rerouted to democracy, namely electoral observers and voter education.⁷⁰ The mention of arms expenditures among the criteria enumerated in 1991 followed from previous efforts to constrain arms exports by applying human rights criteria. Cameroon, Guatemala, Kenya, Malawi, Somalia, Sudan, Togo and Zaïre were taken off the list of countries to which arms and police equipment could be supplied.⁷¹ That effort has not been successful, as described by Human Rights Watch:

Despite the close military ties between Germany and Turkey, this relationship has been disrupted several times during Turkey's war in the southeast. Germany instituted an arms embargo against Turkey in 1992 in reaction to Turkish attacks against the Kurds, but the embargo was lifted three months later. In April 1994,

Germany's military aid to Turkey. It was investigated afterwards that Turkey used German supplied BRT-60 armored personnel carriers in southeastern Turkey. The embargo was lifted after Turkey asserted that BTR-60s had come from Russia, not Germany. Following Turkey's March 20, 1995 invasion of northern Iraq to rout the PKK there, Germany again froze military sales to Turkey. That embargo was lifted at the end of September 1995, when Germany released frozen military aid worth \$110 million to support the manufacture of two frigates for the Turkish Navy.⁷²

Efforts to condition aid to Turkey by human rights criteria first came to public attention in 1981-2, when Germany suspended its approval of a loan to Turkey in response to the military coup of September 1980. The following year, military rulers intensified repression and Germany reaffirmed that aid remained suspended. In 1981 the Commission of the European Community suspended the financial protocol with Turkey because of human rights violations. The European Council decided in December 1991 to ask the Commission not to approve aid to Turkey, and the European Parliament called for suspension of the Joint EEC-Turkey Committee. Aid to Turkey was resumed in 1983, following the adoption of a new constitution and parliamentary elections by Turkey. Neither the brevity of suspension nor the small amount of aid which it affected could have had an economic impact on Turkey. Dilemmas relating to a linkage between human rights and co-operation with Turkey continued, as described in Chapter 6.

Germany's economic co-operation with China prompted domestic criticism at the beginning of 1992, when parliament's (the Bundestag) decision to suspend co-operation with China was ignored when approval of a loan to China was given by the executive.⁷³ Such criticisms continued, but relations between Germany and China continued unhindered. An official Chinese visit to Germany was described thus:

German Chancellor Helmut Kohl's emphasis on deal-making rather than human rights during Chinese Premier Li Peng's visit to Bonn in early July is seen as evidence of the EU's pragmatic stance on the issue. Li may have been upset by the zeal of German human rights activists who dogged his every step in Berlin and Bavaria, but German officials insist the trip was a success. German companies set up China deals worth about US\$3.2 billion during the visit.⁷⁴

In June 1996 China protested against a conference on Tibet in Germany, for which funding was provided by the Friedrich Naumann Foundation and the German government. The Chinese protest was heeded and the government withheld funding, but the conference was held. As a follow-up to that conference (and, reportedly, to China's protest), the Bundestag adopted a resolution opposing repression in Tibet. China closed down the Beijing office of the Friedrich Naumann Foundation, protested gross interference in its internal affairs, and announced that the atmosphere for a planned visit of Germany's minister of foreign affairs was not

appropriate.⁷⁵ An implicit threat was that relations between China and Germany (exemplified by more than \$15 billion in annual trade) would deteriorate. It proved effective. The issue was not Germany's criticism of China's human rights record, but whether Germany should prevent such criticism from taking place in Germany. Interference in internal affairs was effectively turned into China's right to demand that freedom of association and expression be constrained in Germany so as to prevent criticism of China.

Japan

The end of the cold war coincided with a change in the hierarchy of donors. The USA diminished its aid, which left Japan the largest donor. Japanese aid exceeded \$11 billion in 1991 and continues growing, while most other donors have decreased their aid. Japan is thus the largest donor when aid is expressed in absolute numbers, but if it were to reach the target of 0.7 per cent of GNP, Japan's aid would have to increase to \$20 billion.

More than two-thirds of Japan's aid is allocated to Asia, and half comprises loans rather than grants. During 1977-87, the main recipients were described as 'leading suppliers to Japanese industry of raw materials such as crude oil, minerals, rubber and timber'.⁷⁶ Japan's bilateral trade-and-aid links had first concentrated on the Asian dragons (Hong Kong, Singapore, South Korea and Taiwan) and then broadened to the Association of South East Asian Nations (ASEAN). In 1987 an ungenerous commentator found that Japan's aid is used 'for the relocation of Japanese industry into lower-cost Asian countries'.⁷⁷

Japan is often criticized for a lack of response to human rights violations in recipient countries. Whether the country was the Philippines during Ferdinand Marcos's time, or Burma under military rule, Japanese aid continued regardless of what other donors did and said.⁷⁸ Japan's suspended aid because of human rights violations included Zaire, Haiti, Sudan, Sierra Leone and Guatemala,⁷⁹ but not Indonesia, Thailand or Peru.⁸⁰ However, it was reported that a Japanese delegation to Indonesia raised for the first time human rights with the Indonesian government in March 1991, pointing out that human rights problems were complicated but Japan 'hoped that Indonesia would pay due regard to its human-rights problems'.⁸¹ Japan's 1992 Aid Charter included 'attention to human rights', alongside democratization and market-orientated economy among main principles for aid. The mention of human rights was not meant to translate automatically into an eliminatory criterion. Japan's aid policy was described as yielding to or defying the USA:

In 1990, [Japan] defied America by resuming aid to China just a year after the Tiananmen massacre. Late last year [1992] it broke with America's embargo

control of the northern Kurile islands – Japan has also resisted American pressure to be more generous to President Yeltsin's government.⁸²

All human rights bodies and most donors condemned human rights violations in Burma, following the crushing of pro-democracy demonstrations in 1988. (The Burmese example is described in detail in Chapter 6.) Aung San Suu Kyi, the elected leader of the country, was placed under house arrest. The United Nations, however, was slow to condemn Burma for human rights violations. In 1990 a Swedish initiative before the UN General Assembly to address violations in Burma was stopped: 'at Japan's request, the resolution was withdrawn for a year following a fierce opposition from Singapore, China, Cuba and Mexico'.⁸³ Such a resolution was adopted one year later and has continued on the agenda of the General Assembly thereafter.

Burma's main donors were divided from the outset. Japan, the largest donor, officially suspended aid following the suppression of demonstrations in 1988, but Japan's aid actually continued, although no new commitments were made.⁸⁴ Japan recognized Burma's military government on 17 February 1990, but aid had been resumed in February 1989.⁸⁵

Japan is also China's main donor; its concessional loans were estimated at \$6.2 billion for 1992–5.⁸⁶ That allocation prompted questions relating to Japan's 1992 Aid Charter (China's case is described in detail in Chapter 6). An explanation was offered by the *Far Eastern Economic Review*, which posited that the Charter had been adopted under pressure from the United States, but did not go as far as saying that 'aid will be cut if the principles are violated – only that Tokyo will review the situation'.⁸⁷

Belgium

It is proverbial that human rights safeguards are introduced in response to previous abuses, and Belgium's recent human rights policy in development aid is a good example. Main recipients of its aid – Zaire, Rwanda and Burundi – have been in the limelight in the 1990s because of human rights violations. Zaire and Burundi, are dealt with in more detail in Chapter 10 because they highlight interesting facets of donors' alternating between sanctions and elections (as in Burundi) and pursuing neither (as in Zaire).

Similar to the cases of Indonesia—the Netherlands and Kenya—Norway, a brief reference to Zaire—Belgium merits attention. In response to media criticism of corruption in Zaire, and of President Mobutu's much described wealth, Zaire retaliated in 1988:

It all started when the Belgian prime minister, Wilfried Martens, visited Zaire in November [1988] and made what appears to innocent outsiders a generous gesture ... to reduce the \$1.1 billion that Zaire owes Belgium. But when Martens

Belgian press was asking why money was being offered to Mobutu, the man who had taken his people's money to build private palaces all over Europe. The press contrasted the appalling conditions of the Zairean people with the conspicuous consumption of their president.

Mobutu was furious. He demanded why the Belgian government could not keep its press in order. Churlishly he turned down the Martens offer of debt write off and threatened universal reprisals.

Two thousand dismayed Zairean students were ordered to quit their studies in mid-course and other Zaireans were ordered to sell their Belgian assets by 1 January. Zairean state owned companies were ordered to move their offices out of Belgium and 16,000 Belgians in Zaire were ordered to renew their residence permits. Then in early February Zairean state companies were ordered to withdraw their money from a Belgian bank in Zaire.

Zaire then claimed compensation for the uranium extracted from Shaba province during World War II and sold to the US to help make the first atomic bomb.⁸⁸

Zaire's (or President Mobutu's) retaliation also encompassed suspension of bilateral treaties and a threat to bring Belgium before the International Court of Justice.⁸⁹ The conflict ended by Belgium writing off part of Zaire's public and commercial debt. Newspaper reports emphasized the fact that it was Belgium offering an olive branch and inducements, not Zaire,⁹⁰ while *The Economist* pointed to the reason: 'Zaire is being courted by Germany, France and America. It can afford to be beastly to the Belgians'.⁹¹

Rwanda was given prominence in the *1994 Development Co-operation Report* as one of the major humanitarian disasters. The role of aid could not be disregarded because Rwanda received \$1 billion in 1990–2.⁹² The role of aid was also reviewed in the joint evaluation of emergency assistance to Rwanda. That review revealed that structural adjustment programmes of 1988 and 1990 overlooked social and political consequences of the economic retrogression:

[Strict enforcement of structural adjustment and fiscal reform] reduced the incentives for donors to insist on human rights, [while] democratization came to be seen as a solution to the growing problem of civil violence. Support for democratization and the related peace process implied continuous economic and political engagement in Rwanda. From this perspective, the threat of ultimately imposing sanctions by withdrawing aid – as Western human rights organizations called for in 1992–93 – was counter-productive. Donors thus became hostage to their own policies.

As its former colonial power and donor of many years, Belgium could not dissociate itself from the fate of Rwanda, and an explicit policy on aid to Africa followed. Human rights came to the fore of NGO interest and in 1993 a vocal domestic constituency demanded that the government threaten Rwanda 'with the suspension of official aid and make it conditional on democratization and improvements in the human rights situation'.⁹³ Following a report on widespread killings in March 1993, Belgium

announced that it would reconsider its aid, but 'Habyarimana made conciliatory statements and Belgian aid continued'.⁹⁴

Donors changed their behaviour towards the subsequent government (formed after the military victory of the Rwandan Patriotic Front (RPF)), and responded to the Kibeho massacre by suspending aid. Belgium, the Netherlands and the European Union led, and the EU Council reminded the government of Rwanda that development aid 'is conditional on the respect of human rights and progress towards national reconciliation'.⁹⁵ A search for reasons for donors' punitiveness in 1995, and lack of it earlier, came up with the answer that it 'was due to the French government, backed by the Belgians to bloc the disbursement of aid. (Even though a spokesperson from the Belgian Foreign Ministry formally denied these accusations.)'⁹⁶ An implicit reason was that the Habyarimana government had been francophone, while the RPF government was anglophone. In May 1995 the International Commission of Inquiry finished its investigation of the Kibeho massacre, found the government not guilty and recommended that aid be resumed.⁹⁷ An important reason for the commission's exoneration of the Rwandan government was that soldiers had overreacted. However strongly that was condemned, it was 'no great surprise that the RPA has finally cracked, the pressure cooker blown'.⁹⁸

Belgium emphasized democratization and conflict prevention as immediate goals for the future in its new policy of 1994. While the immediate cause was Rwanda, the pressure for a formal human rights policy was reinforced by much publicized abuses in Burundi and Zaïre. Since February 1994, the government has been obliged to adopt a general policy statement on a linkage between Belgium's development aid and human rights, and to submit to parliament annual reports on the human rights performance of each country with which Belgium has a co-operation agreement.⁹⁹ A reason for this change was alluded to in the 1994 DAC *Development Co-operation Report*, which noted that 'in recent years Belgium's aid programme has been strongly influenced by the difficulties encountered in the programmes of Belgium's three main traditional partners, namely Zaïre, Burundi and Rwanda.'¹⁰⁰ In addition, it affirmed a commitment to multilateralization of its relations with Africa, emphasizing that, as a small country and a small donor, Belgium can achieve its goals better by influencing the European Union than as a bilateral donor.¹⁰¹

The next chapter turns to the European Union to discern the relative influences of its members on the merger between aid and human rights in its politics, policy and practice.

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The European Union (EU), as it is known today, encapsulates problems in linking human rights to aid. Human rights were defined, interpreted and applied in external relations, cutting across foreign policy, defence and security, development co-operation, and overall relations with the rest of the world ('third countries' in EU parlance). European institutions refrained, however, from binding the Union by the European Convention on Human Rights and the meaning of 'human rights' thus remains open-ended. Human rights were included in Europe's relations with 'third countries' in the 1980s. Much as in individual donor countries, EU policies were lobbied for by powerful domestic constituencies and the key role was played by the European Parliament (EP). Different from national parliaments, the European Parliament does not create or interpret law hence its activities are confined to the world of politics. The EP's insistence on human rights in the EU's aid-and-trade led to the elaboration of a policy, which was subsequently grounded in the Treaty on European Union, commonly known as the Maastricht Treaty (which is being renegotiated in 1996-7). To avoid confusion, this book refers to EUrope, uses the EU acronym and mentions its previous incarnations, the European Communities and Community, where necessary.

The EU prides itself on a unique model of relations between industrialized and developing countries, where the framework is negotiated between the two sides and provides comprehensive trade-and-aid concessions to developing countries in a long-term perspective. That very Lomé model has an uncertain future because it contradicts the free-trade orthodoxy of the 1990s. Inequality inherent in an aid relationship did not change by the mere fact that traditionally bilateral relations were multilateralized. The addition of human rights conditions, and then multiparty elections, made the lack of agreement between recipients and donors evident. The wording of human rights clauses may be similar, but they are interpreted differently and invoked selectively.

The European Parliament has been *the* international body calling for sanctions. Because it is an exclusively donor-composed body, the EP's resolutions on human rights in 'third countries' are different from those of recipient-donor composed bodies, such as the human rights bodies of

the United Nations, but less so when compared with the joint assembly established within the Lomé model. The fact that the EP has so often called for sanctions to be imposed upon recipients reinforces the image of sanctions as a phenomenon created by and aimed at donors' political constituencies.

The strength of domestic political constituencies is reflected in the inclusion of human rights throughout the EU's external relations. Even though 'human rights' is mentioned in a vast number of policy documents and is included in all the EU's co-operation agreements, the meaning attached to 'human rights' varies a great deal. A human rights clause may give the EU a right to automatic suspension of all co-operation, but 'human rights' can also mean an area where only co-operative schemes can be explored when both sides are in full agreement.

The Lomé model

The 1957 Treaty of Rome provided for an association between the future Europe and European (French, Belgian, Italian and, later, British) colonies, which was based on the model designed and applied by France. That model was reinforced in the Yaoundé Conventions of 1963 and 1969, which laid down the basic framework for trade-and-aid, and subsequently was institutionalized in four Lomé Conventions (in 1975, 1980, 1985 and 1990). In 1975 the Lomé Convention established a scheme of international development co-operation, linking the African, Caribbean and Pacific (ACP) countries as a group (at first 46 and then 70) to Europe. The conventions were renewed at five-year intervals and human rights were included in the Fourth Convention. The Fourth Convention was revised in 1994-5, and a clause added which allows the EU to suspend co-operation with any ACP country citing lack of compliance with democracy and/or a human rights clause, while the total volume of funding was reduced. The celebration of the final signing of this revised Fourth Convention was marked by doomsday predictions that the 'special relationship' which Lomé embodied was ending.¹

After the first Lomé Convention was signed in 1975, controversies sprang up two years later about human rights in three associated countries - Central African Empire (as it was at the time), Equatorial Guinea and Uganda. In June 1977 the European Council took note of human rights violations in Uganda during the reign of Idi Amin and declared that co-operation under Lomé should not contribute to violations. A compromise was reached whereby aid to Uganda was not suspended, but redirected. In 1979 the Council confirmed its powers to adopt punitive measures in cases of systematic human rights violations in a country bound by the Lomé Convention. The Fourth Lomé Convention included an explicit human rights clause, which did not seem intended to institutionalize punitive conditionality. On the contrary, the approach was positive and

co-operative, but mention of 'human rights' was interpreted punitively.² No less than nineteen countries were penalized: Angola, Burundi, Cameroon, Congo, Ethiopia, Equatorial Guinea, Gambia, Haiti, Liberia, Kenya, Malawi, Mozambique, Nigeria, Rwanda, Somalia, Sudan, Surinam, Togo and Zaire. For some, aid was suspended for a short time, others experienced long and repetitive suspensions. In some cases the reason was warfare, in others institutionalized human rights violations, in yet others failure to carry out multiparty elections.

Much as with other donors, Haiti was penalized severely, and all co-operation was suspended (with the exception of humanitarian relief delivered through NGOs) following the military takeover in Haiti in 1991. The ACP-EC Joint Assembly called for a total embargo as long as the military regime remained in power. As described in more detail in the case study of Haiti in Chapter 8, Haiti epitomizes donors' punitiveness. The EP suspended aid to Sudan in 1990; the ACP-EC Joint Assembly discussed Sudan in 1991 and a proposed resolution condemning human rights violations was rejected in favour of 'a revised resolution which appealed to the authorities in that country to ensure that humanitarian aid is transported rapidly to those who need it'.³ The EP next proposed that Sudan be excluded from Lomé in December 1993, but that proposal was unfeasible because it would have necessitated a decision by all ACP and EC parties.⁴ The ACP-EC Joint Assembly called subsequently for aid to be cut off.⁵ Although the Joint Assembly could easily agree to sanction Haiti and, less easily, Sudan, it disagreed whether elections in Togo had been successful or not, or whether aid to Zaire should be resumed or not.⁶ Such internal disagreements highlighted the ease with which suspensions could be decided upon unilaterally in comparison with those agreed 'jointly' with ACP countries.

A mid-term review of the Fourth Lomé Convention in 1995 was based on the European Commission's proposal to institutionalize punitive conditionality, for which agreement could not be reached by the Joint Assembly.⁷ The Commission's proposal included three components:

- Human rights provisions were broadened by the addition of democracy, the rule of law and sound management of public affairs.
- The new clause was interpreted as an essential element of the Convention.
- Another clause 'explicitly providing for partial or total suspension of the Convention in cases of serious violation' was added.⁸

That proposal was rejected by the ACP side. Ghebrey Berhane, its Secretary-General at the time, found it politically charged and added: 'we certainly don't want EC officials judging us'.⁹ The ACP attempted to create a dispute-solving mechanism to preclude the EC from unilaterally suspending the Convention.¹⁰ The Joint Assembly noted that EU's relations

with China and not encompass punitive conditionality on human rights grounds, and added that human rights were used as 'a pretext when the real problem lay in a lack of funding'.¹¹

Funding for the Fourth Lomé Convention became front-page news during the first half of 1995, when funding for 1995–2000 was at stake. A 30 per cent increase proposed by the Commission and France was rejected.¹² EUrope found itself in the embarrassing position of not being able to prevent a decrease of total funds available, despite its enlargement by three additional members. In March 1995 the EP made its assent conditional on protecting the available funds from an overall decrease,¹³ but that did not help because contributions to the European Development Fund (EDF) are voluntary hence individual governments, rather than EUropean institutions, have the final say. Only 15 per cent of members' aid is channelled through the EC. Reduced contributions by Germany and United Kingdom, reportedly by 30 per cent, could not easily be replaced. Because preferential trade arrangements under Lomé were due to expire by the end of the century, diminished aid commitments led to conclusions that the Lomé model was no longer feasible.¹⁴ Attention shifted to Eastern Europe and the Mediterranean, as evidenced by allocations under the foreign policy budget of \$35 billion for 1995–9.¹⁵ Reduced aid to ACP countries, and further threat of reductions through punitive conditionality, were used as evidence that aid was diverted to Eastern Europe: 'the package agreed by the Edinburgh European Council in December 1992 implied spending ECU 25 to 30 per head in Eastern Europe and only ECU 5 per head in the South'.¹⁶

The European Parliament

The European Parliament (EP) was instrumental in including human rights clauses in co-operation agreements and in institutionalizing punitive conditionality. Human rights form a substantial part of its agenda, but only for human rights in 'third countries'. Attempts to tackle human rights within EUrope yielded to an initial agreement only in 1996. In the EU's foreign policy, the EP broadened punitive conditionality to 'the inclusion of both a human rights and social clause in agreements with third countries and for provisions for the automatic suspension of the agreement in case of violation of these clauses'.¹⁷ Punitive conditionality is thus becoming open-ended. Previous EP annual human rights reports and accompanying resolutions on human rights in the world urged, from the very outset, specific criteria to be developed so as to make punitive conditionality a part of EUrope's practice. From human rights violations, calls for punitive conditionality were gradually extended to progress in democratic institution-building, social policies in favour of underprivileged categories, and popular participation in decision-making.¹⁸

Table 3.1. The European Parliament's resolutions calling for punitive conditionality, 1989–95

Country	Date
Algeria	01/92
Brazil	07/91
Burma	09/90, 04/92, 10/92
Cameroun	12/92
China	09/89, 02/91, 02/92, 08/93
Côte d'Ivoire	03/92, 06/92
Egypt	01/92
Equatorial Guinea	01/93, 02/94
[Guatemala]	05/93
Indonesia	11/91, 01/93, 11/94
Iran	06/92, 08/93
Israel	01/92, 06/92, 01/93, 02/93
Jordan	01/92
Haiti	02/92, 04/92
Honduras	06/91
Kazakhstan	04/95
Kenya	03/91, 02/93
Kuwait	05/91
Lebanon	01/92, 04/92
Malawi	09/92
Mali	07/92
Morocco	05/91, 01/92, 01/93
Niger	07/92
Nigeria	10/95
Peru	04/92
Philippines	04/92
Russia	02/95, 04/95
Sudan	11/90, 11/94
Syria	01/92, 12/93
Togo	07/92, 02/93
Tunisia	01/92
Turkey	09/89, 06/92, 09/92, 11/92, 02/93, 12/94
Vietnam	09/92
Zaire	09/91, 12/92, 02/93

Note: Parliament's resolution on Guatemala, which called for immediate suspension of all co-operation in response to a *coup d'état*, was rendered obsolete within ten days. Resolutions on Mali and Niger stated that 'the treatment of Tuaregs in the future will have decisive influence on aid policies and relations of the EC'. The resolution of 9 April 1992 relating to the Philippines stated that 'respect for human rights remains the central criterion'; it specifically aimed at conditioning further EC aid by a cease-fire with Moro National Liberation Front.

Sources: Parlement Européen, *Suivi des résolutions d'initiative dans la domaine des affaires étrangères, des droits de l'homme et de la sécurité de juillet 1989 à juillet 1993*, et de janvier 1992 à mai 1994, Commission des affaires étrangères, de la sécurité et de la politique de défense, *Sous-commission des droits de l'homme*. Information about recent resolutions has been gathered from different sources and, therefore, may not be complete.

The powers of the EP were increased by the Single European Act to vetoing external agreements. The EP argued that all co-operation should stop 'in the case of persistent flagrant violations of human rights', food aid and emergency aid should be exempt, but 'any action taken against a government accused of violating human rights should under no circumstances worsen the lot of the population, already suffering under an oppressive regime'.¹⁹ However, no monitoring mechanism was established to ascertain that people in recipient countries were not doubly victimized; the EP's punitiveness with regard to Haiti or Sudan was not followed by assessments of the effects on the population.

The EP's calls for sanctions against specific countries are presented in Table 3.1. Parliament's decision-making for the same country at different times, or for similar countries at the same time, demonstrates that objective criteria conflict with political process. That is illustrated here by typical examples, a review of Europe's 'near abroad' follows later in this chapter, while case studies in Chapters 5 and 6 refer to the EP's condemnatory and/or punitive actions.

The Parliament's initiative in linking human rights to the EC's co-operation first focused on Turkey, with public hearings in 1983, and Turkey remained an almost permanent item on its agenda. The extent to which attention to Turkey was related to the influence of Greece²⁰ and how much of a factor its application for membership in the European Union played in Parliament's attention is difficult to assess. In 1987, the EP refused to give its assent to agreements with Turkey and Israel, in both cases because of human rights violations, although that was not the sole reason.²¹ As described in Chapter 6, the EP made human rights in Turkey the most widely publicized issue of its work in 1995-6, with an outcome which switched attention from Turkey to the EP in order to identify the meaning of 'human rights'. Commentators attributed Parliament's change of heart to the inducement of the estimated \$1.5 billion of import duties on goods from the EU, combined with 'one of the fiercest lobbying campaigns ever mounted', which included trips to Turkey by 'more than 120 MEPs [Members of the European Parliament] out of a total of 626'.²²

The beginning of the EP's action against human rights violations in China was difficult. The EP's resolution of 15 October 1987, criticizing China's policy towards Tibet led to a "fence-mending" public statement by Parliament's enlarged Bureau.²³ The Commission had suspended aid to China following the Tiananmen Square massacre in June 1989 before the EP could discuss the issue, and also resumed aid to China before the EP could discuss the issue. The EP's resolution of 21 February 1991 objected to that lifting of sanctions by the Commission.

The EP is a political body and speaks for donors alone. If one compares the EP's condemnatory/punitive resolutions with those reached within the United Nations, where aid recipients as well as donors are represented,

differences are obvious. UN resolutions rarely call for sanctions when condemning a government. In the choice of countries to be sanctioned, the EP went further than the United Nations and called for sanctions against Israel. The orientation of European aid to francophone Africa brought to Parliament's agenda Algeria, Morocco and Tunisia, and Cameroon, Côte d'Ivoire, Mali and Niger, which remained absent from the UN listing of violators.

Most resolutions calling for the suspension of aid (or all co-operation) were adopted in response to publicized atrocities. Nevertheless, sometimes the wording of resolutions calling for sanctions was vague so as not to reveal the factual background, such as in the case of Honduras, where the EP called on the Commission 'to reconsider the provision of aid to Honduras, depending on how effectively the country implements its own laws and the international conventions which it has signed'.²⁴ One should assume that the EP did not call upon the Commission, or itself, to take over the functions of established inter-governmental bodies or national constitutional courts and venture into evaluating implementation of human rights law, so it is difficult to determine what the EP had in mind. This highlights difficulties that recipients may face when trying to determine what exactly donors are demanding. In July 1992 the EP found that it was incumbent to impress on the governments of Mali and Niger 'that the treatment of the Tuaregs in the future will have a decisive influence on Europe's aid'.²⁵ Such vague threats - what is the 'treatment' that Parliament had in mind and what does 'decisive influence' mean - proliferate, and recipient countries are thereby reminded of the power of donors to adopt decisions to cut off aid and put them into practice.

The EP's insistence on human rights clauses was extended to trade agreements and, because of publicity for Salman Rushdie, to trade with Iran. It asked the Commission 'in its commercial negotiations with Iran, to include in any agreement reached a very strong clause requiring respect for human rights with an option to suspend any such agreement in the event of violation'.²⁶ Much time and effort was expended to negotiate freedom from threat to the life of Salman Rushdie. Europe was alarmed by 'Iran's continued failure to repudiate the increment to [his] murder',²⁷ and Europe officials tried to negotiate a 'farwa-free zone' for Salman Rushdie, following the precedent set by Denmark in 1994, when the ambassador of Iran signed a pledge that *farwa* would not be carried out in Denmark so as to facilitate a planned official visit of Iranian representatives to Denmark.²⁸ The response of Iran was that *farwa* was a religious issue, a duty of individual Muslims in which the government could not interfere.²⁹ That problem was sidlined due to US sanctions against Iran for involvement in international terrorism, which the European Union disapproved of. Killings carried out within Western Europe in which the Iranian government was implicated (in 1990 Kazem Rajavi, a prominent exile was killed in Switzerland, and in

1992 four Kurdish exiles were killed in Germany) kept the problem on the agenda.

The EP created a great deal of public attention for links between human rights and European aid-and-trade but was not set up to deal with human rights. Accordingly it operates as best it can by responding to violations brought to its attention and deciding through political process. Close to 600 MEPs, working in eleven languages, and meeting in Brussels, Strasbourg and Luxembourg, could agree on outward-orientated human rights. Agreement on a report on human rights *within* the European Union, created two years of controversy and quiet shelving of that draft,³⁰ but an initial programme for addressing human rights problems within EUrope was agreed upon in 1996.

A human rights policy?

EUrope's policy on linking human rights to development aid was elaborated after human rights had been introduced in practice. Much as with other donors, the practice was punitive and arbitrary. It is impossible to explain why the cutting off of aid to China in response to the Tiananmen Square massacre lasted such a short time, or why Haiti and Sudan were punished so severely, unless one recognizes that arbitrariness is inherent in donors' conduct when it is assessed by human rights criteria alone.

Elaboration of specific policy documents may have been aimed at de-politicization of human rights, but failed to do so. In June 1991 the European Council adopted its Declaration on Human Rights which affirmed that a linkage with human rights should be broadened to all co-operation, thus encompassing both aid and trade, and committing EUrope to active promotion of human rights and giving particular attention to the role of women.³¹ Human rights clauses thereafter became a standard part of co-operation agreements.³² The most far-reaching clause defines human rights – and also 'respect for democratic principles' – as an essential component of co-operation, and gives both parties (which effectively means EUrope as a 'third country' has not yet exercised its right of suspension) 'the right to suspend the agreement in whole or in part with immediate effect if a serious violation occurs of the essential provisions'. That clause, dubbed the Baltic model was included in agreements with small Eastern European countries, such as Albania, Estonia, Latvia, Lithuania and Slovenia. A milder version, the Lomé model, envisaged consultation before suspension, and was added to the revised Fourth Lomé Convention and forms part of EU agreements with Belarus, Bulgaria, the Czech Republic, Kyrgyzstan, Kazakhstan, Slovakia, Romania, Russia and Ukraine, as well as Nepal, South Korea and Tunisia. Yet milder versions have been included in agreements with Mediterranean and Asian countries.

The exercise of the right of suspension requires interpretation of these undefined terms ('human rights' or 'democratic principles') to a specific case. How that happens in practice is unknown because there is no publicly available information. Results of the process indicate that subjective judgements are made, and are not based on an interpretation of democratic principles, or human rights. Arts comments:

It is precisely this phase of decision-making that lacks transparency and suffers from the absence of clearly formulated and published criteria. This leads to unavoidable charges of Community bias, discrimination between (politically) small and big countries, and application of conditionality in a highly politicized manner.³³

Analysts of EUrope's practice as a donor found it difficult to discern why some countries were penalized by aid suspensions, others exposed to public criticism, while yet others had no more than confidential communications or quiet diplomacy to put up with.³⁴ Because EUrope is the sixteenth donor, while its fifteen members allocate the bulk of their aid through bilateral and other multilateral channels, any coherence in EUrope's response is jeopardized by the individual preferences of members. Cutting off aid requires unanimity of EU members. Unless and until all agree, sanctions cannot even be threatened because such a foreign policy issue requires unanimity. Because Europe has a large number of agreements with individual countries and regions, making human rights an essential clause in them all, as the EP intended, would institutionalize punitive conditionality beyond the existing agreement within the EU. Regardless of different – or identical – human rights clauses, punitive conditionality is applied as arbitrarily as before and mainly against African countries.³⁵

The evolution of EUropean human rights policy is described elsewhere³⁶ and notes that 'active promotion' was anticipated alongside punitive conditionality, namely increasing aid to countries which improve their human rights performance and progress towards democratization. Because of an overall decrease in aid no reward has been recorded. Much as other donors, the Union subsumed 'democracy' under 'human rights', although that had initially been denied. The distinction between human rights and democratization had to be made because human rights constituted universal obligations hence punitive measures could be taken in defence of human rights, while nothing similar existed for democracy and therefore the Commission would only consider positive measures.³⁷ By 1992 that distinction disappeared. Manuel Marin, then Vice-President of the Commission, stated that EUrope would be 'sanctioning flagrant violations of human rights or interruptions of the democratic process'.³⁸

The Maastricht Treaty (the 1992 Treaty on European Union) envisages a common foreign and security policy to include human rights, while human rights are also an objective of development co-operation. The

Treaty first optimistically stipulated: 'a common foreign and security policy is hereby established'. Because a policy cannot be established by decree, the Treaty added that the Union and its member states shall define a common foreign and security policy. An effect of subsuming of human rights under security policy is confidentiality, typical for security matters, but detrimental for human rights. The Commission claimed that public reporting would be counter-productive; confidentiality 'was designed to engage third countries in a constructive dialogue on human rights rather than in counter-productive public arguments'.³⁹ If the main purpose of human rights is taken into account, namely to improve protection for the people of the country concerned, confidentiality relocated human rights to inter-governmental secret negotiations. In May 1993 the Development Council found that activities relating to human rights within the EU's aid-and-trade are 'generally carried out on an ad hoc basis and operate without an internationally agreed institutional framework'.⁴⁰ Such a framework may be difficult to negotiate in the future because the very linkage between human rights and the EU's aid has been eroded in practice, as can best be seen in reviewing the EU's relations with the two neighbouring regions: Eastern Europe, and the Mediterranean and Middle East.

Europe's 'near abroad'

It is proverbial that human rights lose out when more important donors' interests are at stake. Most often commerce is mentioned, and it is addressed in Chapter 7. Geopolitics has not died out with the end of the cold war as can be seen with the concentric circles of concern built around Europe. The proximity of recipients moulds the interpretation of human rights. This may not be visible from donors' formal policies, but neighbouring regions highlight differences in practice. The implicit rule seems to be that the further the recipient, the higher the priority of human rights violations. Inversely, donors' 'near abroad' is exempt from human rights criteria, regardless of what formally adopted policies may or may not say. The circles of concern were much discussed with regard to US practice in the Americas, but not for other donors. The practice of individual European donors, supplemented by that of the European Union relating to its 'near abroad', has thus far received scant attention.

Rational criteria yield to security concerns, exemplified by Greece versus Turkey, which coloured the EU's policy towards Turkey by impeding its implementation,⁴¹ while Greece versus the Former Yugoslav Republic of Macedonia established a legal precedent. The European Court of Justice acknowledged that national security concerns, regardless of how irrational these may seem to outsiders, may legitimately curtail any co-operation with a country seen to represent a threat. Fear of fundamentalism, seen

by the EU as *the* major political threat⁴² further undermined the application of a human rights rationale.

Eastern neighbours

Democracy and human rights have been written into co-operation agreements between Western and Eastern Europe, but practice reveals that human rights lose out to more important concerns, such as fear of migration or security. The first five years of post-cold-war relations between Western and Eastern Europe are described elsewhere,⁴³ and this section is confined to highlights from recent EU practice.

Human rights were first merged with democracy and then broadened to include minority rights, which exacerbated conceptual difficulties. Even where formal trappings of democracy were ignored, or atrocities occurred, democracy/human rights clauses did not necessarily lead to suspension of co-operation. West European donors were much criticized for favouritism; typical examples included Georgia, 'where Zviad Gamsakhurdia, an unattractive character but nevertheless the elected president of the republic, was forcibly removed from his post by Eduard Shevardnadze, to whom the West gave its full support',⁴⁴ while Slovakia (where an elected president had not been forcibly removed nor did an armed conflict ensue) was warned in October 1995 by Western ambassadors and the European Parliament that Western aid would be suspended because of disrespect for democracy and human rights.⁴⁵

The surge of verbal and armed ethnic conflicts brought ethnicity to the forefront of donors' attention. Changes in Central and Eastern Europe occurred rapidly, citizenship came to be determined by ethnicity, with the consequent replacement of human rights by citizens' rights; ethnicity also emerged as the basis for statehood. Human rights protection was challenged: the prohibition of discrimination on the grounds of ethnicity strives to eliminate the importance of ethnicity (or race or sex) in the recognition and enjoyment of human rights. Paradoxically, ethnicism emerged as an ideology based on differences between people rather than shared traits of humanity. A ground which international human rights law strives to eliminate as irrelevant (ethnicity and/or nationality) became, instead, the source of acquisition or loss of rights. In some countries (such as Albania), ethnically based political parties are prohibited, in others (such as Bulgaria) they have proven successful. The US Commission on Security and Cooperation in Europe (CSCE) found that the 1992 elections in Albania breached the CSCE norms because ethnically based political parties were banned.⁴⁶ In Bulgaria, the Movement for Rights and Freedoms initially had been banned because it is an ethnically based political party: 'Before the poll, the Supreme Court had ruled that an ethnic Turkish party could not contest the

election. Pressure had to be exerted by Western ambassadors in Sofia before the decision was reversed'.⁴⁷

Politicization and/or ethnicization of the military, described by Ozren Žunec for Croatia,⁴⁸ exacerbated political and/or ethnic conflicts. Indeed the successful offensive in Krajina in August 1995 was a pillar of governmental electoral victory in October 1995. Links between battling by bullets and ballots were evidenced in the fact that 200,000 Serbs, who fled from Krajina during the military offensive could not vote, while 380,000 expatriate Croats were given the right to vote. The EU suspended negotiations of a co-operation agreement with Croatia in August 1995, in response to warfare in Krajina, and resumed them in October 1995.⁴⁹

Electoral observers did not declare elections in Azerbaijan⁵⁰ or Kazakhstan⁵¹ to have been free and fair, while the many Russian elections, although hailed in the West, were accompanied by much anxiety. There was no shortage of elections, almost one per year: in March 1989, December 1993 and December 1995 parliamentary elections; in June 1991 presidential elections; in March 1990 a referendum on constitutional amendments; in March 1991 a referendum on preservation of the Soviet Union. In April 1993 there was a referendum on presidential rule. Between various elections and referenda, a military coup took place in August 1991, which was condemned by Western governments and aid was suspended.⁵² The self-coup by President Yeltsin took place in September–October 1993, was not condemned by Western governments, while aid commitments were increased. A meeting of the EU's foreign ministers called for accelerated and increased aid to Russia and promised that negotiations on European Community–Russia free trade agreement would be accelerated.⁵³ A pre-electoral European Parliament mission to Russia heard a 'flood of complaints' relating to forthcoming parliamentary elections, but Western support did not diminish.⁵⁴

There were plenty of incidents which triggered calls for punitive conditionality against Russia, but those were overshadowed by foreign policy concerns. Russian (previously Soviet) military interventions were frequent: in Tbilisi in April 1989, in Baku in January 1990 and Erevan in May 1990, and in Lithuania and Latvia in January 1991. In December 1990 the European Council, deciding on aid to the former Soviet Union, suspended aid as a response to armed repression in the Baltics, and lifted the suspension in September 1991.⁵⁵ One of the first joint actions of the European Union under the common foreign and security policy was an EU observer mission to Russian parliamentary elections in December 1993. 'The operation's success lent credibility to Russia's electoral process while demonstrating the European Union's capacity to provide effective electoral support for the democratic process.'⁵⁶

War in Chechnya focused attention on the gap between foreign policy and human rights objectives. Western governments declared the war to be an internal affair,⁵⁷ and pleaded for a political solution to the conflict.

The effects of the war on Russia's budget took precedence over attention to international humanitarian obligations; its cost was estimated at one-third of Russia's planned budget deficits, equivalent to \$13 billion in loans committed by the IMF and the World Bank.⁵⁸ A month into the war, the EU postponed an interim trade agreement with Russia as 'an unmistakable note of concern'.⁵⁹ Russia objected to such hasty reactions.⁶⁰ The European Parliament placed human rights high among criteria for relations with Russia, echoing initiatives of national parliaments. A compromise emerged, with the trade agreement further postponed, without a threat of sanctions, and Russia agreed to an Organization for Security and Co-operation in Europe (OSCE) mission in Chechnya.⁶¹ The rationale was thus interpreted: 'Cut off aid to Russia and the resulting chaos will topple Yeltsin, and bring in someone else far less democratic.'⁶² Accordingly, the EU–Russia trade agreement was signed in June 1995 after the OSCE mission went to Chechnya, while the war continued.⁶³

Southern neighbours

The EU–Mediterranean partnership was launched in October 1994 as a blueprint for racking the southern borders of the EU. It encompassed Morocco, Algeria, Tunisia, Egypt, Jordan, Syria, Lebanon, Israel, Palestine, Turkey, Cyprus and Malta, and all pertinent areas of interdependence, namely economic development and trade, social stability, immigration, the environment and security.⁶⁴ The strategic importance of southern neighbours was emphasized, and a doubling of aid (\$6 billion for 1995–9) and a prospective free-trade zone (by the year 2001) was suggested from the outset.⁶⁵ Human rights was conspicuously absent from these proposals, prevention of export of terrorism and of mass migration to Europe were given priority instead.⁶⁶

The Euro–Med conference in Barcelona in November 1995 combined the fifteen EU members and twelve Mediterranean partners, as the newly concocted MEDA acronym refers to them all: 'It is hard to spot the common thread, except perhaps that human-rights observers find fault with them all.'⁶⁷ Harassment of human rights organizations, such as the Tunisian League for Human Rights, the Arab Institute of Human Rights, or the Moroccan Organization of Human Rights, are routinely condemned by the European Parliament. Human rights are mentioned, notably for Algeria, but co-operation continues.⁶⁸ Negotiating directives for an EU–Egypt agreement were 'grounded on the principles of democracy and respect for human rights' but co-operation continued, and 'financial cooperation with all countries in the region made headway'.⁶⁹ Indeed, association agreements with Tunisia, Israel and Morocco were concluded on the eve of the 1995 Euro–Med summit in Barcelona, and an agreement

with Algeria was to follow. Also there were negotiations leading to membership with Cyprus and Malta, and the customs union with Turkey. With Egypt, Jordan, Lebanon and Syria agreements were at different stages of negotiation. For the Palestinian Authority the European Union pledged aid and access for its exports to EU territory.

The European Parliament insisted that agreements with Maghreb and Mashreq countries and Israel should include clauses that would institutionalize periodic review of the human rights situation in the country concerned and provide for a suspension of the agreement if human rights violations are deemed particularly serious. Maghreb countries with co-operation agreements are Algeria, Morocco and Tunisia, and also Western Sahara (which complicates relations with Morocco), Mauritania (party to the Lomé Convention) and Libya (with which there is no co-operation because of Security Council sanctions). Three Mashreq countries (Cyprus, Malta and Turkey) have applied for European Community membership. With others (Egypt, Israel, Jordan, Lebanon and Syria) there are co-operation agreements. The European Community has also initiated co-operation agreements with the PLO on aid to Palestinian autonomous territories, and the first agreement was signed in May 1994. In February 1993 the EP was concerned about violations of human rights in Syria, Israel, Algeria and Morocco, and urged suspension of aid 'if fundamental human rights are not better respected'.⁷⁰

By the time of the Euro-Med conference, attention shifted from human rights in the Mediterranean countries to relations between Europe and Mediterranean countries, especially to Europe's fear of exports of people, terrorism and/or fundamentalism. A draft of a final declaration had been prepared by the EU with clauses ranging from freedom of expression to terrorism, from self-determination to military capacity, and a clause on migration said: 'The partners acknowledge their obligations with regard to the readmission of their nationals who have left the country.'⁷¹ The EU's pledge of aid had been made conditional on an absence of human rights violations (the routine suspension clause was added) but the link with migration was not in the final document: 'Spain, France and the other states in the front line against illegal immigration have won agreement to funnel billions of dollars of EU taxpayers money to the region.'⁷² King Hassan of Morocco had reportedly summed up the negotiating position of the Maghreb countries as 'either you accept our goods or you accept our people',⁷³ but the EU decided not to accept either – a reference to the return of 'illegal immigrants' emphasizes the EU's implicit condition for continued co-operation, while another refers to a free-trade area in manufactured goods to be forged by the end of the century. Because agriculture comprises the bulk of exports of the Maghreb countries, while agriculture cannot be liberalized because of the 'various agricultural policies' (notably, CAP – the Common Agriculture Policy), the EU continues to reject both goods and people.

Debates about human rights in the EU's relations with its Mediterranean neighbours tend to exclude problems which pit Europe against the international community. The EU recognizes Morocco's claim over Western Sahara, contrary to the United Nations policy aimed to determine the status of Western Sahara by referendum,⁷⁴ and the EU has agreements with Morocco which accept Morocco's power to negotiate in the name of Western Sahara, for example by granting fishing rights in Western Sahara's sea. The EP approved an EU-Morocco association agreement in June 1996, after much debate about human rights violations in Morocco. The rationale was to acquire leverage over Morocco through the possibility of a later suspension of that agreement in response to human rights violations, and the method to ensure such monitoring was to request annual reports on human rights in Morocco from the European Commission.⁷⁵ However, the EP can only recommend suspension of an agreement, and its previous demands upon the Commission concerning human rights in those countries for which the EP had assented to agreements remained unheeded; the notable example was Syria.

The EP's efforts to link aid to minimum human rights criteria included its much publicized refusal to give assent to the EC-Syria agreement, because of *inter alia*, denial of the right to leave Syria for a Jewish minority. The EP's subsequent reversal of this decision was justified by emigration improvements and by potential influence on further changes in Syria.⁷⁶ Expected political dialogue did not materialize because human rights were not on the agenda of EU-Syria meetings but relegated to quiet diplomacy.⁷⁷ The EP refused assent to agreements with Morocco and Syria in January 1992 because of human rights violations; then in October 1992 assented to an agreement with Morocco and one with Syria.⁷⁸ The veto of the remaining protocol with Syria was removed in December 1993, with a request that human rights be included in the agenda of the EU-Syria Co-operation Council and the EP be kept informed. Van der Klauw observed that 'arguments in favour of assent were used in the past as reasons to block the protocol'.⁷⁹ In 1996 the EU-Syria negotiating agenda broadened to a future association treaty as part of a Euro-Med initiative. It encompassed peace negotiations with Israel and the Palestinian Authority, and with Lebanon, as well as Syria's alleged role in terrorism. The plea by the European Parliament to place human rights on the agenda alongside all those issues remained unheeded.

Algeria presented a particular problem. The 1995 presidential elections followed four years of bloodshed, triggered by the (military) government's interruption of the 1991 elections, and were welcomed by the donor community.⁸⁰ Donors' support for democracy had been tested when the first round of 1991 elections, won by the Islamic Salvation Front (FIS, *Front islamique du salut*), was annulled by the government to prevent the FIS gaining an electoral victory. The Human Rights Committee diagnosed that Algerian authorities prevented 'forces that they considered hostile to

democracy from taking advantage of democratic procedure in order to harm democracy'.⁸¹ Contrary to the pledge to deny aid owing to interruption of the democratic process, donors supported the unelected and/or military government, and were accused of having preferred 'a police state to an Islamic democracy'.⁸² Their justification was fear of 'fundamentalism' or 'Islamic terror', which left the donors' spokesperson with the unenviable task of explaining that the goalposts had moved: it was not *any* interruption of democratic process that would be penalized. Much the same as Russia, Algeria was exempt from donors' policy. The public in donor countries rarely asked for an explanation, taking for granted the threat of fundamentalism and migration. A typical comment illustrates the tone adopted by the Western press 'if the army fails, there is nothing else'⁸³ or, 'immigration [is] now one of the most sensitive political questions in France'.⁸⁴ The hijacking of an Air France airliner in December 1994, reportedly in retaliation for France's support for the Algerian government, focused attention on the dangers of terrorism in France.⁸⁵

Bilateral support for the Algerian (military) government was also reflected in decisions of major development finance agencies. The IMF approved \$1 billion in April 1994, Algeria's \$26 billion debt was successfully rescheduled in June 1994, the World Bank announced an 'emergency rehabilitation loan' of \$200 million in October 1994 and France granted Algeria \$3.1 billion in 1994.⁸⁶ In May 1995, \$1.8 billion was approved by the IMF, with the rationale 'that the most important task is to restore political stability in order to create an environment to encourage private sector investment'.⁸⁷ Commercial debt of \$3.2 billion had been rescheduled, as was \$7 billion by the Paris Club.⁸⁸ Europe following the French lead, found that 'Algeria must be given the maximum financial support to revive its economy and undercut popular support for radical Islam'; and the EU decided to 'help the embattled government'.⁸⁹ In May 1994, 150 million ECU was granted and another 500 million pledged.⁹⁰ The European Parliament called for suspension of military, but not other, co-operation with Algeria.⁹¹

Presidential elections were held in November 1995, and Liamine Zéroual (the unelected head of state since January 1994) continued in office, having announced 62 per cent of the vote with a 75 per cent turnout. He promptly announced that 'the state will pursue its struggle against what is left of the terrorist violence'.⁹² The main opposition party, the FIS, remained illegal, two other parties boycotted elections, polling took place under heightened security and elections turned out to be a victory for the armed forces.⁹³

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Aid allocations and human rights

Donors' human rights policies are not reflected in their aid allocations because these allocations result from the different purposes of aid. Therefore, while human rights policies cannot be assumed to determine aid flows, factors which motivate allocations – and the relative weight of human rights amongst them – can be inferred from the pattern of allocations. That process necessitates combining official and unofficial sources, as is done in subsequent chapters. This chapter summarizes the pattern of allocations recorded in official statistics so to discern the extent to which human rights criteria are – and are not – reflected in aid statistics.

Human rights can be used as an allocative, eliminatory, punitive or corrective criterion. The application of human rights as an allocative criterion implies that recipients with a deteriorating human rights performance are penalized with diminished aid, while those with an improving record are rewarded with increased aid. Aid statistics point to the opposite conclusion, which is discussed below as the 'law of inverse correlation'. The interpretation of human rights as an eliminatory criterion makes a recipient country ineligible for aid, and aid to such a country will be suspended until there is a profound change. The third option represents one-sided application of human rights as an allocative criterion, where penalization is applied against violators without a corresponding reward for do-gooders. The use of human rights as a corrective criterion entails redistribution of aid between sectors, not only countries, so as to benefit human rights. There is some statistical evidence that human rights is used primarily as an eliminatory/punitive criterion. This obvious discrepancy between donors' human rights policies and their allocations is taken as the starting-point rather than end of enquiry. The object of inquiry is to discern the effects of human rights on changed, or unchanged, allocations. Aid cut-offs recorded in statistics (that is, those which were not token) and which correspond to donor-determined violations are few. Reasons why they are so few are further explored in subsequent chapters, but different susceptibility of recipients to conditionality is identified as the key factor.

The law of inverse correlation

The main aid recipients are presented in Table 4.1, ranked by total aid received in 1993. Aid flows in 1990-3 are added to depict the trend in recent allocations. Inverse correlation between human rights concerns and aid flows is evidenced by the highest rank for China, Egypt and Indonesia. Because official donors' policies link aid flows to absence of gross, systemic or serious violations of civil and political rights, one would expect that widespread publicity for the lack of human rights protection in all three major recipients would have prompted donors to adjust their allocations to their rhetoric. The opposite is true, and human rights rhetoric is in practice adjusted to suit such allocations.

Table 4.1 Recipients ranked by total aid, 1990-3 (\$m)

Country	1990	1991	1992	1993
China	2177	2041	3058	3280
Egypt	5446	5026	3602	2256
[Yugoslavia]	47	159	1475	2131
Indonesia	1747	1874	2095	2024
India	1550	2750	2437	1533
Philippines	1284	1054	1717	1485
Bangladesh	2047	1634	1719	1359
Israel	1372	1749	2066	1272
Ethiopia	1021	1097	1143	1209
Mozambique	996	1031	1408	1155
Pakistan	1149	1223	1072	1067
Kenya	1053	873	894	929
Tanzania	1147	1084	1255	978
Somalia	494	186	653	881
Côte d'Ivoire	694	633	758	840
Zambia	486	884	1035	811
Thailand	802	722	776	615

Source: *Development Co-operation, 1994 Report*, OECD, Paris, 1995, Statistical Annex, H2-H5.

Early advocates of human rights in aid aimed to redress that inverse correlation. Much as everywhere else, human rights emerged retroactively, to redress perceived abuses rather than reflect an abstract ideal. The correlation between increased financial flows and deteriorated recipient's

commitment to human rights formed the background to Harkin's amendments. Harkin, their intellectual and/or political father, advocated that human rights violations should become an eliminatory criterion because the rule of inverse proportion governed:

We denounced apartheid in South Africa but lent the South African government \$182.2 million through three federal programs. One of these involved a record high economic aid package of \$464 million from the International Monetary Fund in 1977, of which \$107 million comes from the United States. At the same time, South Africa increased its military spending in 1976-77 by \$450 million, almost exactly the amount of the IMF assistance.

In the three years before President Marcos imposed martial law, aid to the Philippines from the multilateral banks (IBRD, JFC, IDA, ADB) averaged \$69 million per year. In the three years after martial law was imposed, that is from 1973 through 1975, aid averaged \$210 million per year - a 204 percent increase. In Korea during the three years before General Park Chung Hee declared martial law (in 1972) and forced a revision of the constitution to allow him to hold office for life, aid to Korea averaged \$105 million per year. In the three years that followed, aid from these institutions averaged \$284 million per year - a 170 percent average increase.

In Chile during the three years before Salvador Allende was overthrown (1971-73), aid from the multilateral banks averaged \$6.4 million. In the three years after the military coup, aid from these institutions averaged \$77.6 million, a 1,112 percent increase.¹

Correspondence between increased aid flows and institutionalized denial of human rights has not disappeared with the adoption of human rights policies, and has been criticized by the United Nations Development Programme's Human Development Report: 'While donors, both bilateral and multilateral, talk a great deal about human rights and good governance, the fact is that the World Bank reduced its share of total loans to Bangladesh and the Philippines after they lifted martial law.'² The lack of correspondence between human rights policies and aid flows has thus not been eliminated. Data summarized in this chapter illustrate that the pattern of aid allocations sustains a finding that neither punishment of violators nor promotion of human rights are determining factors in allocations. The ranking of largest recipients by the total amount of aid received in 1993 would support a conclusion that effective donors' priorities are to grant most aid to countries where human rights violations are prevalent, showing that violations are not routinely applied as an eliminatory or punitive criterion.

Table 4.1 shows that donors accorded priority to Asia and the Middle East. Allocations to Asia are attributed to export promotion, and those to the Middle East by a combination of security considerations (financial support to the peace process) and 'import-promotion', namely securing the supply of oil from the Middle East. The high rank of the former Yugoslavia illustrates the increasing proportion of aid being allocated to emergency relief - from \$47 million in 1990, aid to the former Yugoslavia

grew to 22 billion in 1992. A different and more accurate image of the size of aid flows to individual recipients is presented in Table 4.2, which ranks recipients by the amount of aid per capita. It is self-evident that aid to China, with a population exceeding one billion, is apparently rather than actually significant as a source of development finance for China. The ranking of recipients by aid per capita does not, however, provide statistical evidence for relevance of human rights as a criterion for aid allocations. Countries such as Oman, Sierra Leone, Israel or Mauritania, are not famous for their respect of human rights.

Table 4.2 Recipients ranked by aid per capita, 1993 and 1990 (\$)

Country	1993	1990	Country	1993	1990
Oman	539	44	Lesotho	66	78
Sierra Leone	269	17	Honduras	61	88
Israel	243	295	Jordan	60	283
Mauritania	153	107	Côte d'Ivoire	58	58
Namibia	106	32	Central African Republic	55	76
Gabon	101	123			
Zambia	97	54	Congo	53	92
Guinea-Bissau	95	—	Malawi	48	56
Botswana	90	118	Rwanda	48	40
Gambia	88	—	Jamaica	45	116
Bolivia	81	68	Burundi	41	49
Nicaragua	79	84	Egypt	41	107
Mozambique	77	60	Chad	38	55
Papua New Guinea	74	96	Uganda	34	34
El Salvador	74	67	Tanzania	34	47
Guinea	66	51	Costa Rica	30	81

Note: Countries are ranked by aid per capita in 1993 (the last year for which data are available) in US\$. 'Aid' refers to Official Development Assistance (ODA).

Source: World Bank, *World Development Report*, The World Bank, Washington, DC, 1992 and 1995.

A much criticized general characteristic of aid flows is middle income bias, which was reinforced in the 1990s by heightened attention to return to aid, and especially to export promotion. Israel continues among the top ten although it is wealthier than some members of DAC/OECD. The main recipients ranked in Table 4.1 are all in Asia. The common explanation for that change is the attraction of the fastest-growing region of the world,

Table 4.3 Major recipients of bilateral aid from DAC/OECD, 1970-94 (%)

	1970-1	1980-1	1983-4	1985-6	1988-9	1990-1	1991-2	1992-3	1993-4								
India	11.5	Egypt	4.2	Egypt	5.1	Israel	5.7	Indonesia	4.1	Egypt	9.4	Egypt	9.0	Egypt	5.5	Egypt	5.
Indonesia	7.2	India	3.9	Israel	4.5	Egypt	4.8	Egypt	3.1	Indonesia	3.2	Indonesia	3.6	Indonesia	3.9	China	3.
Vietnam	4.8	Bangladesh	3.4	India	3.2	India	3.0	India	2.8	China	2.5	Israel	2.9	China	3.5	Indonesia	3.
Pakistan	4.6	Indonesia	3.4	Indonesia	2.7	Indonesia	2.4	China	2.8	Israel	2.3	India	2.9	Israel	2.7	India	2.
South Korea	3.4	Israel	3.1	Bangladesh	2.1	Philippines	2.1	Israel	2.6	Bangladesh	2.0	China	2.6	Philippines	2.7	Philippines	2.
Turkey	2.5	Turkey	2.5	China	1.7	Bangladesh	2.1	Pakistan	2.1	India	2.0	Philippines	2.1	India	2.3	Israel	2.
Brazil	2.0	Tanzania	2.0	Tanzania	1.4	Pakistan	1.8	Bangladesh	2.0	Philippines	1.9	Bangladesh	1.5	[Yugoslavia]	1.7	[Yugoslavia]	1.
Papua N. G.	1.8	Reunion	2.0	Philippines	1.3	China	1.8	Philippines	1.7	Kenya	1.9	Mozambique	1.5	Mozambique	1.5	Bangladesh	1.
Colombia	1.4	Martinique	1.8	Thailand	1.3	Sudan	1.6	Tanzania	1.5	Turkey	1.7	Tanzania	1.3	Tanzania	1.3	Côte d'Ivoire	1.
Algeria	1.4	Pakistan	1.6	Pakistan	1.3	Tanzania	1.4	Thailand	1.3	Tanzania	1.4	Turkey	1.2	Bangladesh	1.3	Pakistan	1.

Source: *Development Co-operation*, annual reports of DAC/OECD, OECD, Paris, various issues.

Table 4.4 Major recipients of European aid, 1980-94 (%)

	1980-1	1982-3	1983-4	1985-6	1986-7	1988-9	1990-1	1992-3	1993-4
India	9.4	India 7.2	India 6.8	Ethiopia 6.1	Ethiopia 5.2	Côte d'Ivoire 6.6	Egypt 5.5	Ethiopia 6.7	[Yugoslavia] 6.7
Sudan	4.0	Bangladesh 4.5	Ethiopia 4.2	Sudan 4.8	India 4.7	India 5.1	Côte d'Ivoire 4.3	Albania 4.4	Morocco 4.4
Egypt	3.5	Sudan 3.3	Bangladesh 3.6	India 4.2	Sudan 4.1	Ethiopia 4.0	Cameroon 4.2	Uganda 3.6	Ethiopia 3.6
Bangladesh	3.4	Ethiopia 3.1	Zaire 3.4	Turkey 3.3	Senegal 4.0	Cameroon 3.6	Turkey 3.6	Cameroon 2.9	Egypt 2.9
Senegal	3.4	Egypt 3.0	Egypt 2.9	Reunion 3.1	Turkey 3.3	Bangladesh 3.1	Ethiopia 3.4	Côte d'Ivoire 2.8	Zambia 2.8
Somalia	3.1	Zaire 3.0	Turkey 2.6	Senegal 2.3	Reunion 2.7	Mozambique 3.1	Sudan 3.3	Tanzania 2.6	Mozambique 2.6
Ethiopia	2.9	Morocco 2.5	Sudan 2.6	Guadeloupe 2.2	Egypt 2.7	Kenya 2.8	Jordan 3.1	Zambia 2.2	Côte d'Ivoire 1.9
Zaire	2.7	Turkey 2.5	Ghana 2.4	Tanzania 2.2	Côte d'Ivoire 2.1	Egypt 2.8	Mozambique 3.0	[Yugoslavia] 2.2	Tanzania 1.9
Mali	2.6	Somalia 2.4	Tanzania 2.3	Martinique 2.1	Tanzania 2.1	Sudan 2.5	Bangladesh 2.6	Mozambique 2.0	Zimbabwe 1.9
Tanzania	2.6	Tanzania 2.4	Guadeloupe 1.9	Mozambique 1.9	Papua N.G. 2.0	Zaire 1.9	India 2.3	Rwanda 1.9	Nigeria 1.9

Source: *Development Co-operation*, annual reports of DAC/OECD, OECD, Paris, various issues.

although Asia is home to the bulk of the population of the developing world hence the absolute figures tell only a part of the story. The high rank of Egypt and Israel demonstrates that strategic rather than developmental criteria continue. All those considerations confirm that explicit objectives of aid or the criteria for its allocation do not effectively influence donors' practice. In his review of allocations during 1970-90, Boone found that political interests provide the best explanation.³

Allocations by the largest part of the donor community, grouped in DAC/OECD, as illustrated in Table 4.3, shows general trends in the last quarter of the century. Although the main recipients for 1970-1 could not have been affected by human rights policies because there were none at the time, the geographical orientation of aid towards Asia (all five main recipients, India, Indonesia, Vietnam, Pakistan, and South Korea) is illustrative because it corresponds to the pattern of allocations twenty years later. The main recipients are identified for consecutive two-year intervals in the 1980s and 1990s. There is an identifiable core group of the largest recipients: Israel and Egypt (the two pillars of the Middle East peace process), and India, Indonesia, Bangladesh and China (four large Asian countries whose combined population exceeds half the world's population, and which satisfy the criterion of poverty eradication). The Philippines joined the largest recipients in 1983 and has remained on the list ever since. Pakistan and Turkey had ups and downs, depending on security rather than developmental considerations. No African country has been amongst the largest recipients throughout 1980-95. Tanzania comes the closest because it was a donors' favourite for many years, but has recently lost its appeal.

Differences between bilateral and EU's allocations are shown in Table 4.4. The high rank of Reunion and Martinique in 1980-1, and Côte d'Ivoire in 1993-4, point to the influence of France, also visible in the Union's allocations to Cameroon, Guadeloupe, Mali, Senegal, Rwanda and Zaire. The European Union's allocations throughout the past decades have been slanted towards Africa, with the exception of India and Bangladesh in the 1980s, hence EU aid does not show a bias towards middle income countries typical for individual donors. Egypt and Turkey have often appeared among the largest recipients, indicating that geopolitics plays a role. Changing Union priorities from Africa to 'near abroad' are evidenced by the emergence of Albania among the largest recipients in 1992 and the former Yugoslavia one year later.

Targets of aid cut-offs

Although cutting off aid has been used as a response to human rights violations since the 1960s, few cases are visible from aid statistics. The disappearance of some countries from the lists of largest recipients of EU

Table 4.5 Major recipients of US aid, 1970-94 (%)

	1970-1	1980-1	1983-4	1985-6	1986-7	1988-9	1990-1	1992-3	1993-4
India	13.9	Egypt 12.6	Israel 14.1	Israel 19.1	Israel 15.8	Israel 12.5	Egypt 32.1	Israel 13.0	Israel 10.7
Vietnam	10.5	Israel 11.5	Egypt 13.0	Egypt 12.8	Egypt 11.3	Egypt 9.5	Israel 8.7	Egypt 10.5	Egypt 7.0
Indonesia	7.8	India 3.4	El Salvador 2.5	El Salvador 2.8	El Salvador 3.2	Pakistan 3.9	Honduras 2.4	El Salvador 4.3	El Salvador 4.1
Pakistan	5.0	Turkey 2.8	Bangladesh 2.3	Philippines 2.6	Philippines 3.1	El Salvador 3.3	Nicaragus 2.2	Somalia 3.2	Somalia 3.5
South Korea	4.5	Bangladesh 2.2	Turkey 2.2	Sudan 2.4	Pakistan 2.1	India 1.9	Jamaica 2.1	Philippines 2.2	Haiti 2.0

Source: *Development Co-operation*, DAC/OECD annual report, OECD, Paris, various issues.

Table 4.6 Major recipients of Dutch aid, 1970-94 (%)

	1970-1	1980-1	1983-4	1985-6	1986-7	1988-9	1990-1	1992-3	1993-4
Indonesia	22.1	India 9.6	Indonesia 6.3	India 6.5	Indonesia 6.8	Indonesia 8.2	Indonesia 7.5	India 4.0	[Yugoslavia] 5.1
Surinam	11.9	Surinam 6.6	India 6.0	Indonesia 6.0	India 6.3	India 6.0	India 5.8	[Yugoslavia] 3.7	India 3.0
N. Antilles	11.0	Indonesia 5.1	N. Antilles 5.0	N. Antilles 4.4	N. Antilles 3.4	Tanzania 3.3	Tanzania 2.9	N. Antilles 3.1	N. Antilles 2.7
India	6.7	N. Antilles 5.0	Bangladesh 3.6	Tanzania 3.3	Tanzania 3.4	Bangladesh 3.0	N. Antilles 2.5	Bangladesh 2.3	Bangladesh 2.5
Pakistan	1.5	Tanzania 5.0	Tanzania 3.0	Bangladesh 2.7	Sudan 2.8	N. Antilles 2.9	Bangladesh 2.5	Surinam 2.2	Surinam 2.1

Source: *Development Co-operation*, DAC/OECD annual report, OECD, Paris, various issues.

Table 4.7 Major recipients of Norwegian aid, 1980-94 (%)

	1980-1	1982-3	1983-4	1985-6	1986-7	1988-9	1990-1	1992-3	1993-4
Tanzania	8.8	Tanzania 9.3	Tanzania 9.0	Tanzania 8.5	Tanzania 8.7	Tanzania 7.2	Tanzania 7.9	Tanzania 6.6	Mozambique 6.0
India	4.4	Bangladesh 4.8	Bangladesh 4.2	Bangladesh 4.8	Bangladesh 4.5	Mozambique 4.9	Mozambique 5.1	Mozambique 5.8	[Yugoslavia] 6.0
Bangladesh	4.4	Kenya 4.0	Kenya 3.8	Mozambique 3.9	Mozambique 4.0	Zambia 3.9	Zambia 4.5	Zambia 3.7	Tanzania 5.0
Kenya	4.4	India 3.6	India 3.5	Kenya 3.8	Kenya 3.7	Bangladesh 3.7	Bangladesh 3.6	Bangladesh 3.1	Zambia 3.0
Pakistan	3.1	Mozambique 3.0	Mozambique 2.9	India 3.5	Zambia 3.6	Kenya 3.1	Nicaragua 2.6	Benin 2.1	Bangladesh 3.0

Source: *Development Co-operation*, DAC/OECD annual report, OECD, Paris, various issues.

Table 4.8 Major recipients of Canadian aid, 1980-94 (%)

	1980-1	1982-3	1983-4	1985-6	1986-7	1988-9	1990-1	1992-3	1993-4
Bangladesh	5.0	Bangladesh 6.6	Bangladesh 5.6	Bangladesh 5.6	Bangladesh 4.7	Bangladesh 4.0	Bangladesh 3.4	Bangladesh 2.9	China 2.0
India	4.2	Pakistan 4.0	India 3.8	Pakistan 3.3	India 2.8	Pakistan 2.5	Cameroon 3.2	China 2.6	India 2.0
Pakistan	3.7	India 3.3	Pakistan 3.7	India 3.2	Indonesia 2.7	Jamaica 1.7	Ghana 2.4	Egypt 2.1	Egypt 2.0
Sri Lanka	2.7	Sri Lanka 2.6	Sri Lanka 2.2	Indonesia 2.7	Pakistan 2.6	Indonesia 1.7	Kenya 2.2	Jamaica 2.1	Jamaica 2.0
Tanzania	2.0	Tanzania 2.6	Tanzania 1.9	Tanzania 1.7	Tanzania 1.7	Tanzania 1.7	Zambia 1.9	India 1.6	Bangladesh 1.0

Source: *Development Co-operation*, DAC/OECD annual report, OECD, Paris, various issues.

Table 4.9 Major recipients of Danish aid, 1980–94 (%)

	1980–1		1982–3		1983–4		1985–6		1986–7		1988–9		1990–1		1992–3		1993–4
Tanzania	7.1	Tanzania	9.8	India	9.0	Tanzania	13.1	Tanzania	13.8	Tanzania	10.6	Tanzania	6.9	Tanzania	6.3	Tanzania	5
Bangladesh	5.5	India	8.4	Tanzania	8.4	Bangladesh	7.6	Bangladesh	7.6	Bangladesh	4.9	Bangladesh	4.6	Uganda	3.0	Uganda	3
India	4.7	Bangladesh	5.5	Bangladesh	5.0	India	5.0	India	5.0	India	4.7	India	3.3	Bangladesh	2.4	Vietnam	2
Kenya	3.8	Kenya	4.6	Kenya	4.3	Kenya	4.0	Kenya	4.0	Kenya	3.1	Kenya	3.0	India	2.3	India	2
Sudan	3.0	Sudan	2.1	Mozambique	2.0	China	2.1	China	2.1	China	2.4	Uganda	2.4	Mozambique	2.1	Mozambique	2

Source: *Development Co-operation*, DAC/OECD annual report, OECD, Paris, various issues.

aid, shown in Table 4.4, indicates that human rights were used as a punitive criterion. Somalia disappeared in 1983, Sudan which was among the largest recipients until 1991, Ethiopia disappeared from top ten recipients in 1992–3. One reason for the paucity of similar evidence for bilateral donors is continued lack of unanimity among donors, another is the tendency to confine aid cut-offs to symbolic gestures.

Exceptions to human rights conditionality include France and the United Kingdom, which are discussed in Chapter 8; both countries emphasize democracy rather than human rights. Other donors, such as Sweden, Finland, Spain and Australia, have not institutionalized human rights/democracy sanctions. Although promotion of equality has been part of Swedish aid policy since 1962, human rights conditionality was not made a part of policy but recently has appeared in practice. Swedish aid to Zambia was made conditional on 'performance in terms of democratic development, respect for human rights, economic reform and aid effectiveness'.⁴ Finland included the promotion of human rights among its goals of development co-operation, but does not cut off aid in response to human rights violations. Arms sales to Indonesia raised concerns in 1994 but 'human rights violations have not caused any major debate over Finnish development cooperation with Indonesia'.⁵ Similarly, 'open violation of human rights continues to play no role in the allocation of Spanish ODA'.⁶ Australia argued before the UN Commission on Human Rights in 1992 that 'coercive unilateral action was not a sound basis for an effective aid relationship',⁷ and in 1993 stated that 'prescriptive, unilateral approaches tend to undermine co-operative dialogue between donor and recipient countries'.⁸ There is thus no consensus about either legitimacy or usefulness of sanctions within the donor community.

Explicit policies linking aid to human rights performance of recipient governments would lead one to expect visible changes in the allocations by individual donors. This is, however, the exception rather than the rule. Tables 4.5–4.9 list the main recipients for those donors whose human rights policies have been in place long enough to become reflected in their aid allocations, as described in Chapter 2. The tables follow the chronological order in which human rights policies were adopted and in which they were described. The unchanged ranking of the main recipients for each donor shows that donors' effective priorities are neither rapidly changed nor can discernable changes be attributed to the human rights record of recipients.

Aid allocations by the USA, shown in Table 4.5, demonstrate that country's consistent priority for Israel and Egypt. This has remained unaffected by the end of the cold war, or US administration changes. The dominance of strategic criteria in aid allocation is evident and does not need any comment. For the Netherlands, whose main recipients are listed in Table 4.6, the disappearance of Surinam from the list of main recipients from 1983 to 1991 and its reappearance in 1992, reflects that human rights

Table 4.10 Major recipients of German aid, 1970-94 (%)

	1970-1	1980-1	1992-3	1993-4
India	10.7	Turkey 8.5	Egypt 6.8	Indonesia 5.1
Pakistan	7.3	Bangladesh 6.9	India 4.7	[Yugoslavia] 5.1
Israel	5.1	India 4.1	Israel 4.6	China 3.9
Indonesia	5.0	Sudan 3.3	[Yugoslavia] 3.9	Egypt 3.8
Turkey	4.2	Indonesia 3.2	Turkey 3.2	India 3.5

Source: *Development Co-operation, DAC/OECD annual report, OECD, Paris, various issues.*

Table 4.11 Major recipients of Japanese aid, 1970-94 (%)

	1970-1	1980-1	1992-3	1993-4
Indonesia	22.9	Indonesia 11.2	Indonesia 12.1	China 10.1
South Korea	19.8	South Korea 6.9	Philippines 7.4	Indonesia 9.2
India	10.2	Thailand 5.9	China 6.9	Egypt 7.6
Pakistan	7.9	Bangladesh 5.0	India 6.1	Philippines 6.1
Philippines	4.4	Philippines 4.7	Thailand 4.2	India 4.8

Source: *Development Co-operation, DAC/OECD annual report, OECD, Paris, various issues.*

Table 4.12 Major recipients of Belgian aid, 1970-94 (%)

	1970-1	1980-1	1992-3	1993-4
Zaire	39.9	Zaire 25.0	Rwanda 5.8	Rwanda 4.2
Rwanda	9.0	Rwanda 5.5	Burundi 4.5	Zaire 3.8
Burundi	7.4	Burundi 4.3	Zaire 3.7	Burundi 2.9
Indonesia	3.5	Indonesia 3.0	Indonesia 2.9	Vietnam 2.6
India	3.3	Morocco 2.5	Algeria 2.5	Tanzania 1.9

Source: *Development Co-operation, DAC/OECD annual report, OECD, Paris, various issues.*

conditionally translated into allocations, as does the disappearance of Indonesia in 1992. Similarly, Kenya disappeared from the list of main recipients of Norway's aid after 1989, and of Danish aid from 1992. For Canada, whose main recipients are presented in Table 4.8, China and Egypt appeared among the main recipients as of 1992, thus showing an inverse correlation between words and deeds.

Germany, Japan and Belgium adopted their human rights policies in the 1990s, therefore they could not have guided earlier allocations. Their main recipients are presented in Tables 4.10-4.12. China, Indonesia and Egypt rank high among aid recipients for both Germany and Japan in 1993-4, showing that human rights policies were not translated into subsequent allocations. For Belgium, the priority for Rwanda, Burundi and Zaire throughout previous decades led to the adoption of a human rights policy in 1994, and effects on aid allocations may follow in the future.

The paucity of sudden and complete disappearance of recipients from donors' priority lists is the consequence of the lack of automatism. Donors have developed a broad range of measures for responding to violations, and all donors have refrained from specifying the circumstances in which each would be applied. All pursue a case-by-case approach. One reason for this is that human rights constitutes only one out of many criteria which guide allocations, another is that development aid operates within a longer time frame than foreign policy - development aid uses five-year planning cycles, while foreign policy decisions are made within days or hours.

To accommodate divergent requirements upon donors, no blueprint has evolved for linking human rights violations to aid flows. A range of different reactions can be applied to apparently similar situations:

- confidential expression of concern ('private/quiet diplomacy')
- public statement and/or protest
- recall of the ambassador ('for consultation')
- dispatch of fact-finding missions
- addition of human rights concerns to bilateral dialogue with the recipient
- vote for or sponsorship of condemnatory resolutions within the UN
- threat of sanctions
- decrease of aid
- redirection of aid to NGOs
- suspension of aid
- suspension of all co-operation
- breaking off diplomatic relations.

Because any of this range can be defined as an appropriate reaction to human rights violations in a recipient, effects on subsequent aid flows is an exception rather than a rule. Some measures are intended not to become public (private diplomacy epitomizes them), while others - notably bilateral donor-recipient dialogue - are exempt from public scrutiny because only

a final press release may be issued, which may or may not make a brief reference to human rights. Human rights is often mentioned in statements concluding donors' co-ordination meetings (this is called 'raising the issue'), much more often than donors' subsequent allocations reflect that the issue went further than just being raised. Sometimes the mention of human rights is later followed by decreased or suspended aid, sometimes there is no trace of a subsequent raising of human rights. Indonesia in 1990-1 is an example and is discussed in Chapter 6. For Bangladesh, donors raised both human rights and corruption (while not 'democracy' despite the paralysis of the country during 1994-6) at their meeting on Bangladesh, but that had no effect on committed aid.⁹

Further complications result from the multiplicity of grounds on which aid can be decreased, whether they are donor-related (a need to decrease the aid budget, for example) or recipient-related (failure to service foreign debt, or lack of compliance with macroeconomic conditions, or corruption, or excessive military expenditure). Aid to Tanzania, which used to be a favourite recipient in the 1970s, was reduced and a further reduction was threatened by the donors' consultative group meeting in February 1995 because of widespread fraud which jeopardized collection of taxes and customs duties.¹⁰ Subsequent elections were supported by donors, although criticized by official and unofficial observers. Aid flows may in the future decrease or increase – further decreases may be justified by governmental inability to come to grips with fraud and/or corruption, or an increase may reward the fact that multiparty elections took place. A decrease of aid may be justified by the fact that elections were not unanimously declared to have been free and fair.

Statistical evidence of changes in aid flows to recipients that were explicitly sanctioned for human rights violations is mixed: in a few cases aid flows decreased following such decisions, while in others there is no correlation between words and deeds. Moreover, for some recipients aid flows actually increased because other donors compensated aid cut-offs by some. Data thus point to a tentative conclusion that cutting off aid has been a symbolic gesture aimed to isolate and censure, rather than influence, recipients. A Dutch word *getuigenispolitiek* describes moral condemnation prevailing over practical considerations. Evan Luard, the United Kingdom's Under-Secretary of State for Human Rights during 1976-9, admitted that domestic public opinion determined whether and where the United Kingdom sanctioned violators.¹¹ Cyrus Vance, in his 1977 speech at the Georgia Law School which outlined the future human rights policy of the Carter administration, asserted that a 'sense of values and decency' requires donors to act 'even though there is only a remote chance of making our influence felt'.¹²

From the outset, two contradictory views were advanced. The first, as articulated by Cyrus Vance, doubted whether donors could effect a change in a recipient. Where donors' influence was not felt, the further step was, in the US case, military action. Leigh found that domestic political

embarrassment owing to US influence proving ineffective tipped the scales towards armed intervention, at least with regard to US sanctions against Panama and Haiti.¹³ Forcible action was used against countries which could be easily 'influenced' because of sheer inequality (Panama and Haiti are good examples).

The second view was opposite: belief in the effectiveness of sanctions was based on asymmetry between donors and recipients and on a corollary assumption that recipients could be changed from the outside. That is reflected in a high level of public support in donor countries for linking human rights to aid. Public opinion surveys routinely confirm support for that linkage, even when support for aid decreases. This feature opens another line of inquiry: if aid to violators is cut off following demands from the domestic political constituency in the donor country, aid cut-off is effective without having produced any effect on the recipient. When a donor has to demonstrate accountability towards its own electorate, effects on the recipient are not an important criterion. As public opinion polls generally show, people can hold mutually contradictory views therefore they tolerate such views in their governments. Because the image of human rights is determining and condemning violations, such behaviour is expected from donors as an inherent part of human rights work.

Donor-recipient disagreements

Much as individual recipients accept human rights – or any other – conditionality if they have no choice, recipients as a group do not. Disputes between donor and recipient governments about 'human rights', 'human rights conditionality', or 'sanctions for human rights violations' are endless. No agreement has emerged about even the meaning of different terms, let alone a policy developed jointly by donors and recipients. An assumption that governments of the world share a definition of 'human rights' was dispelled during the series of global summits in the 1990s. Two faultlines were exposed: a claim that all human rights are universal was rejected by non-Western governments, and the claim that all human rights are costly was rejected by Western governments. The final document of the Vienna Conference on Human Rights mentioned conditionality in a negative sense: 'the promotion and protection of human rights and fundamental freedoms at the national and international levels should be universal and conducted without conditions attached'.¹⁴ That formulation represented a compromise. The Vienna Conference had agreed to adopt its final document by consensus, hence many formulations suffered from the lack of clarity typical of attempts to satisfy parties advocating opposite views. The discussion of conditionality was influenced by the Final Declaration of the Regional Meeting for Asia, which had agreed against 'any attempt to use human rights as a conditionality for extending

Table 4.13. Aid cut-offs justified by human rights violations, 1960-96

Period	Target country	Donor governments
1960-	Cuba	USA, Canada
1965-79	[Rhodesia]	United Kingdom, UN
1967-93	South Africa	Australia, Austria, Belgium, Canada, Denmark, Finland, Netherlands, Japan, New Zealand, Norway, South Korea, Singapore, Sweden, Switzerland, Turkey, United Kingdom, USA, UN
1971-	Equatorial Guinea	Canada, EU
1972-9	Uganda	United Kingdom, Canada, Denmark, EU, USA
1972-	Burundi	USA, Belgium, EU
1973-80	South Korea	USA, Japan, Germany
1973-88	Chile	Netherlands, Norway, Sweden, Denmark, Italy, United Kingdom, USA, EU
1975-9;	Cambodia	Denmark, USA, Canada, UN
1979-90		
1977-94	Guatemala	USA, Canada, Japan, EU
1977-92	El Salvador	USA, Canada
1977-82	Bolivia	United Kingdom, USA
1978	Ethiopia	USA, United Kingdom, Denmark
1978-93	Vietnam	USA, Australia, Canada, Denmark
1979-80	Central African Republic	Canada
1980	Afghanistan	Canada, USA
1980-	Liberia	Canada, EU
1980-	Zaire	USA, EU, France, Belgium, Japan
1982-8	Sumnam	Netherlands, Canada, USA
1981-	Turkey	Germany, EU
1985-	Sri Lanka	Canada, Norway, Denmark, EU, United Kingdom

Table 4.13 continued

Period	Target country	Donor governments
1987	Fiji	Australia, New Zealand, United Kingdom
1987-94	Haiti	USA, EU, Japan, Canada, France
1988	Burma	Germany, USA, Denmark, United Kingdom, EU, Japan
1988-	Israel	EU
1988-	Somalia	United Kingdom, USA, EU, Denmark
1989-92	China	EU, USA, Canada, Japan, Denmark
1989-	Sudan	USA, Denmark, EU, United Kingdom, Japan
1990-4	Kenya	Norway, Denmark, EU, United Kingdom
1990-	Iraq	UN
1991	Thailand	Denmark
1991-3	Malawi	Denmark, Norway, EU, USA
1992	Indonesia	Netherlands, Canada
1992	Algeria	EU
1992	India	Denmark
1992	Peru	USA, Japan, Germany, Spain
1992-	Togo	France, EU
1993-	Nigeria	USA, United Kingdom, EU, Belgium, Netherlands, Canada, Germany
1993	Sierra Leone	Japan
1994	Gambia	United Kingdom, EU, USA, Japan
1995	Rwanda	Belgium, Netherlands, EU
1995	Comores	France
1995	Croatia	EU
1996	Niger	France, EU, USA, Denmark, Germany, Canada

Note: Countries to which only the USA cut off aid are not listed.

Table 4.14 Human rights violations on the United Nations agenda, 1967-96

Country	Commission	Sub-Commission	1503 procedure
Afghanistan	1980-91, 1993-6	1981-8	1981-4
Albania	1988-91, 1993-4	1985-8, 1994	1984-8, 1994-5
Angola	1994	—	—
Argentina	—	(1978)	1980-4
Armenia	—	—	1994-6
Azerbaijan	—	—	1994-6
Bahrain	—	—	1990-1, 1993
Bangladesh	—	—	(1988)
Benin	—	—	1984-5, 1988
Bolivia	1981-3	1980	1976, 1978-81
Bosnia and Herzegovina	1994-6	1993-6	—
Brazil	—	—	1973-5, 1990
Brunei Darussalam	—	—	1988-90
Burma/Myanmar	(1989-90), 1992-6	1991, 1993	1979-80, 1989-91
Burundi	1994-6	1988, 1994-6	1973-4
Cambodia	1979-80, 1984-9, 1994-5	1978-88, 1991	1979
Central African Republic	—	—	1980-1
Chad	—	1993-4	1990-6
Chile	1975-90	1974-88	1974-9, 1981
China	—	—	—
Tibet	(1993-6)	1989, (1993)	1989-91
Colombia	(1995-6)	1995	1990
Cuba	(1988), 1990-6	—	—
Cyprus	1975-88, 1990, 1996	1974-88, (1996)	—
El Salvador	1981-91	1981-92	1981
Equatorial Guinea	1979-85, 1989-90, 1992-6	1979-80	1975-9
Estonia	—	—	—
Ethiopia	(1986)	—	1994
Gabon	—	—	1977-81
Georgia	1994	—	1986
Germany	—	—	—
	—	—	1994

Table 4.14 continued

Country	Commission	Sub-Commission	1503 procedure
[Germany, D.R.]	—	—	1981-3
Grenada	1984	—	1988
Guatemala	1980-6, 1992, 1994	1982-6, 1989-95	1981, 1989-90
Guyana	—	—	1973-4
Haiti	1984, 1987-90, 1992-4	1988, 1992-4	1981-7, 1989-90
Honduras	—	—	1988-9
Indonesia/ East Timor	1983, (1993-6)	1982-4, 1987, 1989-90, 1992-3	1973-5, 1977-81, 1983-5
Iran	1982-96	1980-96	1973-4, 1983
Iraq	(1989), 1991-5	(1989), 1990-1, 1993-6	1988-9
Israel (Palestine and Occupied Territories)	1968-96	1968-95	—
Japan	—	—	1981
Kenya	—	—	1993
Korea, South	—	—	1976, 1978-82
Kuwait	1991	1990	1994
Laos	—	—	1995
Latvia	—	—	1995
Lebanon	1985-96	1982-90	—
Liberia	(1996)	—	—
Malawi	1980	—	1977-80
Malaysia	—	—	1984
Mali	—	—	1996
Mauritania	1982, 1985	1982, 1984-5	(1990)
Moldova	—	—	1995
Mozambique	—	—	1981
Nicaragua	1979	1979	—
Nigeria	(1995)	—	—
Pakistan	1985	1985	1984-5, 1988
Panama	1990	1990	—
Papua N.G. (Bougainville)	1993-5	1992, 1994	—
Paraguay	1985	1983-5, 1989	1977-90
Peru	—	1992-3	1990

Country	Commission	Sub-Commission	1503 procedure
Philippines	—	—	1984-6
Poland	1982-4	—	—
Portugal (Africa)	—	—	1973-4
Romania	1989-91, 1993	(1989)	—
Russia (Chechnya)	(1995-6)	(1996)	—
Rwanda	1994-6	1994-6	1993-5
Saudi Arabia	—	—	1995-6
Sierra Leone	—	—	1996
Slovenia	—	—	1995
Somalia	1992, 1994	1991-2	1989-93, 1995
South Africa (Namibia)	1967-94, 1967-88	1967-93, 1967-88	—
Sri Lanka	1984, 1987, (1994)	1983-4	—
Sudan	1992-6	—	1990-3
Syria	—	—	1989, 1990-2
Tanzania (Zanzibar)	—	—	1973-4
Thailand	—	—	1995-6
Togo	1993-5	1994	1993
Turkey	—	(1995)	1983-6, (1990)
Uganda	—	(1979)	1974-81, 1995
United Kingdom (N. Ireland)	—	—	1973-4
Uruguay	1985	1983-4	1977-85
USA	(1995-6)	—	—
Uzbekistan	—	—	1996
Venezuela	—	—	1982
Vietnam	—	—	1974-5, 1994
Western Sahara	1981-7, 1989-90, 1993, 1995-6,	1987	—
[Yugoslavia]	1992-6	1992-6	—
Zaire	1992-3, 1995-6	—	1985-9, 1990-3

Note: The first column refers to the consideration of specific countries under the human rights violations agenda item by the Commission on Human Rights, the second column to its Sub-Commission, and the third column to the 1503 procedure for investigating a consistent pattern of gross and reliably attested violations of human rights. Square brackets denote countries which do not exist any more, while parentheses refer to those resolutions or decisions which were voted upon but not adopted, or a chairman's statement was adopted instead.

development assistance'.¹⁵ That suggestion was obviously not acceptable to donors, and a final document without a mention of conditionality was not acceptable to recipients.

Human rights conditionality was one of the major themes of the September 1992 summit of the Non-aligned Movement (NAM). Its final declaration stressed global interdependence instead of confrontation and accused donors of the 'tendency to selectively address aspects of human rights, often for extraneous political motives, and to neglect economic, social and cultural rights'.¹⁶ Opposition to human rights conditionality penetrated UN human rights documents, and disapproval 'of the use of development aid to apply political pressure for the observance of human rights' was voiced.¹⁷ The UN Secretariat further stated that there was 'no clear norm in international law allowing States to interfere in countries where human rights are being violated'.¹⁸ The UN Working Group on the Right to Development (1993-6), which was established after the right to development was written into the Vienna Declaration and Plan of Action to try to define what the right to development meant and failed to do so, included unilateral coercive measures in its listing of obstacles to the right to development.¹⁹ The imposition of sanctions (that is, unilateral coercive measures) was brought before the General Assembly by Cuba under the title 'Economic measures as a means of political and economic coercion against developing countries'. The majority of delegations called for their elimination; the voting pattern showed a clear South-North division, with the South voting in favour and the North (including Eastern European countries) voting against or abstaining.²⁰ The Commission on Human Rights adopted similar resolutions, also by majority vote, claiming that unilateral coercive measures were incompatible with international law, and condemning 'certain countries [which] using their predominant position in the world economy, continue to intensify the adoption of unilateral coercive measures'.²¹ Those resolutions show the predictable anger of the South at the abuse of economic power by the North. Their insistence on the incompatibility of economic coercion with international law reveals that economic relations are not governed by democratic decision-making; a repetitive majority vote in various policy-making bodies does not create a norm that could become binding upon the dissenting minority. The voting pattern reveals, predictably, the difference between governments that apply economic coercion and those that are harmed by it.

Non-governmental organizations have adopted opposite approaches. Suffice it here to mention two extremes. One rejects 'a plea that we should be allowed to make a complete mess of ourselves, with the world just watching and often subsidizing such irresponsibility'.²² The other rejects 'the slow starvation of citizens' following from the inability to 'eliminate the disliked strongmen of weaker nations'.²³ Among human rights organizations, there is no visible consensus, although many NGOs based in donor countries advocate sanctions, while many based in recipient

countries oppose them. Some NGOs, such as Amnesty International, have decided not to get involved in the debate and refuse to voice its support or opposition. Asia Watch 'believes that economic sanctions should be imposed when governments have engaged in gross abuses'.²⁴

Donor-determined violations

A donor government does not have the legal authority necessary to find another government in violation of human rights. Moreover, donors' choice of countries from which aid was cut off because of human rights violations does not correspond to the listing of countries on the human rights agenda of the United Nations. Because the work of the United Nations – as well as differences between donors and the United Nations – has been extensively described elsewhere,²⁵ this section has been shortened considerably.

Differences between donors' selection of violators, and decisions of the United Nations human rights bodies relating to the identification of violators and illustrated in Tables 4.13 and 4.14, are discussed in subsequent chapters. Donors' choice has sometimes corresponded to the countries that were condemned for human rights violations by the United Nations, but was often their own. The reason for that is simple: United Nations bodies are inter-governmental and are composed of both recipients and donors, where the former outnumber – and easily outvote – the latter. Obtaining a decision to condemn a country for human rights violation necessitates a sufficient number of votes not only for a condemnation, but also for the placement of an item on the UN agenda. Views shared within (and not only between) regional groups are instrumental in every step of the decision-making process.

A retrospective overview of donors' aid cut-offs cannot follow a neat chronology. Cases when international responses can be related to a self-contained period, such as Idi Amin's Uganda or Pinochet's Chile, are rare. Table 4.13 lists recipients for which there is evidence that aid was suspended or reduced on human rights grounds, starting with Cuba in 1960 and ending with Niger in 1996. Sanctions against Cuba were justified by human rights violations after the sanctions had been imposed, while those against Niger were a response to a military coup, where some donors used human rights rhetoric and other did not. An indisputable attribution of an aid cut-off to human rights violations is thus rare. Evidence that aid was indeed cut off is sometimes misleading, for example when aid was actually not cut off contrary to what was announced or it was cut off for a different reason. Therefore, the listing of sanctioned recipients does not say anything about the amount of aid that was actually cut off or suspended. That is discussed in subsequent chapters. Table 4.13 shows that donors' sanctions have been applied against many countries by many donors,

although the USA has resorted to sanctions most often. Sanctions imposed solely by the US government are not included in the table.

The effectiveness of cutting off aid in attaining the professed aims of sanctions, stopping violations or improving the human rights record of the sanctioned government, is not apparent. It would be difficult for any of the cases included in Table 4.13 to demonstrate a link between the imposition of sanctions and a subsequent change in the human rights practice of the targeted country. The inability of donors to make their sanctions effective seems to have been an important factor in their abandonment of human rights conditionality with regard to Asia, and the switch to electoralism with regard to Africa.

Governments acting collectively have the authority to find a government responsible for human rights violations and to recommend sanctions. Peer pressure causes human rights obligations to be observed, its absence enables governments to ignore them. Results of work of the United Nations are presented in Table 4.14. The number of countries which have been investigated or condemned for human rights violations is much longer than is usually assumed: more than 70, close to half of the UN membership, and more than the UN membership was when the Universal Declaration on Human Rights was adopted. The total number of countries placed on the violations agenda exceeds one-third of the UN members. That portrays both the strength of the system and its weakness: at least one-third of governmental delegations who take part in discussing human rights violations within the United Nations have the unpleasant task of responding to allegations of violations for which the states they are representing are being accused. The main purpose of human rights – to prevent abuse of power – necessitates that those who wield power police themselves. Identification of violators reveals the inherent conflict between the two roles of a government – as violator and protector of human rights. The latest collective pronouncement of governments, the final document of the Vienna Conference on Human Rights was 'silent on the role of the state as violator of human rights'.²⁶ The strength of the system is that governments do police each other; its weakness is that they do so reluctantly.

The reluctance of governments to commit themselves to universally binding human rights standards and to supra-national supervision of their observance explains the lack of a neat, logical and well-functioning global human rights system. The UN human rights work is slowly evolving from defining human rights, to determining what constitutes their violation, and to condemning governments that are violating human rights. The UN Commission on Human Rights started in 1947 by denying itself authority to receive and act upon complaints for human rights violations. Such authority emerged through specific exceptions: South Africa was the first in 1967, followed by Israel in 1968, and Chile was added in 1974. International complaints procedures started in earnest in the 1970s and

human rights before the United Nations. The United Nations, as Dag Hammarskjöld, its Secretary-General in the 1960s, used to say, had never been meant to take humanity to heaven but to save it from hell. Its human rights system was not designed to police governments because it is inter-governmental, but only to assist them in policing themselves. The UN cannot deter or punish gross and systematic violations. Its achievement has been to define violations and make them visible – exposure is *the* sanction. That feature of the UN's human rights work highlights the difference between that global inter-governmental system and unilateral action by donors.

International investigative action takes place only when the level of severity of violations justifies it, exemplified by the notion of gross and systematic violations. As developed and applied by the UN, it denotes a high degree of severity and continuity of violations, where they constitute policy rather than aberration, prevalence rather than incidence. Because the United Nations can only act in response to received information, the initiative of victims of human rights violations, or a representative on their behalf, is the first necessary step. Indeed NGOs, rather than governments, take a lead in exposing and opposing violations. The focus on Latin American countries during the late 1970s and 1980s to a large extent can be attributed to the work of NGOs in the region. African countries were placed on the agenda only as recently as 1990s, also largely as a consequence of the increasing activity of African NGOs. The growth of NGOs in Asia is likely to change the human rights landscape in the 1990s.

Data in Table 4.14 are derived from resolutions and decisions of the main bodies empowered to ascertain violations and recommend appropriate action – political organs in the UN parlance. The information included in the list represents results of the work of the Commission on Human Rights, its subsidiary body, the Sub-Commission (which bears the name of Sub-Commission for the Prevention of Discrimination and Protection of Minorities), and the 1503 procedure, which enables individuals to bring to the attention of the United Nations gross and systematic human rights violations in any of its members. The procedure is not dependent on the ratification of particular human rights treaties by the government in question. Rather they are based on the availability of reliable information about the ongoing human rights violations in a country, on their gravity and scope, and on the willingness of the governments represented in the UN human rights bodies to condemn a particular government.

Table 4.15 summarizes results of thematic procedures of UN human rights bodies which deal with abuses of physical power by governments. These procedures were designed in the 1980s to enable the United Nations to achieve two aims:

Table 4.15 Countries with documented cases of torture, disappearances and summary executions, 1993–5

1993/4	1994/5	1993/4	1994/5
—	Algeria	—	Lebanon
Angola	Angola	Mauritania	—
—	Argentina	Mexico	Mexico
—	Bolivia	Morocco	—
Brazil	Brazil	Nepal	Nepal
Burundi	Burundi	Nigeria	—
Cameroon	Cameroon	Pakistan	Pakistan
Chad	—	Peru	Peru
Chile	Chile	—	Philippines
China	China	Rwanda	—
Colombia	Colombia	Saudi Arabia	Saudi Arabia
Ecuador	Ecuador	South Africa	South Africa
Egypt	Egypt	Sri Lanka	Sri Lanka
—	El Salvador	Sudan	Sudan
Equatorial Guinea	—	Syria	Syria
Ethiopia	Ethiopia	Tajikistan	—
Guatemala	Guatemala	—	Togo
Haiti	Haiti	Turkey	Turkey
India	India	—	Uzbekistan
Indonesia	Indonesia	—	Venezuela
Iran	Iran	—	Yemen
Iraq	Iraq	Yugoslavia	—
Israel	Israel	Zaire	—

Source: United Nations Commission on Human Rights, 'Torture and other cruel, inhuman or degrading treatment or punishment, Report of the Special Rapporteur, Mr Nigel S. Rodley', UN Docs E/CN.4/1994/31 of 6 January 1994, and E/CN.4/1995/34 of 12 January 1995; 'Report of the Working Group on Enforced or Involuntary Disappearances', UN Docs E/CN.4/1994/26 of 22 December 1993, and E/CN.4/1995/36 of 30 December 1994; 'Extrajudicial, summary or arbitrary executions, Report by the Special Rapporteur, Mr Bacre Waly Ndiaye', UN Docs E/CN.4/1994/7 of 7 December 1993, and E/CN.4/1995/61 of 14 December 1994.

apparent manifestations of violations, and 2 to overcome the political impossibility of condemning powerful states for violations.

The list of countries in Table 4.15 partially overlaps with those in 4.14. Countries torn by armed conflict – Angola, Burundi, El Salvador, Haiti, Lebanon, Rwanda, Sudan and Yugoslavia – are found on both lists, as are long-term foci of condemnatory UN action, Iran and Iraq. Differences reveal countries for which condemnation remains politically impossible: Brazil, China, Egypt, India, Indonesia, Mexico, Pakistan, Saudi Arabia, Syria and Turkey. Some of those could be placed on the agenda but not condemned, others could not be placed on the violations-agenda at all.

There have been few instances where the international community responded to human rights violations with one voice, where donors stopped aid following an authoritative determination that a regime was illegitimate because of gross and systematic human rights violations. South Africa and Chile immediately come to mind, and those two early cases profiled the image of linkage between external economic aid and human rights violations. South Africa, Chile and Israel dominated the UN violations agenda for a very long time. Despite repeated UN condemnations, and calls for sanctions, Israel was never sanctioned by donors. That example, again, typifies differences between the United Nations, where decisions can be made by the non-Western majority, and the donor community, where non-Western countries do not have a voice.

Bilder pointed out twenty years ago, that *the* basic problem of incorporating human rights into international aid-and-trade was 'finding "selfish" national interest reasons why governments should be concerned with denials of human rights in other countries'.²⁷ Cutting off aid, seen as a costless way of nudging governments of far-away countries into reducing violations, does *not* address that problem. As long as it is costless, it remains ineffective. Avoidance of potential costs represents the selfish national interest which Bilder tried to place on the agenda. Making sanctions effective entails costs both for the sanctioning and the sanctioned governments. Cutting off aid is unique because it is apparently costless (rather, cost-saving) and therefore is popular with donor governments. Because of asymmetry, which constitutes the main feature of development aid, sanctions proved easier to impose than any other area of inter-governmental relations. The ease with which they have been applied resulted in their more frequent use.

Donors' *jus puniendi* does not readily fit into dominant theories of international relations, which treat states as sole or at least main international actors and the state is a black box, nothing much is known about internal influences upon its external conduct, and its external conduct is analysed with regard to the state's relations with international

Table 4.10 Recipients vulnerability

Country	Aid/GNP ratio in 1993 (%)	Debt/export ratio in 1993 (%)
Sierra Leone	164	681
Mozambique	79	1147
Tanzania	40	727
Guinea-Bissau	40	2851
Mauritania	35	342
Burundi	26	464
Malawi	26	247
Gambia	26	92
Rwanda	24	363
Zambia	24	519
Uganda	19	845
Chad	19	216
Nicaragua	18	2397
Lesotho	17	43
Kenya	16	229
Burkina Faso	16	121
Niger	16	379
Laos	15	207
Mali	14	267
Central African Republic	14	260
Benin	13	147
Guinea	13	211
Madagascar	11	724
Bolivia	11	389
Mongolia	10	72
Ghana	10	234
Honduras	10	272

Note: The first column ranks countries for which aid exceeded 10 per cent of GNP. The second column adds the ratio between debt burden and the value of annual exports. To make data comparable, the same source was used.

within states, both for recipients and for donors. If donors aim to improve human rights in recipient countries, the effects of their effort ought to be assessed against changes within those recipient countries. Donors' human rights policies seem inherently ineffective by that criterion. Aid is an untypical phenomenon in international relations because it is influenced, often dominated, by domestic constituencies in donor countries. Punitive conditionality responds to pressure within donor countries themselves. By that criterion, punitive conditionality is effective – decisions on withholding aid are lobbied for by domestic constituencies, and are widely publicized and applauded. Donors' decision to impose sanctions does not necessarily reflect any explicit or objective criteria, but may depend on an assessment of whether domestic public pressure requires or justifies such a decision. Decision-making is facilitated because withholding aid can be short term or symbolic, and it does not incur any financial cost but represents an apparent saving.

Vulnerability of individual recipients explains the pattern of aid cut-offs. The ability of the donor community to impose conditions upon individual recipients will be minuscule for a recipient that actually does not need aid (such as Indonesia or China), but substantial for a recipient that does (such as Mozambique or Tanzania). Two criteria are used here to make a preliminary assessment of recipients' vulnerability: the ratio of aid to GNP and debt burden. Conditions attached to aid have to be – and always are – accepted by the recipients. Lack of choice results from aid dependence and is typical for African countries, which head the list of recipients with the highest aid dependence. The fact that aid flows to Africa have been decreasing obviously makes that continent vulnerable to donors' conditions. Table 4.16 lists recipients by aid dependence and the relative size of their debt burden, placing African countries at the head of the list.

In a number of countries, annual repayment of foreign debt exceeds the value of exports and its servicing is thus impossible. Debt forgiveness has been debated for years and the debate still continues. While Poland and Egypt, not amongst the poorest countries, had their debts reduced by half, no similar measure for the poorest countries has yet materialized. The size of debt and repayment are closely related to aid: half of debt payments made by African countries goes to international development finance agencies, two-thirds in the case of Ghana and Uganda,²⁸ and another part to bilateral donors. The consequent vulnerability is obvious.

Notes

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- against (all Northern), and 16 abstentions (the only Southern delegations abstaining were Botswana, Panama and the South Korea).
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— Part II —

Donors' sanctions through three decades

The humbling truth is that, at this point in the development of social sciences, we seem to know too little that is reliable about the motivations of political and economic actors.

(Khan, H. A., *The Political Economy of Sanctions against Apartheid*, Lynne Rienner, Boulder, CO, and London, 1988, p. 23)