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THE DETERMINATION OF THE EUROPEAN UNION IN THE INTERNATIONAL PROMOTION OF HUMAN RIGHTS

Abstract:

This paper aims to explain the legal, political and moral obligation of the European Union institutions in the promotion, advancement, respect, and implementation of human rights and freedoms as a universal value, and above all as binding legal- political principles during their efforts in relations with actors both inside and outside the EU.

This research work simultaneously analyzes and interprets international legal rules that regulate human rights.

Moreover, the cases and means in promoting the human rights used by the European Union in different cultural regions have been compared and analyzed as well as the possibility of changing the approach of EU policy towards countries where the highest level of resistance exist in the accepting of such values.

Keywords:

European Union; Human Rights; Promotion; Cultures; Challenges

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Introduction

The European Union, which is located right in the heart of the European continent, was created on the fundamental values of solidarity and tolerance, with a common determination to promote peace, stability and build a world based on respect for human rights, democracy, and the rule of law.

This paper provides an analytical overview of the challenges in promoting human rights around the globe by EU institutions with specific focus on addressing the following hypothesis:

The different cultural societies in the globe are crucial challenges for the European Union in exporting its own values.

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Incorporation of Human Rights within The European Union legislation

Human rights, which are also proclaimed as universal rights and concern (recognition of the innate dignity, equality and inalienable rights of all members of the human family), are also considered to be foundation for the freedom, justice, and peace in the world. Disrespect and contempt vis-à-vis human rights have often led to barbaric acts and insults toward the human consciousness. Thus, the observance and implementation of these rights by all countries aim to create a world in which people will enjoy their natural rights including freedom of speech, religion, and freedom from fear and poverty. This is

also considered to be the highest aspiration of every human being on earth [1].

Historically, for more than two hundred years, Europe has been characterized by continuous efforts to protect fundamental rights, starting with the declarations of civil and human rights, to the present day, when these rights are highly ranked and incorporated within the national legal systems of EU countries, considered to be the most civilized nation's nowadays [2].

The EU, as a core western European creation was build typically on the fundamental values of solidarity and tolerance [3], with a common determination to promote peace, stability, and the construction of the societies based on respect for human rights, democracy and the rule of law. These rights were acquired since the 1950s on legal-political principles, upon which supports the domestic and foreign political actions are supported [4]. Moreover for this reason this supranational organization is considered to be a pioneer in the international arena regarding the regional integrations [5], and above all an example for the other regions in the globe.

The incorporation of these rights described in Article 21 of the Treaty on European Union reaffirm and acknowledge t where are reaffirmed and acknowledged the determination of the EU to promote human rights and democracy in all its abroad actions. This legislation explicitly specifies the basic construction for respecting the human dignity, freedom, democracy, equality, rule of law as well as including the minorities' rights. These values are accepted as common principles for member states in a societies in which pluralism,

non-discrimination, tolerance, justice, solidarity and equality between men and women prevails [6]. In accordance with the above- mentioned article, the Copenhagen criteria for the admission of countries aspiring to join the EU have been set where for "Membership requires that the candidate country has achieved stability of institutions guaranteeing democracy, rule of law, human rights and respect for and protection of minorities" [7].

The implementation of the European Union Charter of Fundamental Rights, and the prospect of accepting the jurisdiction of the European Court of Human Rights through its accession to the European Convention on Human Rights, underscore that the EU's commitment for human rights in all areas is very present. Within their borders, the EU and its member states are committed vividly to set an example in ensuring respect for human values, while similarly outside their borders, they act accordingly by promoting and spreading democracy around the globe [8].

The EU Treaty officially refers to the Charter of Fundamental Rights as a binding form. This makes this act as legally binding and like wise establishes and specifies the applicability of fundamental rights in Union Law. Exceptionally, this is not the case for Poland and the United Kingdom, (before BREXIT) as these two states were not willing, to approve the fundamental rights system under the charter, as they felt they would be obliged to submit or at least change certain national attitudes dealing with religious issues or the treatment of minorities. Therefore, they are not bound by the fundamental rights of this charter,

but they are bound by the case law of the Court of Justice [9].

Undoubtedly, the EU is considered to one of the most special "organizations" in history, where it serves as an example and leader for other organizations in other regions in the implementation of legislation regarding human rights.

Diplomatic means of exporting human rights by the european union

De jure human rights and democracy are proclaimed and accepted as universal values and rights by almost all countries; however, in reality, their observance and implementation cannot be taken for granted anywhere and anytime [10]. What makes these values difficult to implement in practice is, above all, their universal nature, which is called into question due to global cultural differences. On the one hand, the momentum of information development and modern technological communication has facilitated the free exchange of information between individuals, but on the other hand, the coercive power of authoritarian states or the resistance power of their implementation in practice has also increased massively [11].

The EU, as the flag bearer and promoter of these rights throughout the international system, is very aware of these challenges and determined to strengthen and step up its efforts to ensure that human rights are realized for all and everywhere. It continues to support with all authority the

defenders of freedom, democracy and human rights around the world, of all human rights, whether they are civil, political or economic, social and cultural one [12].

The EU also calls on all states to implement the provisions of the Universal Declaration of Human Rights, ratify it and to implement the key international human rights treaties, including labor rights conventions, as well as regional instruments of human values. This "organization" has not been silent or seems to be determined not to be silent on any attempt to undermine respect for the universality of human rights, as confirmed by the joint statement of the High Representative of the European Commission and the EU of Foreign Affairs and Security Policy that "Human rights and democracy are at the heart of the EU's foreign action". The EU has taken action to influence foreign policy by proposing designated areas for further action, all of which can be seen as a valuable and welcome contribution to the development of an EU human rights strategy to promote these goals through its external action [13].

In its relations with the wider world, the European Union supports and promotes its values and interests and contributes to the protection of its citizens. It contributes to peace, security, sustainable development of the Earth, solidarity and mutual respect between peoples, free and fair trade, the eradication of poverty and the protection of human rights, in particular the rights of the child, as well as respect for strict and development of international law, including adherence to the principles of the Charter of the United Nations. This

promotion is applicable through various economic donation including various diplomatic and political means [14].

Of all these mentioned above, more specifically in the framework of the Common Foreign and Security Policy, restrictive measures in pursuit of specific objectives of this policy, as defined in the Treaty on European Union, through sanctions has imposed in recent years, either on an EU autonomous basis or in the implementation of binding UN Security Council Resolutions. These sanctions are instruments of diplomatic or economic nature, they requires a change in actions, or behavior, towards state policies, who violates the international law or human rights, or against state policies that do not respect the rule of law or democratic principles. Restrictive measures imposed by the EU have usually targeted third country governments, or non-state entities and individuals (such as terrorist groups and terrorists). These measures have usually included, and may include in the future the embargo of arms and, other specific or general trade restrictions (import and export) such as, financial restrictions, admission restrictions (visa or travel bans), or other measures depend on what the case may be [15].

The EU not only seeks to prevent human rights violations worldwide, it also requires that when such violations occur, victims must be given access to justice and be compensated in appropriate manner in proportion with the damage caused to them and responsible persons must be held accountable. Up, until now, the EU has enhanced its efforts to promote human rights,

democracy and the rule of law in all aspects of foreign efforts by strengthening its capacity through the creating of mechanisms for early warning and crisis prevention, which also lead to human rights violations. It is determined in its policy agenda to increase its cooperation with partner countries, international organizations and civil society, as well as to build new partnerships. The EU also strengthens its work with partners around the world to support democracy, in particular in developing the credibility of electoral processes and democratic and transparent representative institutions serving the citizen [16]. Furthermore, the EU has been consistent in its contribution to the prevention of social exclusion and discrimination, promoting social justice and protection, equality between women and men, solidarity between the generations and the protection of children's right. It promotes economic, social and territorial cohesion, and solidarity between member states. It also respects its rich cultural and linguistic diversity, and ensures that Europe's cultural heritage is preserved and expanded [17].

This promotion of human rights is specified and established as a basic principle in European law as a result of a more than half a century-long practice by the European Court of Justice, where human rights are included within the general principles of EU law. (Principles of human rights, guaranteed by international conventions, especially the European Convention on Human Rights, Equality and Equity) [18].

The main causes of the European Unions confrontations in the promotion of human rights

are the cultural differences that exist between EU countries and other secular countries where these rights are exported as fundamental values. First of all, in religious countries the main factor where the promotion of these values encounters resistance or conflicts with religious principles. At the same time, these divisions are almost insurmountable, because what is considered value by the European Union, is considered profanity according to the principles of societies governed by religious laws. The EU in its own Strategic Framework and Action Plan for Human Rights and Democracy, pledges to promote human rights in all areas of its external actions without exception. In particular, it has integrated the promotion of human rights into trade, investment, technology and telecommunications, the Internet, energy, the environment, as well as security and defense policy including counter-terrorism policy [19].

As the death penalty and other forms of physical persecution constitute serious violations of human rights and human dignity, the EU has been consistent in its campaign against encouraging the death penalty worldwide [20]. It has also campaigned vigorously against torture and cruel, inhuman and degrading treatment. The framework further specifies that fair and impartial administration of justice is essential to protect human rights. However, when faced with human rights violations, it has used and vowed to use the full range of instruments at his disposal, including sanctions. Working through multilateral institutions, the EU remains committed to a strong multilateral human rights system, which can

impartially monitor the implementation of its legal norms [21].

The EU has opposed any attempts to call into question the universal implementation of human rights continues to advocate for human rights at the UN General Assembly, the Human Rights Council and in the International Labor Organization. The EU emphasizes the leading role of the Human Rights Council in dealing with urgent cases of human rights violations and strongly contribute to the effective functioning of the Council, as well as its willingness to cooperate with countries from all regions [22].

Welcoming the establishment of the Universal Periodic Review, the EU and its Member States are committed in raising the recommendations which have been accepted, as well as the recommendations of the monitoring bodies, treaties and special procedures of the United Nations, in bilateral relations. Member States are equally committed to ensure the implementation of such recommendations within their borders, where the EU will continue its commitment to the invaluable human rights work of the Council of Europe and the OSCE. It will work in partnership with regional and other organizations such as the African Union, ASEAN, SAARC, the Organization of American States, the Arab League, the Organization of Islamic Cooperation and the Pacific Islands Forum, with the aim of encouraging the consolidation of regional mechanisms in promoting and defending the human value [23].

In 2006, the European Instrument for Democracy and Human Rights, built on the basis of the Europe Initiative (2000-2006), aimed to provide support for

the promotion of democracy and human rights abroad [24].

This instrument may provide assistance in the absence of established cooperation, and may intervene without the consent of third country governments. It can support groups or individuals within civil society that advocate for democracy, as well as intergovernmental organizations that implement international mechanisms for the protection of human rights [25].

Promotion of Human Rights by the Loma Convention

The primary objective of the European Union's development policy is also to help poor countries, especially those with historical ties to EU member states, to grow and develop economically, but without risking exposure to greater competition of its politically sensitive sectors. Most European Union agreements with developing countries contain conditional clauses linking trade concessions to improved human rights and governance standards [26].

One of the the most important EU development assistance instruments is still the Loma Convention, which was followed by the ACP-EU Agreement [27].

Following a series of negotiation, a privision was added with appropriate measures in case when the principles of human rights and democracy are violated (Article 5). Prior to the 1995 review, human rights were mentioned only in the preamble. For the first time concrete measures was articulated that

concerned the respect of human rights, democratic principles and the rule of law, which have now become essential elements of the ACP-EU development partnership. Since then, ACP countries, which do not conform their government policies to these criteria, risk suspending EU funding. Suspensions are a severe blow to most countries because this assistance is typically provided for a period of five years, and this short-term assistance is difficult to obtain. In addition, the concept of "good governance" as a "fundamental element" was also introduced in the ACP - EU Agreement with Cotonou. After difficult negotiations and resistance from ACP states to introduce what was often considered a "foggy" concept, the Cotonou Agreement partners formulated an additional criterion for cooperation, namely "transparent and accountable governance". Thus the term "good governance" remains a "fundamental element", but not an "essential element for cooperation." [28].

Liberia was the first country to be summoned for "consultation" due to a perceived violation of good governance. This is also considered as the first case in which the Council of the EU considered a country to be involved in human rights violations towards neighboring country (Côte d'Ivoire and Guinea), and this has justified the taking of "appropriate measures" [29].

The European Commission has consistently monitored countries traditionally regarded to be conflicting countries, by stating that under Article 11 (4) of the Cotonou Agreement states that special attention will be paid to "preventing a diversion of funds" for oppressive purposes. A list of countries

in conflict has been continuously maintained and revised, in line with the evolution of conflicts or peace efforts, as reflected in EU-adopted positions [30].

The Cotonou Agreement is considered the most comprehensive partnership agreement between developing countries and the EU. Almost two decades the framework for EU relations with dozens of countries from Africa, the Caribbean and the Pacific. Ten years ago, the European Commission and the African, Caribbean and Pacific Group completed the second revision of the Cotonou Partnership Agreement after a first revision in 2001. ACP-EU cooperation has adapted to new challenges, such as climate change, food security, regional integration, state fragility and aid efficiency [31].

From the agreements signed by the European Union, it is clear that the EU attaches importance to human rights by establishing conditionality clauses with third countries in respecting human rights.

Conclusion

As the EU values human rights and fundamental freedoms as universal and indivisible rights, it actively promotes these rights both within and outside its borders. The importance that the European Union attaches to these rights is best understood by the incorporation of these values within the legal acts of the European Union, which not only oblige the institutions of the EU to act in accordance with these acts. Often, these institutions themselves condition third countries

on the observance of these rights. European Union trade and cooperation agreements with third countries should contain a provision stipulating that human rights are an essential element in relations between the parties.

As a result of the above mentioned, an elaborate global system should be formed and developed continuously, through joint global conferences, which would include all state actors and key international organizations dealing with human rights, where the organizer of this conference would be the European Union itself.

In addition to public and multilateral diplomacy, the European Union should also practice active diplomacy, where the implementation of this active and innovative diplomacy will enable the EU to help change the direction of relations between the EU - and other countries that are reluctant to implement freedoms and human rights. The European Union as a dominant and world power, with "negotiations by power" must take the initiative and communicate directly with the leaders of totalitarian countries, demonstrating caution in its demands that it seriously seeks change in relations with states and that its purpose is to promote of human rights, not regime change. The EU must also take into account the beliefs of these regimes that the European Union wants regime change, while their main objective is to preserve their regimes.

The European Union needs to increase the scope of activities in order to increase the influence of governments in their aims to promote human rights at home and abroad, by partnering with multilateral institutions to achieve such a goal.

Important challenges for the EU in promoting human rights, however, remain legal norms. Moreover, countries continue to oppose the importance of civil and political rights over economic, social, and cultural ones. National governments sometimes resist adherence to international norms, perceiving them as contrary to local cultural or social values. Western countries, especially the US, oppose cooperation with the EU on many occasions, and on human rights concerns that such cooperation with the European Union could negatively affect its economic profits.

The main causes of the European Union's confrontations in the promotion of human rights are the cultural differences that exist between EU countries and other countries where these rights are exported as fundamental values. First of all, religion remains the main factor where the promotion of these values encounters resistance or conflicts with the principles of these rights with religious principles. At the same time, these divisions are almost insurmountable, because what is considered right and good, or as a value by the European Union, goes against the religious principles of certain governments and societies.

The European Union, together with other influential multilateral institutions, such as the World Bank (WB), the International Monetary Fund (IMF) and the World Trade Organization (WTO), must work together to support and promote human rights, and to do so. Indirectly, through poverty alleviation and other development and reconstruction projects

The European Union should provide more donations to NGOs, as necessary actors in the

implementation of field-level capacity building, where successful capacity building forms the core of long-term efforts to improve human rights in places where these rights were violated.

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