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# The flag and the stick: Aid suspensions, human rights, and the problem of the complicit public

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## ABSTRACT

Foreign aid donors often use, or are expected to use, the threat of aid suspensions in response to human rights violations. The use of such conditionality seeks to pressure the 'recipient' government into ending or preventing rights abuses. This article argues that this approach tacitly relies on the assumption that most citizens in the recipient country oppose their government's rights violations. However, in recent years, and particularly linked to the rise of populism, there has been growing recognition of instances around the world in which significant parts of the public support government actions giving rise to human rights violations. Drawing in particular on the example of donor responses to recent efforts to introduce repressive anti-homosexuality legislation in Uganda, the article argues that such cases present donors with a dilemma that arises because the threat of aid suspensions serves two distinct but related purposes: an instrumental function ('the stick'), whereby the threat of withdrawing aid is used to pressure the 'recipient' government into ending the rights violation; and an expressive function ('the flag') that is often overlooked, whereby conditionality signals the donor government's commitment to international human rights norms. While typically these two functions of aid conditionality reinforce one another, we show that when faced with a 'complicit public', the stick and flag come apart, generating the dilemma for donors. The threat of aid sanctions is likely to trigger a public backlash but refraining from effective criticism will undermine support for international human rights norms. Based on this analysis, the article provides a framework for recognizing and evaluating potential responses to this dilemma that considers the salient political and ethical features of such contexts. In doing so, it demonstrates the importance of understanding the political ethics of aid suspensions and other donor responses to human rights violations.

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## 1. Introduction

In 2009, a controversial bill tabled in Uganda's parliament led to a global outcry. The Anti-Homosexuality Bill (AHB) sought to strengthen the country's existing anti-sodomy laws by introducing new provisions that targeted the rights of LGBT people in Uganda.<sup>1</sup> The most notable was a clause on 'aggravated homosexuality' which included homosexual acts by those with HIV/AIDS or 'repeat offenders'.<sup>2</sup> Those found guilty of 'aggravated homosexuality' would face

the death penalty, which led to the Bill being dubbed the 'kill-the-gays bill' and triggered severe international condemnation (Nyanzi and Karamagi, 2015). The AHB was widely viewed as an attempt to violate the fundamental rights of LGBT Ugandans.

The international response focused on foreign aid to Uganda as it had long been a major recipient of Western official development assistance (ODA). Western donors such as the USA, UK, Sweden, and the EU, used *aid conditionality* – specifically, the threat to suspend ODA to Uganda – to pressure the Ugandan Government to reject the AHB (Dasandi, 2022). Within Uganda, LGBT activists and human rights organizations formed a coalition to fight the Bill (Jjuuko, 2013). Significantly, the Ugandan President Yoweri Museveni initially condemned the AHB, stating it did not represent the views of the Ugandan Government (Human Rights Watch, 2014). Yet, there was also strong support for the Bill within Uganda from religious leaders, the tabloid press, and most importantly – the public. An overwhelming majority of Ugandans opposed homosexuality and supported the Bill (Nuñez-Mietz and García Iommi,

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<sup>1</sup> The abbreviation 'LGBT' for Lesbian, Gay, Bisexual, and Transgender is used throughout the paper.

<sup>2</sup> See the Uganda Antigay Bill draft, April 2009, available at: <https://nationalpress.typepad.com/files/bill-no-18-anti-homosexuality-bill-2009.pdf> [accessed 25 May 2022].

2017). Consequently, donors' threats to withdraw aid triggered a public backlash in the country with accusations that Western governments were undermining Ugandan sovereignty (Tamale, 2013). This backlash eventually led to the AHB being passed by Uganda's parliament in December 2013 as the Anti-Homosexuality Act (AHA). Donors again used public threats of aid suspensions to pressure the Ugandan Government not to sign it into law (Dasandi, 2022). However, under substantial domestic pressure, Museveni signed the AHA in February 2014. It was annulled six months later by Uganda's Constitutional Court on a technicality.<sup>3</sup>

Since the 2000s, aid donors have increasingly sought to use such conditionality to promote human rights in 'recipient' countries, in part due to public support for such actions in donor countries (Molenaers et al., 2015; Fisher, 2015; Heinrich and Kobayashi, 2020; Dasandi et al., 2022; Allendoerfer, 2017). The case of Uganda's AHA illustrates the types of trade-offs that donors face when using this form of aid conditionality to respond to rights abuses. Specifically, this case exemplifies a context where a majority of citizens in an aid-receiving country support the rights abuse, which we refer to as the problem of the 'complicit public'. Such cases have largely been overlooked in the literature on aid and human rights. This is partly because the human rights literature more broadly tends to assume that the public opposes government violations of human rights, and that this explains why democracies commit fewer human rights abuses than autocratic regimes (e.g., Davenport, 2007; Joshi et al., 2019). It is also because of the prevalent assumption that many of the ODA-receiving countries where human rights violations occur are those with autocratic regimes, and hence public support or opposition for such violations have minimal effect on these governments' actions. Such assumptions have increasingly been challenged. The rise of semi-authoritarian regimes in recent decades has meant that while there may be little real competition for power in many states that receive aid, most have some democratic features – in particular electoral competition – which means these regimes rely on some degree of popular support (Ottaway, 2013; Levitsky and Way, 2010).<sup>4</sup> There also has been growing recent attention to cases in which a significant section of citizens support governments that violate the rights of some groups, and may even be supportive of the rights abuses. This has been considered largely in the context of the emergence of populist regimes around the world that have increased their public support through human rights violations or threats of such violations, and the wider global backlash against human rights linked to the rise of populism (Roth, 2017; Alston, 2017; Regilme, 2021). Despite growing attention to such cases, the implications for international actors seeking to promote human rights typically have been overlooked.<sup>5</sup>

This article focuses on the problem donors face in responding to rights violations where a 'complicit public' is present. We consider this problem to be one of political ethics, "the practice of making ethical judgments about political action" (Thompson, 2019; cf. Hall and Sabl, 2022). Political ethics can be described as dealing with the conflicts between different ethical demands political actors face: demands of universal morality, democratic account-

ability, prudence, compromise, the responsibilities of public office, and personal integrity. Aid donors, whether they are states, international institutions, or development INGOs, are political agents, in that they are not merely "do-gooding machines" (Rubenstein, 2015), but are involved in the exercise of power and different modes of governance (Wenar, 2006; Carothers and de Gramont, 2013; Wisor, 2016; Dasandi and Erez, 2019). Evaluating aid should recognize that donors, as political agents, face distinct problems that reflect a tension between the competing goals of these institutions. Not least, evaluating aid through the prism of political ethics should take into account tensions between, for example, the 'effectiveness' of aid in promoting specific development goals, the democratic accountability of aid institutions, and the negative unintended consequences of aid on the politics of the recipient society.

Focusing on the threat of aid suspensions, we argue that the dilemma of the complicit public arises because such conditionality serves two distinct but related purposes: an instrumental function ('the stick'), whereby the threat of withdrawing ODA is used to pressure the 'recipient' government into preventing or ending the rights violation; and an expressive purpose ('the flag') whereby conditionality signals the donor government's commitment to human rights norms internationally and domestically. While much of the existing literature on aid conditionality and human rights focuses exclusively on the former objective, a key contribution of this paper is to highlight this second expressive purpose of demonstrating donors' commitments to human rights norms. The reason this second function is largely overlooked is because, typically, these two functions of aid conditionality reinforce one another. Expressive threats are not merely symbolic, but in themselves serve an instrumental, behavior-changing purpose – and an act of criticism is made more credible by putting one's money where one's mouth is. However, when faced with widespread public support of the recipient government's violation of rights (a 'complicit public'), the stick and flag come apart. If donors respond to the human rights violation with the threat of withdrawing aid, then they risk generating a public backlash that may worsen the situation; yet, if they do not publicly respond, they risk demonstrating a lack of commitment to international human rights norms.

We argue that taking this dilemma seriously sheds light on a largely unexplored area of the ethics of aid and human rights. This is a particularly urgent task: with the rise of illiberal democracies and semi-authoritarian regimes, clashes between rights-protection and majoritarian politics of this kind are expected to become more common in global politics. Taking this problem seriously means that normative analysis of development aid policy cannot merely focus on the relationship between donor and recipient governments, nor on the ethical justifications of aid itself. The effects of any given aid policy, not least conditionality, cannot be fully evaluated without understanding the specific internal and external political dynamics of the actors in question. Given this diversity of actors – donor and recipient governments, civil society organizations, affected citizens, etc. – the evaluation of any particular policy must take into account how political dynamics might generate perverse incentives, or block the possibility for future reform. Donor and recipient governments interact with other international actors, as well as with their own domestic publics, which are themselves diverse in their interests, values, and capacities. As actors and relationship differ between cases, it is clear that a normative analysis cannot be 'one size fits all' but must be tailored to the particular political context, or at least to its salient normative features.

In the next section, we offer an account of the ethical and political conditions for public complicity. We then explain the dilemma that arises from this public complicity, and the break between the flag and the stick that it creates. In doing so, we draw on the Ugan-

<sup>3</sup> It was annulled in August 2014 because of the lack of the necessary quorum when Parliament passed the AHA. In March 2023, a revised version of the Anti-Homosexuality Bill was passed by Uganda's Parliament (BBC News, 2023).

<sup>4</sup> Indeed, Ottaway (2013: 138) notes that "the battle for public opinion is thus as important in semi-authoritarian states as in democratic ones."

<sup>5</sup> Several recent studies have focused on foreign aid in the context of rising populism (see e.g., Heinrich et al., 2021; Hammerschmidt et al., 2022; Bayram and Thomson, 2022). However, these studies have tended to focus on populist politics in donor rather than recipient countries.

dan case as a paradigmatic and widely discussed real world example, while also referring to other similar contexts.<sup>6</sup> Building on this analysis, the final section offers a framework for recognizing and evaluating potential responses for this conundrum. We explain that such an evaluation of responses to complicit public human rights violations will depend on salient contextual features such as the internal politics of donor and recipient countries, the nature of the relationship between donor and recipient governments, and the global context. Therefore, while our focus is primarily on how donors can address human rights concerns rather than other donors aims (e.g., development-related or geopolitical); our framework incorporates these aims as relevant contextual features.

## 2. Human rights violations and the complicit public

The problem of the *complicit public* has been largely absent from empirical studies of aid and human rights, the literature on the ethics of sanctions (including aid suspensions), and the wider literature on the politics of development. This is partly because it is often assumed that when the governments of poorer, aid-receiving countries engage in rights violations, they violate the rights of the public as a whole. This is despite notable cases of governments violating the rights of minority groups with significant popular support for such actions throughout the twentieth century. For example, the literature on institutions tends to emphasize how 'extractive' political institutions concentrate power in the hands of a narrow elite, denying the rights of the majority of people and preventing economic development (e.g., Acemoglu and Robinson, 2012; Easterly, 2001; Rodrik et al., 2004). For this reason, it is generally assumed that citizens oppose these rights violations, and that these authoritarian institutions mean that the public has little influence on government actions in most low-income countries where rights abuses are pervasive.

In works on the ethics of sanctions and aid conditionality, these empirical premises often lead scholars to conclude that the public is a victim, or at most an innocent bystander – and therefore, not liable to the harms inflicted on it by aid withdrawals. In her argument against economic sanctions, Joy Gordon (1999) posits that sanctions are ethically impermissible because of the harms they inflict on the innocent population. Many defenders of sanctions share the premise of the public as victim, and try to address this concern in different ways. Some advocate the use of 'smart' or 'targeted' sanctions, which involves discriminating between political leaders and ordinary civilians so that the level of inflicted harm should match the level of responsibility for wrongdoing (Damrosch, 1993), or employing a more far-grained and individualized notion of liability to harm (Fabre, 2018: 42–43). Others argue that if harm to innocents from economic sanctions cannot be avoided, it should at least be proportional. Proportionality allows for limited infringement of ethical constraints – such as harming the innocents – provided these occur in the attainment of an important moral goal, they are causally necessary for the attainment of this goal, the infringement is as limited as possible, and it is preferable to the alternatives (Pattison, 2018b: 28–30). In our previous work, we contribute the conceptual framework of the "donor's dilemma", described as the tension between maintaining positive development outcomes and complicity with the recipient government's wrongdoing (Dasandi and Erez, 2019). Despite their differences, all these responses agree that the public, as a whole, is not liable to the harm of withdrawing aid.

<sup>6</sup> The case of Uganda's AHB has been the subject of several studies that we draw on in this article (e.g. Tamale, 2013; Bompani and Valois, 2017; Jjuuko, 2013; Nyanzi and Karamagi, 2015; Nuñez-Mietz and García Iommi, 2017; Dasandi, 2022; Saltnes and Thiel, 2021).

Over the past decade, however, there has been growing attention to instances where a majority of citizens actively support their government's rights abuses. This has occurred in no small part because of the rise of right-wing populism around the world, which has seen leaders who openly threaten human rights violations against specific groups being elected to office, often with large majorities (Roth, 2017; Alston, 2017; Regilme, 2021). Notable examples include the election of Narendra Modi in India in 2013, Rodrigo Duterte's election in the Philippines in 2016, and perhaps most clearly the 2016 election of Donald Trump as US president. Beyond right-wing populism, recent studies have demonstrated that there are contexts in which significant sections of society will support rights abuses directed at different groups or at least oppose efforts to bring rights violators to justice – and, in doing so, have sought to shed light on the conditions that give rise to such support (see e.g., Greenhill and Reiter, 2022; Lupu and Wallace, 2019; Mitchell, 2012; Chapman and Chaudoin, 2020; Dasandi and Mitchell, 2023).

Such public support for rights abuses can be seen in countries that receive foreign aid. Beyond the example of anti-homosexuality legislation in Uganda, there are rising numbers of instances in which the majority of citizens endorse and support right-violating policies in aid-receiving countries. This includes, for example, other instances of public support for repression against LGBT people (see e.g., Symons and Altman, 2015; Velasco, 2020; Brown, 2023). It also includes support for rights abuses committed against religious and ethnic minorities, such as against the Rohingya in Myanmar (Wade, 2019: 229). In addition to citizens supporting repressive government actions in high-profile events, there are examples of the public supporting policies that worsen specific rights over time. This includes opposition to women's rights (e.g., Kandiyoti, 2007; Tadros, 2011) or support for government policies that restrict civil society space (Buyse, 2018). Furthermore, as we have noted, this also includes public support for leaders who explicitly state they will use repressive policies, such as extrajudicial killings, to maintain order as in the Philippines with the election of Duterte (Regilme, 2021).

In such cases, the strong public support for rights violations casts doubt on the prevalent normative assumption, and reopens the question: can the public be held responsible for the rights violation committed by their government, and may they be justifiably liable to some of the harms of withdrawing aid? While it is beyond the scope of this article to flesh out a complete theory of collective responsibility, in the rest of this section we set out some minimal parameters for such an account.<sup>7</sup> These are conditions shared among most legal and political theorists, and sufficient for our discussion of the specific problem of the complicit public. We maintain that if human rights violations by the state are dependent, at least to some degree, on the support of the public, then it is *prima facie* plausible that the public is collectively responsible.

Our analysis is focused on what philosophers call *outcome responsibility*, distinct from moral culpability or direct causal responsibility (Miller, 2007). We remain agnostic as to whether the public should be blamed for the actions of its government, and only seek to establish whether, and how, they may be held responsible for them, that is, liable to the costs and harms related to these actions. Specific individual citizens may *also* be held morally culpable, of course; but these evaluations are in addition to the responsibility they have as part of a collective. Furthermore, some political theorists link collective responsibility to citizens' identification with the state, or with their endorsement of its ends and values (Miller, 2007; Pasternak, 2021). Citizens who do not

<sup>7</sup> A recent overview of the debate over collective responsibility can be found in Lawford-Smith and Collins (2017) and Pasternak (2021).

“signal their resentment of their state” can be held responsible for its policies (Pasternak, 2021: 375). To illustrate this, consider again the Ugandan case. Support for the repressive legislation was based on significant public opposition to LGBT rights. For example, a survey in 2007 found that 96 per cent of Ugandans believe that homosexuality should not be accepted in society (Pew Research Center, 2007). A 2013 survey found that only 1 per cent of Ugandans believe homosexuality to be “morally acceptable” (Pew Research Center, 2013). This substantial public opposition to homosexuality has remained largely unchanged over the past decade, across different sectors of society (Nuñez-Mietz and García Iommi, 2017). Subsequently, there was huge public support for the Anti-Homosexuality Bill when it was tabled (Tamale, 2013; Nuñez-Mietz and García Iommi, 2017; Dasandi, 2022).

It is worth noting that other actors and processes contributed to this public support for the Bill. The popularity of evangelical Christianity in Uganda around this time is closely linked to increased opposition to LGBT rights, and prominent US evangelists played an influential role in the country’s anti-homosexuality movement (Nyanzi and Karamagi, 2015; Englander, 2011). Ugandan tabloids also contributed to fostering a homophobic climate, for example, by starting a campaign of ‘outing’ suspected homosexuals (Jjuuko, 2013; Bompani and Valois, 2017). Keeping these influences in mind, our point is that it was the public’s support for the Bill that played a critical role in shaping the Ugandan Government’s actions.

It is not enough, therefore, to say that public attitudes were in line with repressive policies, but rather that public attitudes influenced repressive policies.<sup>8</sup> Some theorists argue that certain political and institutional conditions should be in place for such collective responsibility, and moreover maintain that these are only applicable in liberal democracies. Anna Stilz (2011), for example, has argued that citizens’ collective responsibility only holds in democratic states, because it is only in those type of regimes that citizens can be said to *authorize* the state. In the context of sanctions and aid conditionality, Pattison (2018b: 44) argues that collective responsibility requires certain features (e.g., representative decision-making procedures), “the lack of which often prompts the need for many sanctions regimes in the first place, including in cases of government repression against its population.” As such, he argues it cannot be the basis for justifying harm to citizens in general.

We reject this strong institutional condition as overly narrow, and endorse a broader one. Of course, there are certain regimes that are so repressive that it would be perverse to hold citizens responsible for their actions: they are best conceived as the state’s innocent victims, powerless to influence it in any way. There is no plausible sense in which, for example, North Koreans can be held responsible for the actions of Kim Jong Un. Nevertheless, it is plausible to hold the public responsible in polities that fall short of full-blown liberal democracy. In many semi-authoritarian or partial democracies, the public is capable of influencing political leaders, and the protection of human rights is significantly dependent on having a public that is willing to hold politicians to account (cf. Jubb, 2014).

To return to the Ugandan example, the AHB’s popularity with the public was especially important given the country’s political system, which is generally considered a partial democracy or semi-authoritarian regime (Tripp, 2004; Cheeseman, 2015). Citizens can exert influence on politics and policies in the country through voting in elections, civil society pressure, and protest (Tripp, 2004; Goodfellow, 2014; Harris and Hern, 2019). Furthermore, public support was crucial for Museveni and the NRM to remain in power (Izama and Wilkerson, 2011). The AHB’s popular-

<sup>8</sup> Endorsement may plausibly ground collective responsibility in some contexts – for example, in voluntary associations – but it is problematic to appeal to it in the relationship between state and citizens, which is coercive and non-optional.

ity with the public therefore had a significant effect on the government during this period, and on Ugandan politics more generally, whereby many legislators saw the AHB as crucial to bolster support among constituents (Dasandi, 2022).<sup>9</sup> If we accept this minimal account of collective responsibility, it follows that the public, as a collective, can sometimes be seen as complicit with rights violations. At a minimum, when the state is somewhat democratic, and the public could influence the government but instead endorses rights-violating policies, the public could be liable to the costs and harms of economic sanctions aimed at ending the rights abuse.

What is the upshot of this for donors? The complicit public may appear to simplify the ethical and political judgement of donors. Recall that the ethical dilemma originated in the tension between not legitimizing rights-violating governments and the duty to avoid harming innocent civilians (Dasandi and Erez, 2019). According to moral philosophers, this could be described as a tension between consequentialist and deontological obligations. As Michael Walzer (1973: 161) writes, an action “may be exactly the right thing to do in utilitarian terms and yet leave the man who does it guilty of a moral wrong”. But if the public is indeed complicit, then they are at least to some degree liable to the costs of aid withdrawal. In what follows, we argue that, even if this account of collective responsibility is persuasive, and public complicity relieves some of qualms donors face when balancing between human rights protection and development goals, the complicit public creates a new dilemma for policymakers: it breaks apart the twin aims of aid conditionality.

### 3. The twin aims of conditional aid: the stick and the flag

The policy response on which we focus in this article is aid conditionality, specifically “the use of pressure, by the donors, in terms of threatening to terminate aid or actually terminating or reducing it, if conditions are not met by the recipients” (Stokke, 1995: 11–12).<sup>10</sup> We consider conditionality aimed at addressing human rights violations, and not, for example, economic reform. In the literature, this form of aid conditionality is often considered a subset of economic sanctions (Blanchard and Ripsman, 2008; Koch, 2015). We follow suit, although it is important to first highlight several important attributes that distinguish conditional aid from other forms of economic sanctions.

Compared to other economic sanctions, aid conditionality is more widely used, and is more often demanded by the public and civil society (Koch, 2015; Nielsen, 2013). First, unlike economic sanctions, there is often a notion that donors have a duty to withdraw aid or else become complicit. Second, it is more palatable because sanctions are perceived as an action, whereas the withdrawal of aid is perceived as the discontinuation of an action. Furthermore, in other forms of economic sanctions there is a disruption to the country issuing the sanctions – particularly to private companies – and so there is an element of mutual harm. Not so with the suspension of aid. However, aid conditionality is

<sup>9</sup> It is important to note that establishing the precise conditions under which the public can influence governments’ actions regarding human rights, or the proportion of the public must support a rights violation to influence the governments’ actions is beyond the scope of this article. We would argue that both will be dependent on the specific country context (political context), and the relationship between the government and different sections of the population. As several studies note, however, in the Ugandan context, it is clear that public support for the AHA played a decisive role in the government’s actions (see Bompani and Valois, 2017; Nuñez-Mietz and García Iommi, 2017; Dasandi, 2022; Saltner and Thiel, 2021).

<sup>10</sup> Our focus on aid or political conditionality focuses on aid suspensions or reductions by a donor in response to a human rights transgression. We recognize, however, that broader definitions of conditionality have been used recently, which include aid to incentivize political reforms and respect for human rights (Molenaers et al., 2015). We return to the issue of pre-emptive conditionality later in the article.

more susceptible to the dilemma we analyze. While effective economic sanctions require some ability to influence the target state, they do not presuppose an asymmetry of power between the sanctioning state and its target, which may be roughly equal. With aid conditionality, the inequality and dependence between donor and recipient is brought to the forefront, and the threat of the aid suspension is then more likely to bring with it a backlash (see [Stokke, 1995](#)). In the typology developed by Lucia [Rafanelli \(2021\)](#), conditional aid is viewed as having a higher degree of control, and as such as a more serious threat to recipients' self-determination.

Economic sanctions have multiple aims. The literature offers several complex and nuanced typologies of these aims. For example, James [Barber \(1979\)](#) suggests sanctions have the primary objective of changing the behavior of the target state, the secondary objective relating to the status and expectations of the imposing state (for example, vis-à-vis its own public), and tertiary objectives relating to the structure and operation of the international system more widely. Similarly, James [Lindsay's \(1986\)](#) typology distinguishes between compliance, subversion, deterrence, and international and domestic symbolism. Francesco [Giumelli's \(2016\)](#) framework offers a typology between coercion (behavior change), constraint (restriction of access to resources), and signaling (to the targets and to the international community). For our purposes, in focusing on aid conditionality we consider two general types of aims: those intended to change the behavior of the recipient, and those meant to signal a commitment to a norm. As a shorthand, we call these 'the stick' and 'the flag' respectively.

As suggested above, these two broad objectives of aid conditionality – the stick and the flag – typically go together. However, we argue that when faced with a 'complicit public' – a context where a significant portion of citizens support the government committing a human rights violation – the stick and flag come apart. This is because actions taken by donors to further the stick objectives undermine the flag aims, and vice-versa. Unlike other kinds of dilemmas in political ethics, which focus on the tension between consequentialist and deontological duties, or a tension between means and ends ([Walzer, 1973](#)), the tension between the stick and flag is better described as a conflict between two ends of the same practice. To explain this dynamic, we turn to examine each of these aims in turn, drawing on the Ugandan and similar cases. Understanding how and why the stick and the flag come apart is crucial to address this dilemma.

### 3.1. The stick: instrumental behavioral change and the risk of backlash

A major part of donor governments' rationale for using the threat of aid suspensions is for the instrumental purpose of changing behavior. It is assumed that governments, as rational actors, will respond to incentives and disincentives. The more dependent a regime is on ODA, the more likely it is that the suspension of aid (or the threat of this withdrawal) would bring a change in its behavior. Moreover, as state resources dwindle, it is assumed that we can expect public and political support for the regime to weaken, threatening the government's stability and legitimacy – giving further reason to comply.

Most evaluations of the effectiveness of aid conditionality focus on this instrumental component (e.g., [Crawford, 1997](#)). Conditionality is considered effective if it brings about a behavioral change in the recipient government in terms of ending or preventing the rights violation, and ineffective if it fails to do so. However, as far back as the 1960s, Johan [Galtung \(1967\)](#) argued that this "naïve theory of sanctions" overlooks the internal politics of the target state. The naïve theory ignores the possibility that, at least in the short run, the target government can make use of the external pressure to bolster its own support. In what became known as the 'rally around the flag' effect, Galtung observed that instead of

turning on the government, the people may instead resist the foreign intervention.

The naïve theory of sanctions is also criticized for being overly focused on economic harm, and not taking into account symbolic or reputational harm which can also lead to behavioral change. Even if a state can evade the economic harm of aid suspensions (e.g., by other means of income), the desire to avoid shame or stigma in the global community might lead a change in its actions. But here again, there is the possibility of rallying around the flag. Indeed, a number of recent studies on international 'naming and shaming' of rights abusers suggest such shaming can foster a negative response by citizens in the targeted country triggering a backlash against international actors ([Snyder, 2020](#); [Terman, 2020](#); [Shadmehr and Boleslavsky, 2022](#)). Hence, this issue is not limited to aid conditionality. However, donor threats to withdraw aid may be especially prone to such a backlash due to the potential harm to vulnerable people and the unequal power relations between donor and recipient states. As [Stokke \(1995: 43\)](#) writes, "conditionality implies superiority: it infringes on sovereignty, insists the donor(s) knows best, and highlights the inequality of power" between donor and recipient. Recipient governments may even use confrontations with donors to increase public support:

In an open confrontation of this kind, which is very likely to involve political conditionality (human rights, democracy), the recipient government may be able to whip up national sentiments and anger against external interference. In this way it may calculate on, and even succeed in, turning a (possible) loss in terms of financial capital (aid) into a gain in terms of its political capital at home ([Stokke, 1995: 43](#)).

This risk becomes more evident when the action prompting threats of aid suspensions has widespread public support. If the public supports the policy, we may expect that the government can more effectively reframe the situation as foreign interference in national self-determination.

Such processes have produced public backlashes against donors' use of conditionality in various contexts, including Myanmar ([Nguyen, 2018](#)), Afghanistan ([Goodhand and Sedra, 2006](#)), and Tanzania ([Brown, 2023](#)). This dynamic also can be observed in the Ugandan case. Museveni was initially firmly opposed to the AHB, despite having previously expressed opposition to LGBT rights in Uganda ([Englander, 2011](#)). He described the Bill as "fascist", insisting it did not represent the government's views ([Human Rights Watch, 2014](#)). This initial opposition to the AHB was largely due to Western donor pressure, as Museveni himself acknowledged ([BBC News, 2010](#)). However, the donor threats to suspend aid – which were publicized by supporters of the AHB<sup>11</sup> – generated a public backlash with the Ugandan public viewing them as examples of more powerful countries trying to undermine Ugandan sovereignty and culture ([Dasandi, 2022](#)). The backlash against donor threats led to public demonstrations in Uganda organized in support of the AHB and against donor interventions ([Deutsche Presse-Agentur, 2009](#)). It also fueled public hostility against the LGBT community. This public support for the AHB led to growing domestic pressure on Museveni and the government to pass the Bill. For many Ugandan MPs – the majority of whom belonged to the ruling NRM Party – the strong public support for the AHB meant they had to back it. While for some, it was an opportunity to increase their popularity, others were concerned that failing to support the AHB would lead them to be voted out of office. Public statements by Ugandan politicians urged the government to defend Uganda's sovereignty and cultural values against Western pressure and threats to suspend aid (see [Dasandi, 2022](#)). Therefore, rather than

<sup>11</sup> For example, see Daily Monitor (2009).

donor threats to cut aid incentivizing the Ugandan Government to oppose the AHB, it instead provoked a public backlash, used by politicians to increase their own support.

Importantly, key actors involved in the fight against the AHB were aware of the strong public support for the Bill from the beginning, and sought to ensure that international responses would not foster a backlash. One might assume that quiet diplomacy – behind the scenes efforts by donor staff to persuade and pressure counterparts in the recipient government (Brown, 2003) – would have been a neat solution to the problem created by the complicit public. Private threats to cut aid can influence government behavior, without creating the public backlash. In the final section of the paper, we discuss this option, and the conditions favorable to it, in more detail. Why haven't donor governments pursued this path more generally? There are two main reasons for this. The first is to ensure that actors recognize that any reduction in ODA is directly associated to the rights violation (Molenaers et al., 2015; Dasandi and Erez, 2019). The second is the perception that for the threat to be seen as credible, it needed to be made publicly. In the crisis diplomacy literature, it has long been argued that by issuing public threats, leaders introduce audience costs, which commit them to following through on the threat. In contrast, private threats lack this “tying-hands” mechanism, which means they are often viewed as “cheap talk” that lack credibility (see Fearon, 1997). We argue that this both of these reasons are more broadly linked to the second, expressive function of aid conditionality, ‘the flag’.

### 3.2. The flag: support for international norms and the risk of hypocrisy

The expressive function of aid conditionality is a way for political leaders to both support global norms in the international community and reaffirm their commitment to certain principles and values to their domestic constituencies. By publicly criticizing the wrongdoings of others, states express that an international norm has been violated. While much attention has been given to the instrumental function of aid suspensions towards the targets of these policies, the expressive function has been largely overlooked. Furthermore, recent studies that have highlighted the expressive uses of aid conditionality have tended to focus on how donors use the threat of aid withdrawals to signal their commitment to human rights to domestic audiences – often due to domestic pressure on aid spending (Fisher, 2015; Dasandi et al., 2022). However, this fails to fully recognize the role of aid conditionality in upholding global human rights norms, and the ways in which domestic support for conditionality is linked to expectations that donor governments uphold these global norms.

Despite the lack of attention to donor governments using aid to demonstrate commitment to international human rights norms, we can observe the importance of donor commitment to such norms in various ways. It is worth noting that there are different arguments for why donors need to express this commitment through aid policy. One argument is that aid conditionality provides a means for Western governments back up their human rights rhetoric with action, thereby strengthening international norms. For example, while the ‘naming and shaming’ approach is widely seen as important in upholding international human rights norms (Franklin, 2015); if such criticism was not supported by concrete actions, it could be dismissed as ‘cheap talk’ (Hafner-Burton, 2008). Therefore, foreign aid has become an important mechanism by which the international community can punish states that violate human rights norms, and in doing so demonstrates donor governments’ commitment to these norms (Esarey and DeMeritt, 2017). This means that aid donors are increasingly expected to respond to human rights violations with the use of conditionality. There is also an expectation that donor governments committed to human rights refrain from providing ODA to repressive regimes,

because foreign aid provides such regimes with resources and legitimacy, and thereby undermines human rights norms (Dasandi and Erez, 2019). Again, this means that there is particular emphasis placed on governments providing aid to respond to rights violations. This can be seen with human rights NGOs’ calls for donors to withdraw ODA in response to human rights abuses (see e.g., Human Rights Watch, 2010); with the strong media and public support in donor countries for aid disbursements being conditional on recipient governments’ respect for human rights (Heinrich and Kobayashi, 2020; Dasandi et al., 2022; Allendoerfer, 2017); and with it being the basis of the large literature examining the relationship between aid disbursements and recipient countries’ human rights performance (see e.g., McCormick and Mitchell, 1988; Nielsen, 2013; Swedlund, 2017; Esarey and DeMeritt, 2017; Neumayer, 2003). Various international human rights laws, also refer to the need for development co-operation to be used in ways that protect and promote different human rights (Campbell, 2020). Such expressive commitments to human rights may also help promote improvements in human rights in recipient countries. Risse and Sikkink (1999: 26), for example, argue that aid conditionality provides a key mechanism for the socialization and internalization of international human rights norms into domestic practices in poorer countries (see also Wei and Swiss, 2022). It is also important to note that some argue that using aid conditionality on human rights grounds improves the effectiveness of aid in promoting development outcomes more broadly (Douch et al., 2022).

This expressive function is especially important when the norm in question is an emerging and contested one. The Ugandan case, with LGBT rights at its center, demonstrates this. Ending discrimination on the basis of sexual orientation or gender identity emerged as an international norm in the late 1980s (Nuñez-Mietz and García Iommi, 2017). The 1980s and 1990s saw international organizations explicitly recognize LGBT rights, and call on member states to ensure these rights were protected. This was associated with a convergence in the discourse of the LGBT movement and transnational human rights regimes (Velasco, 2018). During this period, many Western countries enacted laws that recognized same-sex marriage for the first time, and leaders such as Obama in the USA and UK Prime Minister David Cameron made gay rights a hallmark of their leadership (Kollman, 2016).

As with many new international norms, however, LGBT rights also faced a significant global backlash. Many states strongly opposed the spread of LGBT rights norms, with several enacting legislation that sought to restrict LGBT rights advocacy (Nuñez-Mietz and García Iommi, 2017: 197; Symons and Altman, 2015). Many of the states that most strongly opposed LGBT rights norms were in the Global South, particularly in Africa and the Middle East, and were recipients of ODA (Symons and Altman, 2015). Subsequently, in the late 2000s aid policy, especially conditionality, emerged as a prevalent tool to promote these rights globally. A speech by the US Secretary of State Hilary Clinton in December 2011 at the UN calling for LGBT rights to be included in international human rights norms and laws was widely seen as historic in marking the US turn towards promoting LGBT rights internationally (Wilkinson and Langlois, 2014; Velasco, 2018). On the same day, the Obama administration released a memorandum, stating that the US would “use all the tools of American diplomacy, including the potent enticement of foreign aid, to promote gay rights around the world” (Myers and Cooper, 2011).

Other donor governments, such the UK, issued similar statements. Cameron raised the issue at the Commonwealth Heads of Government Meeting in October 2011, declaring that the UK would use respect for LGBT rights as a condition for granting aid. In a subsequent interview with the BBC, Cameron stated:

We are also saying that British aid should have more strings attached. . . Britain is one of the premier aid givers in the world. We want to see countries that receive our aid adhering to proper human rights, and that includes how people treat gay and lesbian people. We are saying that is one of the things that determines our aid policy (BBC News, 2011).

The case of Uganda's AHB, therefore, took on greater significance as it coincided with the rise of LGBT rights as an international norm and the decision by major aid donors to use their foreign policy to protect LGBT rights. Due to the initial inclusion of the death penalty for those found guilty of 'aggravated homosexuality', the case attracted considerable global media attention. Uganda came to be seen as emblematic in the global struggle for the protection of LGBT rights, and Western donors' responses were viewed as having implications beyond the Ugandan context. The US review of its aid policy to promote LGBT rights, for example, was widely seen as a response to developments in Uganda (Wilkinson and Langlois, 2014).

The decision to use aid conditionality came in part because human rights organizations had raised this issue with Western governments. This occurred even prior to the emergence of the AHB. In 2007 following a threatening response by the Uganda Government to a press conference organized by Ugandan LGBT CSOs, the director of *Human Rights Watch* wrote a public letter to the US Congress calling for the US to reconsider its aid policy towards Uganda due to the situation facing the LGBT community (Nuñez-Mietz and García Iommi, 2017: 203). Furthermore, when the AHB was tabled, several human rights organizations called on Western donors to suspend aid if it was passed (Ahmed, 2009).

Subsequently, donors issued strong public statements against the Bill with threats to suspend aid, soon after it was proposed. However, given the strong public support for the Bill, this was when the stick and the flag came apart. This can be seen in the division within donor agencies between staff based in Kampala and those based in Western capitals (see Dasandi, 2022). The former recognized the public support for the AHB in Uganda, and favored an approach based on 'quiet diplomacy', while for the latter the importance of demonstrating a commitment to LGBT rights was the priority. After the initial threats of aid withdrawal, donors adopted the quiet diplomacy approach. However, this ended with an incident at an Inter-Parliamentary Union meeting in Québec in October 2012, when Canadian Foreign Minister John Baird criticized Uganda's treatment of LGBT people. Rebecca Kadaga – Uganda's Speaker of the Parliament and a prominent supporter of the AHB – responded strongly telling him to "respect our sovereign rights, our cultural values and societal norms".<sup>12</sup> On her return to Uganda, she was "welcomed as a national heroine at Entebbe airport by a large crowd", and the renewed attention on the AHB eventually led to it being approved by parliament in December 2013 (Bompani and Valois, 2017: 53).

From the Ugandan case, we can see that the existence of a complicit public and the risk of backlash creates a new dilemma for policymakers who are forced to choose between the two purposes of aid conditionality. For the expressive aim, donors' responses need to be public because, otherwise, support for the international norm is weakened and the global audience is not reassured. But this comes at the risk of a backlash, which undermines the instrumental aim of changing the recipient government behavior. Such backlashes can also lead to citizens targeting members of the vulnerable group facing government repression, or civil society actors seeking to defend these groups. Selecting covert diplomatic threats

might mitigate the threat of backlash, but it undermines the expressive element of aid withdrawal.

#### 4. Responding to the 'complicit public'

The previous sections have established that donors' use of aid conditionality in response to human rights violations serves two distinct purposes – an instrumental aim to pressure the recipient government into ending the rights abuse, and an expressive objective to demonstrate donors' commitment to human rights norms. We have also explained how when faced with a 'complicit public', these two objectives come into conflict. The question that follows, then, is how should aid donors respond to rights abuses in contexts where there are conditions of uncertainty over whether a backlash may occur? In this section, we consider this question and discuss the ways in which donors can mitigate this dilemma through responses that meet both stick and flag objectives.

As we have explained, our approach here is one rooted in political ethics, which recognizes that donors must navigate between competing claims and demands, arising from disparate normative sources. For the sake of analysis, we put aside the myriad of additional possible competing claims – for example, advancement of development goals, maintaining domestic democratic accountability, economic efficiency, etc. – and focus on how donors can respond to rights violations in ways that are closest to fully meeting both ends of aid conditionality. Hence, we provide a framework for recognizing and evaluating potential responses. This framework specifically considers factors that can influence the availability of different responses to donors – in other words, factors that affect both donors' ability to adopt different responses, and the effectiveness of these responses in meeting instrumental and expressive functions. To do this, we identify the key features of complicit public scenarios that influence the feasibility of different responses. Hence, our aim is to highlight the salient ethical and political considerations when responding to complicit public human rights scenarios, while shedding light on the different contexts, features, and considerations that influence the ways donors can and should respond.

The first, and arguably most important, feature relates to the *recipient context*. As Molenaers et al. (2015: 6) explain in their discussion of aid conditionality, "the myriad of domestic factors shaping conditionality bargains remain largely understudied". Our discussion of the 'complicit public' indicates that understanding the domestic context in recipient countries is crucial for ensuring that donor responses do not trigger a public backlash, but instead increase the likelihood of preventing or ending the rights abuse. This includes assessing the nature of the rights violation. For example, does the rights violation relate to a specific high-profile crisis (e.g., a piece of legislation or repression of a minority group) or a more general trend of worsening human rights (e.g., increasing restrictions on the media or civil society)? Does the human right in question clash with dominant cultural norms in the society? Furthermore, a full evaluation will consider the timeframe of the violation, in terms of whether it is already occurring, whether the wrongdoing is imminent, or whether it is potentially a concern in the longer-term.

Evaluating the recipient society context must account for the level of public support for the government action generating the rights violation. For example, does it relate to a politically salient issue receiving significant media attention? It is clear that some rights abuses, particularly those related to political rights, vary both in terms of occurrence and attention according to election cycles (Bhasin and Gandhi, 2013). Other domestic actors should also be considered. This includes the recipient government – in terms of its position on the human rights issue and how vulnerable it is to

<sup>12</sup> Kadaga's full response is available at <https://www.parliament.go.ug/new/index.php/about-parliament/parliamentary-news/124-speaker-clarifies-uganda-parliament-s-stand-on-homosexuality> [accessed 2 July 2022].



public pressure – as well as the existence (or lack thereof) of civil society actors working to protect the rights under threat.

At this point, one might object that the presence of civil society actors solves this policy dilemma. Indeed, in some of the ethical discussions of duties towards the oppressed, scholars and activists have argued that agents, especially the powerful and privileged, should defer to the judgement of the victims of injustice (e.g., Kolers, 2005; cf. McKean, 2020). This suggests that in the kind of case we discuss here, donors' decision on how to balance the flag and the stick should be determined by the group targeted by the recipient government's policy (e.g., LGBT organizations in Uganda).<sup>13</sup> While we explain below that long-term engagement with local actors is strongly recommended, not least for strategic and epistemic reasons, we argue that a principle of deference does not fit the cases that interest us here. Beyond the trivial points that there may not be an active civil society present, and that different civil society organizations are often not united in their judgement regarding policy, there is also the question of representation of oppressed groups and their interests. It is possible that CSOs are unrepresentative of the views of those for whom they stand (Glaser, 1997; Glasius et al., 2004; Banks et al., 2015). Furthermore, CSOs are not necessarily privy to the particular political dynamics of the relationship between donor and recipient governments, or about the best course of action to pursue. More fundamentally, even if these organizations are unified and representative, there still remains the question of the normative authority of the CSOs on the policy decision, which is far from straightforward. For example, Shmuel Nili (2016) argues, in the context of trade sanctions, that even in cases where those oppressed by dictatorship ask to refrain from sanctions, there may still be integrity-based reasons for states to withdraw from trading with dictators. In addition, and as we shall see in the following discussion, it is important to note that the circle of affected parties – and so the relevant public for the donor's policy decision – is broader than the specific group targeted by the recipient government's actions.

This leads us to a second feature that will influence donor responses, which has to do with the *donor context*. This includes, for example, the strength of the donor's commitment to the specific human rights norm, which may depend on government's policy priorities or may be shaped by the presence of domestic actors (e.g., the media or civil society organizations) that pressure the government to uphold human rights through its aid policy (Dasandi, 2022; de Felice, 2015). This domestic pressure may focus on scrutinizing aid spending rather than on human rights – hence, this aid landscape can also influence the options available to donors in responding to complicit public scenarios (Fisher, 2015).

The donor context also includes the country's own track record on upholding or violating the specific rights in question, and its role in the rights violations occurring abroad. For example, with donor responses to the AHB in Uganda, some have noted the donor statements failed to recognize the British colonial origins of the country's homophobic laws, donor states' own recent history of violating the rights of LGBT citizens, and the role played by citizens of donor countries (specifically the USA) in developing the AHB (Tamale, 2013; Dasandi, 2022). Donor actions may also be perceived as hypocritical when they are seen to respond arbitrarily to human rights violations in different recipient countries, which again may increase the likelihood of a backlash. In other words, do donors apply the same human rights standards across different contexts or are these standards selectively applied?

The third feature of the problem of the 'complicit public' that will influence donor responses is the *donor-recipient relationship*.

The shared history of the two countries will be relevant here. Other relevant factors will include whether the donor has security or economic interests in the recipient state, and whether donor and recipient states are political allies, which can influence donors' responses to rights violations (Nielsen, 2013; von Soest and Wahman, 2015). A related issue is the closeness of this relationship, in terms of the levels of engagement, access, and trust between donor and recipient officials, and the extent to which the government or leader of the recipient country values their reputation among donors.

Finally, the response also depends on the *global context* regarding the human rights norm. This particularly relates to the 'flag' objectives of aid conditionality. This global context includes consideration of whether the norm in question is emerging or contested, and therefore requires states to actively support it, or whether the norm is globally established and widely accepted. It also includes the extent to which the norm is consistently or selectively applied. In addition, the global context may be related to coordination among donors in responding to the rights violations in the recipient state. While for all the different responses, coordination between donors would be desirable, in some contexts such coordination may be essential.

These four considerations shape the space for different responses available to the donors. Table 1 summarizes the key four considerations across these different components for each of the potential responses we discuss below. It is worth noting that these responses are not necessarily mutually exclusive.

#### 4.1. Private stick and public flag

As we have seen, donors may choose to approach the dilemma by seeking to minimize the aspects of aid conditionality that generate a public backlash. It is often the *public* threat to withdraw aid that can trigger the backlash (Stokke, 1995). An approach based on the use of 'quiet diplomacy' may, therefore, avoid a backlash and help ensure that the rights violation is prevented or ended. However, we argue that it is also essential that donors fulfill their obligation towards the flag objective. Hence, donors are required to publicly support the human right in question, and oppose any violations, but without publicly threatening aid suspensions.

This response is consistent with one the local civil society coalition that formed in Uganda to fight the anti-homosexuality legislation called for in their guidelines for donors; they explicitly stated that "aid cuts as a possible punitive measure should be discussed with the government of Uganda behind closed diplomatic doors and out of the glare of the media and the public."<sup>14</sup> Indeed, this approach was taken by donors for long periods once the AHB had been tabled (see Dasandi, 2022). However, the Ugandan example also provides insights on the factors that influence whether donors can effectively respond to 'complicit public' scenarios in this way, and where the limits of this approach may lie.

In terms of the recipient country context, among the key factors that may lead donors to adopt this approach is a combination of strong public support for the rights violation (or opposition to the human rights norm) and significant political salience of the issue, which makes a public backlash especially likely. This approach also depends on the recipient government – or parts of the government – opposing or, at least, not actively supporting the violation, and being willing to end the abuse if a public backlash is avoided. There are also features of the donor context that may be important in ensuring such an approach can be effectively used. Criticism of 'quiet diplomacy' is often based on the notion

<sup>13</sup> We would like to thank an anonymous reviewer for pressing us to address this potential challenge.

<sup>14</sup> The guidelines are available <https://76crimes.com/2013/12/21/ugandan-activists-advice-on-threats-to-cut-aid/> [accessed 8 July 2022].

**Table 1**  
Factors likely to influence the effectiveness of different responses to ‘complicit public’ human rights contexts.

Response	Recipient context	Donor context	Donor-recipient relationship	Global context
Public flag and private stick	Significant political salience of violation Strong public support for violation Recipient government willing to prevent/end rights abuse	Strong commitment to human rights Domestic attention to human rights issue in donor country Stable aid environment	Close relationship (with trust)	Strong public support for human rights norm by donors Requires donor coordination and agreement
Institutionalizing conditionality	General human rights trends rather than specific high-profile cases, though can be adjusted for latter	Once in place can lead to action irrespective of donor commitment to human right	Less relevant as ensures consistent donor approach Useful in recipient country contexts where there is a lack trust in donor or where donors are perceived negatively (particularly if there is past ‘interference’ by donors’).	For less established norms there is a risk of reducing strength of support Enables donor to apply human rights standard consistently across different recipients Can reduce impact on upholding human rights norm and may even undermine the norm
Positive conditionality	Relatively low salience of the human rights issue General human rights trends rather than specific high-profile cases	Stable aid environment Less domestic attention to human rights issue (otherwise may face strong criticism)	Close relationship (with trust) More effective in contexts where recipient government dependent on ODA/donors	
Consistent and longer-term engagement	Less public attention to issue Active civil society working on human rights	Strong commitment to the human rights norm (irrespective of domestic attention)	Close relationship helps ensure that donors can engage over longer-term	Strengthens commitment to human rights norm Particularly important for emerging global norms
Unavoidable clash of stick and flag	Imminent threat of extreme human rights abuse (i.e., risk of mass atrocity) Government likely to withstand pressure arising from public backlash	Strong domestic pressure on government to act on human rights issue	Close relationship unlikely or unnecessary Recipient government especially dependent on ODA/donors	Strengthens commitment to human rights norm

that donors use this option as cover for a lack of genuine commitment to human rights issues (see [Brown, 2003](#)). Hence, to ensure the flag objectives are met, it is important that either the donor government or actors within the donor country (e.g., public, media, civil society) are committed to preventing the rights abuse (see [Saltnes and Thiel, 2021](#)).

The nature of the donor-recipient relationship will also influence the availability of this approach. In the Ugandan case, for example, such an approach was possible because donors had a close relationship with Museveni and other senior officials ([Cheeseman, 2015](#)). This enabled donors to privately apply pressure, including the threat of further aid cuts, and meant this pressure influenced Ugandan officials ([Dasandi, 2022](#)). However, where this relationship is not particularly close, or where recipient country leaders are not concerned with their reputation among international actors; this approach is unlikely to be effective, as the lack of audience costs may mean that private statements are not seen as credible. Moreover, even if public statements by Western leaders do not explicitly threaten aid suspensions, they may be manipulated by local actors in ways that could still generate a public backlash.

#### 4.2. Institutionalizing conditionality

A key factor in public backlashes against aid conditionality, and economic sanctions more generally, is the public’s perception of them being threats to punish the recipient state if it does not comply. This view of aid conditionality as an arbitrary punitive action is then framed within the recipient country as one about powerful nations trying to undermine the sovereignty of the recipient state rather than about protecting human rights ([Stokke, 1995](#)). One way that donors can avoid this is by seeking to minimize the arbitrary and punitive features of aid conditionality. This can be achieved by institutionalizing conditionality through legal processes that ensure that donors’ aid disbursements to recipient countries reflects human rights performance. In other words, donors can

seek to ground aid conditionality in broader, duty-imposing human rights frameworks – ‘tying their hands’ to the ‘stick’ and the ‘flag’ – which can help strengthen both objectives, while mitigating the perception of conditionality being arbitrary and punitive, and instead framing it in terms of legal commitments to which donor governments much adhere.

Most Western aid donors have already established legal and policy frameworks that commit them to human rights principles in their ODA spending, and hence the issue is with the vagueness of these frameworks and their application ([Crawford, 1997](#)). More recent efforts to institutionalize conditionality have gone beyond such broad human rights commitments. Many donors have moved to establishing processes where specific human rights are monitored, and countries are ranked based on their performance, with aid withdrawals and other sanctions applied based on these rankings. An example of this is the US Government’s approach to sanctioning states that fail to effectively combat human trafficking ([Gallagher, 2011](#); [Attia and Grauvogel, 2023](#)). The approach is based on a two-step process in which the US State Department issues the annual Trafficking in Persons (TIP) report and classifies countries into different tier rankings according to a pre-established criteria, with Tier 3 countries subject to sanctions. In the second step, the US President can issue a country-specific waiver.

Such an approach can, therefore, ensure that donor governments take a more systematic and consistent approach to violations of specific human rights, reducing the perception that conditionality is applied selectively.<sup>15</sup> This is perhaps better suited to address general human rights criteria than to specific cases. However, the institutionalized conditionality approach could be adapted whereby sanctioning processes are immediately triggered if certain violations occur. As with the previous response, one potential prob-

<sup>15</sup> It is worth noting, however, that in the case of the US sanctions in response to states that fail to address human trafficking, there is some evidence to suggest that both stages of the process are impacted by political and economic considerations (see [Attia and Grauvogel, 2023](#)).

lem is that donor statements may still be prone to manipulation by local actors. Furthermore, the effectiveness of this approach in preventing a backlash in the recipient state will be limited if leaders in donor countries persist with the use of rhetoric that suggests they are taking punitive action against the country, or if donors remain inconsistent in their response to rights violations. Another potential limitation of this approach is that in 'tying donors' hands' it also reduces the ability for donor staff to negotiate with the recipient government in seeking to end rights violations. Hence, if recipient governments believe they will receive less aid due to worsening human rights, they may have less incentive to end repressive actions.

#### 4.3. Positive conditionality

So far, our focus on conditionality has been based on the use of aid sanctions or suspensions. However, more recently some have proposed a broader definition of conditionality that includes the use of ODA to 'reward' recipients that promote human rights. Donors have increasingly used such positive conditionality since the 2000s (Molenaers et al., 2015: 2; see also Adam and Gunning, 2002). In practice, such positive conditionality can take various forms, either *ex ante* (or aid selectivity) where human rights conditions need to be fulfilled in order for recipient countries to receive development assistance, or *ex post* where additional aid is conditioned on the basis of the recipient country's performance. As in the previous approach, this often relies on the use of performance indicators (see e.g., Koch, 2015; Molenaers et al., 2015; Adam and Gunning, 2002). In short, the choice to use of positive conditionality in response to a 'complicit public' would be on the basis that it can help avoiding a backlash by replacing negative incentives with positive ones – a carrot instead of the stick. Alternatively, a carrot could be offered along with the stick – “[mitigating] some of the resentment that purely coercive options can create [and reducing] some of the hostility towards the sender and the 'rally-round-the-flag' effect” (Pattison, 2018b: 161; Haass and O'Sullivan, 2000).

For several reasons, this approach is more suitable to general human rights criteria than to specific cases. Regarding individual human rights incidents, 'rewarding' a government that is prepared to abuse the rights of its citizens is potentially a moral hazard, creating an incentive for future violations. Moreover, as it might be viewed as rewarding wrongdoing, positive conditionality may undermine the flag aspects of the donor response rather than demonstrating their commitment to human rights (Pattison, 2018b). It is also not clear that such an approach would avoid a public backlash, given it could easily be framed by local actors as another form of coercion, with donors attempting to 'bribe' the recipient government.

The use of 'carrots' could be done privately, to avoid such problems (Pattison, 2018a), though there would still be the risk of discussions being publicized and harnessed for political gain. As discussed above, it may be better suited to contexts where there is some level of trust between donor and recipient governments. Such positive conditionality measures would need to be used well before a human rights issue escalated to a crisis. Even then, any potential success of this approach would depend on the value the recipient placed on additional aid revenue.

#### 4.4. Consistent and longer-term engagement

Donors may seek to respond through more consistent and longer-term engagement – particularly with local actors working to protect human rights (e.g., civil society actors or the judiciary). Doing so may help to ensure that human rights situations do not reach a point where donors need to use the threat of aid with-

drawals to prevent the rights violation. This is certainly not easy to achieve, particularly as donors are often guilty of turning a blind eye to human rights issues in recipient countries until it becomes a major crisis as many have argued (e.g., Easterly, 2013).

Longer-term support for local actors involved in the struggle for human rights may help to avoid a backlash in 'complicit public' contexts in several ways. First, local actors working on specific rights issues can alert donors to the presence of a 'complicit public' and the risk of a backlash. Second, working behind-the-scenes to empower local actors can avoid the framing of the human rights issue as one of external pressure undermining the recipient country's sovereignty and instead focus on the substantive issue of protecting fundamental rights. Third, in the case of rights that clash with dominant cultural norms in the recipient country, such longer term engagement to local actors may be especially important as they are best placed to help promote a necessary shift in public attitudes (see Tadros, 2011).<sup>16</sup> Finally, by monitoring such rights over a longer period, donors can ensure that they are not inadvertently supporting those that actively undermine these rights, such as religious groups or specific government departments (see Uvin, 1998).

This approach is less likely to prevent a public backlash when there is a high level of public support for the policy in question, and where the issue is politically salient. Shifts in public attitudes often take considerable time, and local civil society may have a limited impact. This is particularly the case where there is a relatively small or highly constrained civil society working to protect a particular human right. Indeed, an area of rights protection impacted by public backlashes in recent years is civil society space, which is being restricted in many countries – often through preventing civil society actors from access to external support and by framing these actors as representing foreign interests (see Buyse, 2018; Dupuy et al., 2016). Despite such limitations, donors can pursue this approach in addition to the other responses presented here, and in doing so demonstrate their commitment to human rights norms, and perhaps help ensure they are better equipped to deal with future human rights issues in a given country.

#### 4.5. Unavoidable clash: Sticking to the flag and stick

Are there cases where donors are justified in pursuing public threats of suspending aid, even when confronted with a 'complicit public'? In other words, when might donors stick to the standard approach of aid conditionality even if this generates a public backlash? We argue that with two scenarios, in particular, donors may opt for this approach.

The first is when confronted with the imminent possibility of a major human rights crisis or mass atrocity, such as ethnic cleansing or genocide, with other responses having failed. Where faced with the real threat of ethnic cleansing against the Rohingya in Myanmar, for example, donors publicly threatened to withdraw ODA despite the risk of a backlash.<sup>17</sup> Given norms against genocide, ethnic cleansing, and other mass atrocities are *jus cogens* norms, which cannot be set aside in international law, donors' obligations to uphold these norms take precedence over any other consideration. Hence, when other donor responses have failed in their efforts to prevent such atrocities from occurring, donors should suspend aid (in addition to any other efforts to prevent such abuses).

<sup>16</sup> Indeed, recent work suggests that exposure to LGBTI norms through transnational advocacy networks tends to have a positive effect on countries adopting progressive LGBTI policies, while aid conditionality can have a negative impact (Velasco, 2020).

<sup>17</sup> This is discussed here: <https://www.theguardian.com/world/2019/jun/17/myanmar-un-threatens-to-withdraw-aid-over-policy-of-apartheid-against-rohingya> [accessed 2 January 2022].

Another scenario in which donors may choose to adopt the standard conditionality approach is if they believe the incentive for the recipient government to avoid the aid suspensions will far outweigh the pressures on the government resulting from a public backlash. There are several features of contexts where this may be the case. First, the donor must believe that the government is sufficiently insulated from public pressure to be able to withstand a backlash. Another salient feature is the level of aid dependency of the recipient state, as the use of conditionality will be more effective when the recipient is highly dependent on ODA (Stokke, 1995). However, even in such cases, provoking a public backlash still carries risks of harm as members of the public may take matters into their own hands and perpetrate attacks on those belonging to a minority group whose rights were being threatened. Therefore, if other approaches are possible, donors should avoid taking this route. It is also worth noting if the public is unable to influence the recipient government actions, this undermines the conditions for a complicit public. Hence, in cases where the pressure of public influence is outweighed by the force of the threat to withdraw aid, donors face a more general dilemma of how to respond to repressive recipient states (Dasandi and Erez, 2019).

## 5. Conclusion

This article has offered an analysis of a particular conundrum for donor governments that use the threat of aid suspensions in response to human rights violations. We have argued that in addition to the instrumental aims of such aid conditionality in terms of seeking to prevent the recipient government from committing rights abuses (the stick), conditionality serves the important expressive function of demonstrating donor governments' commitment to international human rights norms (the flag). This second objective is frequently overlooked in evaluations of the effectiveness of aid conditionality, in large part because these two objectives usually go hand in hand. However, drawing particularly on the struggle over anti-homosexuality legislation in Uganda in recent years, we have shown how widespread popular support of repressive actions by a recipient government – what we called a 'complicit public' – creates a clash between the flag and the stick.

We have argued that the dilemma that donors face in responding to complicit public situations is primarily one of political ethics in that it involves making judgements about different ethical demands. If donors use the public threat of aid suspensions to pressure the recipient government to prevent or end the rights violation, they risk triggering a public backlash that could worsen the situation in the recipient country. However, failing to respond this way risks indicating a lack of donor commitment to international human rights norms, which can undermine such norms. Based on this analysis, we have provided a framework for recognizing and evaluating potential responses to this dilemma, that considers the salient political and ethical features of specific complicit public human rights contexts required for sound political judgement.

The article makes several contributions to the literature on aid conditionality and human rights. First, we shed light on a specific type of human rights context that donors face – namely one with a complicit public. Donors may presently face such contexts relatively infrequently, however, as we can plausibly expect clashes between rights-protection and majoritarian politics to be a frequent occurrence in global politics, the practical dilemmas created by the complicit public may well become the rule, not the exception. Second, through this dilemma, we have highlighted the different aims that the use of conditionality serves. While evaluations of the effectiveness of conditionality typically focus only on the instrumental aims of changing the recipient government's actions,

we have argued that consideration must also be given for the expressive aims of upholding international human rights norms. Third, in demonstrating how a complicit public influences the effectiveness of conditionality, we show the importance of considering the political context in recipient countries in responding to human rights violations. Finally, the paper also develops a framework for assessing donors' responses to complicit public human rights situations, highlighting the salient ethical and political considerations donors must make. In doing so, the article more broadly demonstrates the need to understand donor responses to human rights violations as one of political ethics. Such an approach enables us to consider the different ethical demands aid donors face, and reveals the different ways in which donors can respond to meet these demands.

## Data availability

No data was used for the research described in the article.

## Declaration of Competing Interest

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

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