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Strings Attached: Grappling With Aid Conditionality in Human Rights Funding

July 11, 2013
3:30 – 5:00 pm

Session Organizers:

- Sarah Gunther, Director of Africa Programs, American Jewish World Service
- Lourdes Rivera, Program Officer, Ford Foundation
- Javid Syed, Senior Program Officer, American Jewish World Service

Facilitator:

- Andrew Park, Director, Sexual Orientation and Gender Identity Program, Wellspring Advisors

Panelists:

- Meena Seshu, Secretary General, Sampada Grameen Mahila Sanstha (SANGRAM)
- Serra Sippel, President, Center for Health and Gender Equality (CHANGE)
- Maxim Anmeghichean, Program Officer, LGBTI Global Rights Initiative, Open Society Foundation

Session Sponsors:

- IHRFG Working Group on Sexual and Reproductive Health & Rights
- American Jewish World Service
- Ford Foundation

Andrew Park introduced the topic of aid conditionality, explaining that aid conditionality affects everyone in funding because decisions are always made under certain (social) conditions and it influences the social environment. We feel a certain way when we see our government supporting one thing or another. Park asked the panelists about the principles surrounding aid conditionality and about some of the issues, reasons, and conditions on funding.

Park turned to Serra Sippel, President of the Center for Health and Gender Equality (CHANGE) and asks her to discuss one of the most notorious examples of aid conditionality is the USA's anti-prostitution oath for organizations fighting HIV/AIDS.

Sippel explained that the HIV/AIDS anti-prostitution loyalty oath came into being with the first authorization of the President's Emergency Plan for Aids Relief (PEPFAR) in 2003 (and reauthorized in 2008). The oath states that organizations receiving funding for AIDS must have a policy against prostitution. But what does this mean on the ground? What activities are forbidden? There is no guidance on these questions, so some organizations under the oath would sign the contract and stop

serving sex workers altogether out of fear, while others would sign it and then continue on as they had been, under the assumption that they would be told if they had done something wrong. The relationship between the health care providers and sex workers became less open and trusting. Open Society Foundations and Pathfinder International took the government to court and the case made its way up to Supreme Court, where the loyalty oath was struck down. But what the Supreme Court decision does is protect U.S. organizations but not international organizations, so sub-grantees on the ground are still affected by the anti-prostitution loyalty oath (APLO) and the oath is still part of the law.

Park asked Meena Seshu, Secretary General, Sampada Grameen Mahila Sanstha (SANGRAM), how HIV/AIDS groups deal with this.

Seshu pointed out that any conditionality that excludes any part of society from being able to lead their own movement is a human rights issue. SANGRAM's refusal to sign the pledge attracted a lot of attention nationally and internationally; they were called "traffickers," and were raided and "rescued." It had a chilling effect and nobody would fund them. Seshu explained that this pledge was forcibly imposed upon sex workers and the groups that serve them, and that it was imposed by one of the most powerful forces on the international stage, giving them little to no effective means of resistance. Although Seshu says she feels validated that we took that stand and gave back the money, it was hugely problematic for SANGRAM because it was against what their own government was telling them was the best practice: to target the at-risk groups like sex workers.

Park noted that the purpose of the aid is to help the status of women, and asked if whether signing the pledge and then ignoring it could still achieve the original purpose.

According to Seshu, in Bangladesh all the drop-in centers closed down overnight as a result of the anti-prostitution oath. She noted that the U.S. Government is very scary – you never know how they're going to react. Suppose SANGRAM had taken the money and continued to organize sex workers? Even *not* signing the pledge they were raided.

Park noted that conditionalities in Europe and Eastern Europe have been used in a different way and asked Maxim Anmeghichean to elaborate on this point.

Anmeghichean explained that over the last 15 years, we have seen a wave of decriminalization of homosexuality and countries adopting nondiscrimination protections (these are the countries that have joined the European Union (EU) or whose membership is pending). These changes cannot only be attributed to aid conditionality but also are the result of political build on the ground. Anmeghichean compared join the EU to being in school: you have to take classes to graduate, called "chapters;" you are offered aid to help improve the conditions in your home country, but you have to graduate the first chapter to receive the aid, and the aid is conditional. Activists have used this aid conditionality well, to fuel decriminalization of homosexuality. Some countries have tried to cheat the EU conditions by adopting nondiscrimination without addressing sexuality. In Latvia and Lithuania, the legal reform happened, but human rights violations against LGBT people continued. The EU recently started paying

particular attention to the Balkans. They have used Moldova, Ukraine, etc. to create a buffer of countries that are respecting human rights. The EU uses what they call the carrot-stick approach. The carrot is aid, access to the European market, and travel freedom. The stick is required reforms in various spheres, such as the anti-discrimination legislation. Moldova, for example, has adopted anti-discrimination legislation recently, and has been successful. But the ban on discrimination only applies to employment. Ukraine has passed anti-discrimination but left out sexual orientation: it is likely that they will revisit it this Fall and add sexual orientation and gender identity (SOGI). None of this would have happened without the grassroots groups who are supporting aid conditionality.

Park stated that a year and a half ago, when Sweden was in charge, it was going to drop the requirement on nondiscrimination reforms. Foreign aid funding must comply with human rights standards. Sippel added that when we have conditions for U.S. assistance – like the ban on abortion as a form of family planning – are activists using it as a tool to promote human rights or to block them?

In Seshu's experience, India was already an oppressive state for sex workers. The police were coming down heavily, and here the U.S. Government was buying into that and only oppressing sex workers further. So who do you strengthen, the state or its people? Conditionality should strengthen people to fight back against oppression. As a result of the oath, they started talking about reducing demand (for sex work) as an HIV prevention strategy, which makes no sense. It created this feeling that activists were being told by the U.S. government what they should think about this issue.

Park asked about the situation in Uganda and East Africa.

Anmeghichean noted that in the Fall of 2011 David Cameron said they would start cutting aid to African countries who did not protect the rights of minorities, including sexual minorities (in a closed meeting with the conservative party). There were groups in the United Kingdom who did advocate with the U.K. Government for aid conditionality. Nigeria's "anti-gay-marriage bill" was cleverly named because it did not just oppose marriage, but all gay rights organizing. A letter by human rights groups and activists in these African countries addressed to the global North partners strongly denounced aid conditionality, saying that it smelled of neocolonialism and colonization, and countries are trying to use it as a disguise and an excuse for cutting aid. These activists said there were cases where aid conditionality could work but not in this way and not in Africa, insisting, "don't do it in our name!"

Park summarized that activists are opposing this conditionality in Africa, but activists in disability rights in Eastern Europe were supporting aid conditionality. What's the difference?

A participant noted that the difference is that Cameron's conditionality affected all aid, not just human rights aid. A lot of what's behind it is politics. Park responded with a question: assuming the prostitution pledge was a product of conservative forces being stronger at the time, would it be more legitimate if it went through a democratic process?

Seshu, quoting the popular human rights mantra ‘nothing about us without us,’ pointed out that this aid conditionality suddenly hit her organization and the affected community and nobody had asked them about what they know from their experience on the ground. The U.S. Government should talk to the affected governments, talk to the people doing the work over there. If they didn’t want to fund it, fine, but the problem was that it wasn’t just conditionality. They were saying ‘we are not funding this because we think it is violence and it is sex trafficking,’ and that stigma had a huge impact.

Sippel interjected that it was a Republican congress in 2003 when the law was passed and they were able to conjure enough support to get the anti-prostitution oath in there, in part by conflating it with human trafficking. Nobody wants to be the member of congress who supports prostitution. When it was reauthorized, we did have a democratic congress.

Park asked the panelists to comment on the following: in a hypothetical future election, Hillary Clinton is running against someone who proposes legislation to prohibit aid to groups that condone homosexuality – call it the “no homo” bill. Would that be a good platform?

Sippel responds that in the real world it’s very hard to undo what’s been done with policy. So much has been institutionalized. It would take legislation to change what has already been done.

A participant commented that while on a trip to Southeast Asia, they were struck by the presence of China in development aid. When friends came in with human rights issues, China would have a counterbid where those issues would not be addressed the same way. How would panelists respond to this problem?

Another participant noted that this is a huge problem, which is also happening in South America, because it really undercuts the efforts to even include value systems in aid. We’re used to a U.S., Canadian and overall Western set of ideals, which are being challenged. This is only going to be a bigger problem over time, not a smaller one.

Anmeghichean pointed out that there are a number of distinctions that have to be made about conditionality: Is it seen as a punishment or a requirement connected to a benefit? If there is aid offered for something, it makes sense that you might want to control what that money is used for. There is some legitimacy to controlling where your money goes, but aid is political. It is easy to use aid to advance your own prejudices rather than actually advance the intention of the aid.

A participant voiced concern about the sustainability of policy changes that may come about as a result of aid conditionality. Is there anything there in terms of a real grassroots movement to say ‘we wanted these reforms as citizens of this nation and not because of the carrot/stick model of reform’? This model undermines the credibility of grassroots efforts because now there it becomes really easy for the government to say ‘this was imposed on us’ and get rid of it. What is the authenticity of change if it is a result of aid and not grassroots effort?

Anmeghichean noted that the importance of grassroots efforts cannot be overstated. Once the condition is created, it is up to the country to implement it fully. There is a whole process that is often led by the grassroots organizations. Governments often lack knowledge of the issues and have to turn to LGBT groups for help in understanding what the EU standards are.

Seshu stated that in the area of sex workers' rights, the right wing parties are going with the anti-trafficking groups, and the center-left goes with the sex workers groups. But both groups are arguing from a human rights perspective. So when we are on the ground saying "='do no harm to us,' the anti-trafficking groups say the same things. It is almost impossible to have a discussion about this conditionality as a result. There are foreign donors who work with sex workers and foreign donors that work with anti-trafficking. It's a minefield, and sex workers get caught in the crossfire.

Park asked about the role of evidence in aid conditionality.

A participant noted that the disability community is working on getting disability into World Bank safeguard standards. This is a big deal, requiring a lot of money. The World Bank standards have influenced other human rights standards. The World Bank required the advocates to show country ownership; to show the evidence that people are being harmed and to show advocacy partners on the ground. This could be very good for disability advocates because it strengthens groups on the ground. The evidence is to show that people are being harmed by not having safeguards. To show harm, because how do we know that it matters?

Park asked if aid is decreased, cut off, or altered in the way we were afraid of LGBT people being scapegoated, how can we be sure this doesn't happen to the activists from disabilities communities as well?

A participant responded that there is a pushback against disability activists in the form of institutionalization. There are still many European countries that institutionalize people with disabilities and these countries still receive foreign money. There is a whole host of people who have an interest in keeping these institutions open.

Park noted that if the police commit human rights abuses, the United States must cut off aid until the government shows that it is doing something to fix it. But the Secretary of State can put a waiver on this. So there was documentation of Kenyan police massacring Kenyan citizens, the point was raised that funding should be cut off as a result, and the counterpoint was that the human rights burden is on recipient countries not donor countries.

A participant stated that there was resistance to offering military aid to Guatemala because their military is committing human rights abuses. But the question is how narrow is the aid? Is it directly connected to the abuses that you're trying to prevent or is it going to health programs or something else? I think that is a big part of determining when there should be conditionality (and when funding should be cut off).

Another participant noted that it is dangerous for human rights groups to be very strong about sanctions. Ultimately it's a political decision, and we see a lot of hypocrisy on the creation of sanctions. We feel this in the Middle East with the blacklists of terrorists. Who gets on that list and who gets off is very political: we (organizations located in the Middle East) have people who can't come to the United States because years ago they were arrested by the Israelis for helping the Palestinians.

Park concluded the session by noting that we need to get more creative in how we approach these conditionalities and develop some standards for when we think they're a good thing and when we think they're a bad thing. An extremely important consideration should be to understand what is important to the local activists.