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NEW REGIONALISM: AFRICA AND RESOURCES

Kelsey Miller

ABSTRACT

Under traditional models, regionalism in Africa was almost non-existent. However, as the field has expanded, scholars are exploring new ideas and regional formations free from the previous conceptual constraints. As a result, prior areas left out of academic studies have new grounds to be explored. Looking to Africa specifically, traditional and new ideas will be used and explored to distinguish the presence and nature of regionalism. To give some structure or parameters to draw reference from, we can see that a number of African nations affected by globalization, resources are a driving factor in their economy. They can also lend themselves well to more general regional ideas, identities, and complexes. Therefore, this paper will look at how resources within African nations lend themselves to regional building while simultaneously looking at how regionalism in this particular part of the world develops and operates. A broad examination of the extractive industries shows that a general regional awareness creates similar patterns of behavior at different units of analysis. It also indicates a complex nature wherein regionalism emanates from above and below while interacting at state and sub-state levels. Within a more traditional regional configuration, the second part of this paper looks at region building on the Nile River. Despite some institutionalized region mechanisms, similar patterns seen in the extractive industries emerge and informal regionalism becomes the more dominant force. In both cases, less institutionalized regionalism takes place and states continue to interact on a loose basis guided by soft regionalism and the idea that resources are for the benefit of the nation.

Introduction

The endowment of natural resources has long served to delineate groups of people. They can also act as a point of contention or cooperation along different levels of analysis. Apart from physical needs resources provide to the inhabitants of any given unit, they can also be very important in the process of economic growth or development. Thus, in numerous states and regions, control or development of natural resources has been critical in shaping communities, institutions and direction of state affairs while also maintaining the survival of any given people. Control or influence can also come from the outside and affect states relations on a larger, even global, scale. The exploitation of land, humans, and natural resources during the period of colonialism, for example, has had lasting impacts on the present state of affairs in various parts of the world. In a less intrusive fashion, global powers or institutions have also attempted to penetrate broader geographical areas and push regionalism in attempts to create more easily

accessible markets. All of these are concepts that play out extensively within the global south; in a globalized world groups of nations with a past of exploitation are currently struggling with development despite large resource endowments. The interaction of their shared histories, outside pressures, needs, and goals for growth could point towards the utility of regionalism as an opportunity to address mutual challenges. However, creating paths to interconnectedness is difficult in such complex systems when it comes to the specifics of management, control or beneficiaries.

As African states emerged from colonialism, they were faced with a number of problems ranging from the political to economic and developmental. To combat these issues, institutionalized regional building, given the successful integration and growth of Europe after WWII, was one possible path to boost development and create a stronger, more accessible African union. The international community at the time was quite favorable to this approach given that “Regional integration can play a vital role in diversifying economies away from dependence on the export of just a few mineral products; delivering food and energy security; generating jobs...; and in alleviating poverty and delivering shared prosperity.” (Isik, 2016) However, these hopes have not come to fruition despite some varied regional efforts. As a result, “mainstream perspectives claim that if there is any regionalism [in Africa] at all...it is primitive and characterized mainly by failed or weak regional organization and a superficial degree of regional economic integration.” (Grant and Söderbaum, 2003, p.1)

However, a new wave of regionalism studies could warrant a re-evaluation of this story. For example, one explanation for a lack of regionalization among African nations could be explained by the idea that “regional integration is often seen as less relevant for resource-rich countries, since demand for commodities typically comes from the global market rather than from regional demand.” (Isik, 2016) However, this does not necessarily mean there is no regionalism in relation to Africa but, since demand comes from the global market it is playing out in within these more global relations. Or, since similar patterns occur with other resources which are more regional than global, it could indicate there are underlying factors and at least a small degree of regionalization at play. In this regard, the new regionalism has greater utility in its ability to “take on a more complex, normative meaning,” (Vayrynen 2003, p.43) This notion will be widely explored in this paper particularly as it relates to the idea that, “resources...are something that exists for the benefit of the entirety of the population and that their exploitation should correspondingly benefit the entirety of the population” (Porter, 2017). This specific concept, strengthened by a shared history of colonialism and exploitation,

resonates particularly well through different levels of analysis and even permeate efforts of more traditional regional building.

While international interest in Africa's resources has led to recommendations and attempts to encourage stronger regional capacities, Africa does not operate in traditional methods of the West where regionalism fits a more institutionalized mold. Rather, regionalism in Africa is built around ideas of regionness based on social aspects and ideas of national prosperity which lead to looser networks of interconnectedness. In this case it can be seen that resources fit in well with the latter regional ideas and at different levels of analysis, from the local to state, region, and global levels there exists common patterns of behavior when it comes to the management of resources in Africa.

Literature review

In the field of international relations, regionalism as a study has experienced a wave of renewed interest, not just for those who want to examine the mechanisms through which regional building occurs but also for individuals looking to discover new areas to build regional capacity or understand current areas for cooperation. In the early days "a narrow theoretical approach...came to dominate international relations scholars' idea of what regional means and how to study its origins, evolution and effectiveness." (Acharya, 2012, p.7) Developed by a group of European and US scholars, these traditional theories of regionalism were largely reflective of the European Union and "based on institutionalized intergovernmental coalitions that control access to a region" (Varyrynen, 2003, p.26). With initiatives typically emanating from the centralized power of States "regionalism was often analyzed in terms of social cohesiveness (ethnicity, race, language, religion, culture, history, consciousness of a common heritage), economic cohesiveness (trade patterns, economic complementarity), political cohesiveness (regime type, ideology) and organizational cohesiveness (existence of formal regional institutions)." (Hurrell, 1995, p.333)

Although this model fit the process of integration within the European Union quite well, regionalism of a similar fashion was hard to find, or develop, outside this particular case. While a few other regional cases have gained some prominence, those that did not have strong institutionalism or levels of interconnectedness were considered to have limited, failed or even nonexistent regionalism. This characteristic reduced the number of legitimate cases to study for

theory building. It also meant that certain parts of the world, like Africa, were “to a large extent neglected in the general debate on regionalism.” (Grant and Söderbaum, 2003, p.1) As a result, some scholars started to exhibit a “disillusionment with the narrow focus of existing approaches, which stressed formal structures and intergovernmental interactions to the exclusion of non-state actors and informal linkages and the processes of interaction”. (Acharya, 2012, p.8) However, a renewed interest and revitalization of regional studies has begun to change this.

Unlike the more traditional models, “new regionalism does not represent a theory, much less a coherent theory, at least not in the sense that neo-functionalism or neoliberal institutionalism are regarded as theories.” (Acharya, 2012, p.8) Instead, the field is more open, better understood as “an intellectual movement to broaden the scope of regionalism studies, taking into consideration the impact of globalization.” (Acharya, 2012, p.8) With this more open nature, a few distinctive characteristics of this new regionalism are worth pointing out:

“First, there is the emergence of the 'North/South regionalism,' most powerfully illustrated by NAFTA... Second, there is the very wide variation in the level of institutionalization, with many regional groupings consciously avoiding the institutional and bureaucratic structures of traditional international organizations and of the regionalist model represented by the EU....A third feature of this new regionalism is its multi-dimensional character. The dividing line between economic and political regionalism becomes even harder to draw... Finally, and forming part of a broader resurgence of questions of identity and belonging, many parts of the world have seen a marked increase in regional awareness or regional consciousness, even if this is not always easily or un-problematically translated into concrete schemes for regional cooperation.” (Hurrell, 1995, p.332)

Another aspect, which was hinted at in the previous four points but that is important to state on its own, is new regionalism shows that “the focus should not be only on state actors and formal regionalism, but also on non-state actors and what is broadly referred to as ‘informal regionalism’ or ‘regionalism from below’.” (Grant and Söderbaum, 2003, p.4) Given these key features and the more normative nature regionalism can obtain, further inquiry into areas of the world that have been ignored by previous analysis or studies is warranted.

Taking the literature into account, a number of new and old concepts will be used to look at African regionalism, re-evaluating how it operates as a whole. The analysis will show a looser image of regionalism given that at different levels the more normative concepts that exist as a

result of colonialism interact with the notion that resources are for the benefit of the nation. This creates commonly held ideas and patterns which can constitute a certain ‘regionness’; through certain developments, in this case the history of colonialism, shared identity has advanced far enough for the “region to attain some intrinsic regional features.” (Varyrynen, 2003, p.40) From local regionalization to state led configurations, natural resources highlight how a broader awareness can be influential in shaping the interconnectedness or patterns exhibited in various networks, associations, and institutions.

African nations and the extractive industries

“Natural resource management, particularly in the extractives industry, can make a meaningful contribution to a country’s economic growth when it leads to linkages to the broader economy” (Isik, 2016). However, unlike other economic activity “like the manufacturing or financial services, the extractive industries rely upon natural resources that exist independent of government policies and of legislation or regulations implemented by any one government.” (Porter, 2017) As a result, there is a key differentiation between the extractive industries and other industrial activity in that there is a common “belief that the resources being extracted are the patrimony of the entire nation. (Porter, 2017) This alone could already indicate traditional methods of region building may not have as strong a hold within the resource sector as there are multiple players and motivations i.e. citizens in addition to the state and the states trading partners. Thus, compared to other economic industries wherein state led regionalization is meant to spread common ‘regional’ ideas, in this case, similar initiatives have to compete with the informal regionalism that already exists. As one analyzes this, patterns emerge and show the complex network that defines regionalism as it pertains to resources and African states.

Regional trends

Resources for the benefit of the nation is a particularly poignant sentiment among African nations. With a shared history of colonialism, most have seen their countries resources or lands exploited for the benefit of outside parties. Even when independence started to spread around the 1970s, it was still a “core concern...that foreign firms – usually with close ties to former colonial rulers – would continue to exploit the newly independent countries natural resources and often under terms that were extremely favorable to the companies to the detriment of the

country from which they were begin extracted.” (Porter. 2017) As a result, a number of governments “nationalized their extractive industries – whether it was oil in Algeria and Libya or iron ore in Mauritania or phosphates in Morocco.” (Porter, 2017) As a way ensure their own benefit and keep outside influence at bay, nationalism, at its core, “was about states insisting greater benefits from the extraction of the natural resources by foreign firms” (Porter, 2017). However, nationalism still had its problems, often leading to corruption and conflict. Further, nationalism did not guarantee that benefits would reach the general population or economy given that more often than not benefits did “not spread beyond the sector directly associated with the extracted resources” (Lo, 2015).

Despite state nationalism of resources or not there have also been movements led by state’s populations to localize the resource extraction industry. Individuals across state lines shared in colonialisms history of resource exploitation which instilled the same concepts the State used through nationalization. Whether in response to a general failure in states capacity or to being left out from the full benefits the industry brought in, “resource regionalism, [as it can be called,] was about local communities demanding greater benefit from those same industries at the expense of the central state.” (Porter, 2017) These same ideas emanating from the sub-state level shows that the region as a whole was able to attain some intrinsic regional features without the presence of traditional regionalism mechanisms. In other words, compared to other economic industries or the belief that state led regionalization through institutions would create common held regional ideas, we see in this case they existed despite the state. Local populations were all drawing on collective pasts and ideas that existed at all levels to push forth that “resources are for the patrimony of the nation.” (Porter, 2017)

Seeing this pattern of local regionalism, governments at the state level are re-encompassing the idea of nationalism and engaging with this regionalism from below. According to IHS Economics & Country Risk principal Africa analyst Dr Robert Besseling, the concept of resource nationalism has evolved with a “new focus on what could be called local participation [or] ownership.” (Lo, 2015) As a result, governments have been “moving away from heavy top-down taxation and state ownership requirements and towards...means of increasing local economic participation in mineral resource projects.” (Lo, 2015) South Africa, Mozambique, Angola and Nigeria are some examples wherein governments are “changing their policies to accommodate greater local content provisions.” (Lo, 2015)

In a less specific sense, overall regionalism in Africa is about these fluctuating and ever changing relations between different units or levels of analysis as they each draw on, adopt, change and push forth regional ideas.

Analysis

Overall, it appears that a common history has been instrumental in spreading similar ideas and concerns throughout Africa. Absorption of specific initiatives and the common paths various actors/states have taken, separate of each other but connected by common histories, grievances, and endowments of natural resources, shows some hints of underlying region-ness.

Resources in and of themselves are believed to be for the benefit of the entire nation. While colonialism in general created common identity, the direct link between exploitation and resources makes the previous notion more poignant among African nations. After gaining independence, these interlinked ideas led a number of governments to nationalize their resources so as to ensure their benefit was for the nation. The state did not create the identities that were created by colonialism and a history of exploitation, they already existed at all levels of African society. However, nationalization did serve to institutionalize and validate these specific sentiments as part of a larger regional awareness or perception. Therefore, when local populations called for greater benefits of national resources they too used the same concepts to bring management away from the central state. This brought attention to the need of more local benefit and furthered the idea of who should benefit from resources. Governments in turn responded to this regionalization from below, changing nationalism to bring their own institutions more in line with broader regional ideas. This shows a general regionness that resonates at different levels but that has a particular strength as a bottom-up process.

Perhaps, though, this emphasis on regionalism from below or a general regional awareness that rests on common history and beliefs does not explain overall trends that are occurring. Rather, it could be that the common paths of behavior seen in different states and units of analysis are attributed to global norms and development goals rather than any African regionalism. This argument does have some merit too given that “through the World Bank, IMF and the transparency initiatives... there has been a greater shift towards local content.” (Lo, 2015) However, the success seen through such efforts is not spread evenly. The fact that it is more noticeable “in Africa...compared to Latin America and some Asian countries like Myanmar,”

(Lo, 2015) supports regionalism. Strength of efforts could indicate that rather than solely being a circumstance of global norms or influence, the message perpetuated from the outside resonated better with a general regional awareness.

The overall sense of regionalism in Africa is that is characterized by these fluctuating and ever changing relations between different units or levels of analysis as they each draw on, adopt, change and push forth regional ideas.

Applications in trade patterns and North/South relations

While the nation may be subject to regionalism from below, it does not mean the state cannot engage in regional institution building as those ideas move to larger units of analysis. Further, more traditional regional building could compliment certain ideas, allowing the nation to benefit even more from their resources through a broader economic network. Yet, despite areas of strong social and economic cohesiveness that could lead to more formal regionalism, it has not led to any strong institutionalized African region. According to traditional theories, this would indicate weak or failed regionalism. However, within new regionalism the analysis above has importance in a different way, specifically in North/South regionalism where ‘soft regionalism’ or regionness could be shifting alliances and partners.

Not only are resources a main focus for African nations and their inhabitants, but, accessing the abundant and valuable resources still draws interest from foreign companies, governments, and institutions. For this reason, a number of governments have opted out of working on closer ties with their neighbors and instead engaged directly with the global market. Traditionally, the United States has had a very large presence on the continent in this regard. However, in recent years, China has steadily increased its engagement with African nations; its overall footprint “surpass[ing] the US as the continent’s largest trading partner.” (Ilunga, 2015)

What stands out about China and its engagement with Africa is that its “sole focus is on gaining access to natural resources.” (Ilunga, 2015) With a singular focus their strategy thus “diverges from the traditional model exemplified by the West and International monetary fund.” (Ilunga, 2015) Instead, China utilizes a “model that ostensibly treats African states as equal partners and steers clear of their internal affairs – a strategy that appeals to countries used to Western colonies and dictates.” (Ilunga, 2015) This means is trade but with less stipulations. Further and complimentary to the sub-state or regionalism from below, China builds relations with small

businesses wherein the US targets macro projects in mining, energy and other sectors. (Ilunga, 2015) As a result, “in several regions – Southern Africa, North Africa, and Central Africa – the popularity of China’s example of state-led economic growth matched or outpaced that of the US.” (Kuo, 2016) Whether intentional or not, it appears that China has appealed to the underrepresented or less considered regionalism that exists at different levels of analysis. The subsequent shift in preference and alliances is important because it shows how soft regionalism can affect happenings at a larger scale. It also highlights the preference for less institutionalized regionalism as a means to maintain singular authority over, and benefit from, their resources or the nation as a whole.

The next section will continue to explore this regionalism but from a strictly state-centric approach to show how similar patterns of behavior exist within a more defined setting.

Water and the Nile states

Water is distinctly different than the extracted resources in that activities and utilities have less direct connections to global markets. However, it can be important in traditional regional settings. Similar to the mineral resources, it is also favorable to national ownership or at least the idea that as a natural resource it is for the benefit of the nation. At local, state and regional levels, water as a resource has two distinct functions. First, it is vital for survival, and second, it can contribute to economic expansion and development in a number of industries i.e. agriculture or hydroelectricity. With levels of intrinsic geographical interconnectedness as well as economic motivations, states along the Nile River have clear paths for more institutionalized regional configurations. But, as was seen in the previous case, new regionalism lends itself better to what is occurring in terms of water cooperation and region building despite more apparent traditional footings.

Background of state relations

The Nile River basin forms its own region consisting of “a group of states linked together by both a geo-graphical relationship and a degree of mutual interdependence.” (Fawcett, 2004, p432). As a singular system, ensuring continued health of the river and access to its flow is important for all eleven riparian states survival. The Nile also acts as a naturally endowed

commodity which benefits the economic activities of numerous states. But, to capitalize on their share of the rivers flow could mean altercations with fellow riparian states given that upstream projects can greatly affect ones downstream counterparts. Taking such notions into account, institutionalized cooperation offers a number of benefits. For example, regional management would give states opportunities to embark on joint initiatives wherein multiple states play a role in the development and benefit of hydro projects. This also could help address basin wide concerns relating to security or survival. However, as with the extractive industries a general regionness, which stems from legacies of colonialism and the notion that resources are for the benefit of the nation, influences geo-politics along the Nile.

Although the Nile River does not fall within any specific state lines or government's control it can be influenced by hegemonic powers and historically set precedents. A number of treaties and agreements set during colonialism continue to affect regional relations as points of contention and conflict. Drawing on historically given rights, specific states have been able to maintain both hard and soft power over water utilization in the Nile River basin even after colonial powers left (Brady, 2015, p.38) Most notably, Egypt claims the right to veto any project on the Nile that would jeopardize its interests (1929 Agreement) and along with Sudan, the allocation of the entire flow of the Nile (Nile Treaty, 1959). (Salman, 2013) There is some justification for the elevated power of these lower riparian states given they are more vulnerable to upriver projects, however, it puts them at direct opposition to the rest of the region in terms of development. Therefore while the shared geographic, economic, and security concerns are strong indicators for region building, the continued enforcement of colonial treaties exacerbated divisions and perpetuated the hegemonic power of a singular state. More times than one, Egypt has used its elevated positioning to control the endeavors of upriver states putting the nation at constant odds with its riparian counterparts. "In the early 1990s, Egypt made significant demonstrations of its continued power... [by] exercised its veto power [over other states proposals] in the international community." (Brady, 2015, p.53) With a number of examples to draw on, "Egypt's actions in the early 90s to solidify its power in the basin mirrored similar British efforts in the early 1900" (Brady, 2015, p.54).

'Failed' regionalism of the Nile states

Despite disputes over water rights and colonial era treaties, there were still demonstrated efforts to cooperate on the allocation of water resources in order to achieve common goals. In 1997,

supportive of and eager to push forth such endeavors, the “World Bank and United Nations Development Program...started to facilitate the establishment of a more formal setting for cooperation...called the Nile Basin Initiative (NBI). (Salman, 2013, p.19) All of the then existing Nile riparian states (except Eritrea which opted to be an observer) signed onto the NBI, and, for the first time, there “existed a true institutional forum to collaborate on both technical and legal issues of water management and utilization” (Salman, 2013, p.20). Hopes that traditional Nile unilateralism would give way to “transboundary projects that could unlock further linkages in terms of regionalism and trade, and provide transformational socio-economic benefits to the region” where within reach. (Sandström, Jägerskog and Oestigaard, 2016, p.98) However, despite the establishment of a basin-wide cooperative this intergovernmental institution “ran into some major difficulties as a result of the resurfacing and hardening of the respective position of the riparian’s over the colonial treaties, as well as the Egyptian and Sudanese claims to what they see as their acquired uses and rights to the Nile waters.” (Salman, 2013, p.20) The notion held by a majority of these states, that the endowment of the Nile was a gift and resource for the nation, did not lend itself well to organizational structures which took collective approaches at the expense of specific state held rights. Thus, in 2010, upstream countries (Ethiopia, Tanzania, Uganda, Rwanda, and Kenya; later joined by Burundi and supported by the DRC) signed the Cooperative Framework Agreement (CFA) against the position of downstream states. (Salman, 2013) Among its core principals the CFA “establishes that each Nile Basin state has the right to use, within its territory, the waters of the Nile River Basin.” (Salman 2013, p21) Egypt and Sudan subsequently froze participation in the NBI, (Sandström, Jägerskog and Oestigaard, 2016) both holding on to their claims to existing uses and rights under the 1959 Nile Agreement. Ensuing disagreements began to slow the pace of multilateral investment projects as “the lack of consensus made financial and technical support impossible. (Sandström, Jägerskog and Oestigaard, 2016, p.98) For a number of outside observers, this indicated “the “failure of ‘regionalism’ as an approach creating incentives for countries to act unilaterally.” (Sandström, Jägerskog and Oestigaard, 2016, p.98)

Soft regionalism and informal institutionalism

In addition to the disputes over the CFA, Ethiopia added to the failure of regionalism by unveiling its secret plans to build the Grand Ethiopian Renaissance Dam. Egypt and Sudan immediately opposed the project despite claims there would be regional and downstream

benefits. (Salman, 2013, p.24) Amid controversy and discussions on water rights and projects, Ethiopia went ahead unilaterally with this project and its desire, as a nation, to be able “to harness some of its huge hydropower potential.” (Salman, 2013, p.24) To succeed in its goals, the government appealing to its citizens for funding, gaining enough support to go ahead without backing from the international community. (Sandström, Jägerskog and Oestigaard, 2016) In this instance, despite being a member of the CFA, Ethiopia displayed stronger allegiance to itself and the nation. What this example and the discussion on previous, and somewhat failed, regional projects shows is that despite some integration into formal institutions states are still aligning with soft regionalism ideas and the concept that resources are for the patrimony of the nation.

However, there is another important part to this story which is the softening of Sudan’s position on the Ethiopian project. With historically closer ties to Egypt, Sudan’s support of GEND went against traditional Nile politics indicating the nations “acknowledgement that greater cooperation and joint infrastructure can actually enhance its own national capacity to develop further its Nile water share.” (Sandström, Jägerskog and Oestigaard, 2016, p.98) This is important because it fits with the more common regional desire for more independence in the management of their resources. If the Nile states are going to cooperate in regional organizations it is in a looser capacity than what would be seen in the EU. The ultimate goal is not to create a stronger or more integrated region, but, to enhance national capacity for development. Relating again back to the extractive industries where the favor of China is increasing compared to the US, states are choosing the options which give them some institutional benefits to further their economies but that ultimately allow them to retain more sovereignty and stipulations from the outside. Thus, while the ‘failure’ of institutionalized regionalism has meant Africa has been widely left out in previous studies, this loose and normative regionalism that existed is important. In the case of the Nile, it was used to direct the actions of individual nations, challenge hegemonic influence and change long standing norms within this geographic region.

Conclusion

As it pertains to African regionalism as a whole there are important factors which are shaping what we see. In particular, colonialism and a past of exploitation, even though not all African states experienced them the same or together, have created some level of general ‘regionness’.

While in traditional studies this may be considered soft regionalism or low level regionalism it can stand alone as its own force and is very important for region building endeavors. As can be seen with the extractive industries and water, specific ideas about control, benefit, and sovereignty played out at different unit levels. As these ideas intertwined with soft regionalism, emanating from a shared history, it worked to perpetuate common behaviors in African society and governments in regard to natural resources. In traditional studies this would be just one factor in determining the degree of cohesiveness (i.e. social cohesion) however in these cases it is often a driving factor in regional institutions and patterns. What is also important to note about African regionalism is that it is not static. While some core ideas exist in regard to natural resources and regionalism, it is constantly changing as it moves and interacts at different levels of analysis. In this regard it is clear that “Conventional or problem-solving theories of regionalism do not portray accurately the overlapping processes of regionalization that continue to evolve across Africa.” (Grant and Söderbaum, 2003, p.5)

Although traditional regionalism does not apply as strongly to African cases, new regionalism is useful in providing insights into the mechanisms, networks and layers of interconnectedness at play. With the extractive industries there was a strong economic desire to ensure that the benefit of resources went to the nation. This played out at state and sub-state levels with the latter being more influential in the end. The same sentiments can then be seen playing out in North/South relations indicating that regionalism from below may have “an important, if complex, relationship to international order.” (Fawcett, 2004, p.446) In more traditional regional complexes, one can see on the Nile that despite efforts for cooperation, the presence of colonial era treaties and a downstream hegemonic power created issues with states which felt they were unable to exercise their sovereignty over their resources for the benefit of their nation. Further, when Sudan changed its historic stance to support the Ethiopian project and upriver states, soft regionalism seems to have succeeded where traditional regionalism had not. In both cases, these constructions are important to study in addition to traditional regionalism because they can “have an importance that transcends any one powerful regional state and hence can modify patterns of behaviors.” (Fawcett, 2004, p.446)

On a final note, while more extensive analysis and studies would be needed to make more concrete conclusions about overall African regionness, some conclusions can be made about natural resources as they offers themselves to regionalism and regional building ideas. While particular aspects of resource production and management could be greatly improved by regional initiatives, this does not appear to be a top concern of the states discusses. Instead,

states seem to be driven more by a desire to protect their shares and claims to the natural resources within their borders. Given their history of colonialism and exploitation this point becomes especially relevant in the African context. If some common initiatives can help achieve larger goals or maximize benefits states may be willing to engage on a more integrated level, however, their first “obligation is ensuring the state and its citizens get a fair slice of the benefits.” (Lo, 2015) This concept serves to undermine any formal or integrated regional building at its core as demonstrated by Ethiopia’s decision to act unilaterally on their dam project despite being a signatory of the CFA. Therefore, as long as dependency on natural resources is the driving force of national growth and development, any regionalism that takes on a more traditional or institutionalized mold is unlikely to gain much ground.

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CHILD PROTECTION SITUATION ASSESSMENT – SYRIAN ARAB REPUBLICAsante Wiafe

War violates every right of a child - the right to life, the right to be with family and community, the right to health, the right to development of a personality and the right to be nurtured and protected. [Graça Machel, from the report “The Impact of Armed Conflict on Children”, UN, 26 August 1996 (United Nations, 1996)]

“Security matters”, Paul Williams has opined. Why would it not matter? We wake up to the horrific news of thousands being killed or maimed under horrific circumstances. Continuously, the international media landscape is awash with devastating news and features that challenge our thinking – starvation, pandemics, migration crisis, terrorism, natural disasters, homelessness/displacement, armed conflicts...the list goes on until I lose count, in fact – all threatening our very existence. Against this backdrop, conceiving of contemporary world politics without reference to security would be grossly inadequate, if not impossible, and that would amount to paying lip service to the prominence security has assumed on the international scene. (Williams, 2013)

Warfare has been part of human society from time immemorial. At every point in times of war, children – for reasons of their vulnerability and immaturity – have always suffered a great deal of catastrophe. Children in the Syrian Arab Republic are no exception. Following more than half a decade of continuous warfare, the people of Syria are facing the largest humanitarian crisis in the world, with grave protection and human rights violations occurring each passing day. In all these, the worst affected in the ongoing armed conflict have been children, who have had to pay the heaviest price, with their suffering hitting rock bottom in a drastic escalation of violence. For over six years, no week passes without news of renewed violence, both government and rebel forces have reneged their pledges to allow a cease fire and, time and again, have gone back on their words to be on the offensive. Against this backdrop, this piece dwells on the child protection situation assessment in Syria and highlights the gross violations children suffer daily as they are trapped in conflict zones with little or no access to humanitarian aid.

In the numerical calculations of the number of children affected by the Syrian armed conflict, nearly all international reports are unanimous, with an estimated 470,000 people dead, including 12,000 children. (Sinha, n.d.) These figures speak volumes of the heavy toll the conflict has had on children and the refusal of both parties to observe a cease fire undermines any international effort aimed at resolving the conflict. The report of the United Nations Secretary General on Children and Armed Conflicts identifies 851 verified cases “attributed to armed groups self-affiliated with the Free Syrian Army (507), ISIL (133), pro-government militias (54), People’s Protection Units (46), government forces (29), Army of Islam (28), Ahrar al-Sham (17), the Nusrah Front (also known as Jabhat Fath al-Sham) (10), Nur al-Din al-Zanki (3) and unidentified armed groups (24); 20 per cent of verified cases involved children under the age of fifteen”. (Annual Report, 2017) A further verification of the killing of 652 children (297 boys, 125 girls, 230 sex unknown) and the maiming of 647 (223 boys, 133 girls, 291 sex unknown) during 2016 was also recorded, with casualties attributed to government and pro-government forces (708), ISIL (235), People’s Protection Units (8), groups affiliated with the Free Syrian Army (5), other armed groups (10) and unidentified armed groups (145).

To understand the gravity with which children have been affected by the war, mention needs to be made of an estimated 8.4 million children who are affected by the conflict either in Syria or as refugees in other parts of the world. More than 6 million children are in need of humanitarian aid and, of this number, more than 2 million have no access to aid at all, either they live in areas unreachable by aid workers or they live in territories being under siege. (Sinha, n.d.) With no imminent end to the war in sight, an estimated 7.5 million children are growing up knowing nothing but war. Across the Middle East, Eurasia and Europe, nearly 2.4 million Syrian girls and boys are experiencing the stresses, adversity and uncertainty of life as a refugee. Syria has been a living nightmare for children and families tormented by seven years of war and unimaginable hardship. It underscores how critical the situation is – and how desperately help is needed. (Save the Children, n.d.) Each and every day, Syria’s children are seeing horrors no child should see and suffering emotional wounds that may never heal.

Recurring challenges faced by children in Syria

After what began as one of those anti-government protests that sparked the Arab region in the spring of 2011, Syria has degenerated to become the most dangerous country in the world to be a child. (Save the Children, n.d.) Grave child rights violations – killing, maiming, sexual

violence, abduction, recruitment into combat, attacks on schools and hospitals, and denial of humanitarian access – continue to be a recurrent nightmare which Syrian children have had to face head-on. (Save the Children, n.d.) The ongoing conflict in Syria challenges human thinking in every aspect. All facets of life of children have been gravely affected due to their exposure to horrific experiences. Given that children are immature, can make no express distinction of right from wrong, are in the stage of development, are vulnerable and need special protection from harm, with the priority of their education requiring special attention, their continuous exposure to warfare mar and frustrate their development process.

War

The effect of war on children is very grave. It affects the totality of the child. In their own words, Syrian children cry out: “There is no food and we can’t go outside...the planes are bombing”; “One of my friends died in front of me – and I saw the blood”; “It feels like the end of the world”. (Save the Children, n.d.) Everyday, numerous violations of children’s rights take place in areas such as health, education, protection and Syrian children’s regular exposure to escalating violence and explosive weapon attacks heavily impoverish their childhood development and shut the door of opportunities on them.

For the past six years, children in Syria have been bombed and starved. They have seen their friends and families die before their eyes or buried under the rubble of their homes. They have watched their schools and hospitals destroyed, been denied food, medicine and vital aid, and been torn apart from their families and friends as they flee the fighting. Every year that the war goes on plumbs new, previously unimaginable depths of violence against children, and violations of international law by all sides. (McDonald, 2017)

Some children are forced to become child soldiers; others are pushed into the workforce to provide for their families; several thousand have lost their members and have been forced to flee, only to become displaced within Syria itself or in neighbouring countries. Worse, others have had to embark on the perilous journey – often alone – across the Mediterranean to make their way to Europe. (Sinha, n.d.)

Atrocities

The killing and maiming of children in the ongoing conflicts have reached unprecedented levels. Both government forces and rebels have perpetrated such heinous crimes with impunity, denying children their rights to life and protection. Children's right to life encapsulate their right to be able to live their own life and not to be killed. They have the right to survive and to grow up in proper conditions. (Convention, 1989) The killing and naming of children must therefore be condemned with no uncertain terms and perpetrators made to face the full rigours of the law. Children's right to protection enshrines their right to live in a secure and protective environment which preserves their well-being. The Syrian government owes it a duty to ensure that children grow up in an enabling environment free from war. The government has done a great disservice to its children for not only exposing but them to danger but also subjecting them to killings and maimings. There have been reported cases of government detaining and torturing children with rebel links – an act that spells doom for the safety of the children. Not only that, it goes ultra vires to the principles of the Convention on the Rights of the Child. (Convention, 1989)

Humanitarian access denial

Denial of humanitarian access has featured prominently in the ongoing conflict. Rebel-held territories have been consistently surrounded by government forces and trapped children in need of emergency care. Such territories have been cut from food and medical supplies and children trapped in those government besieged territories face starvation, malnutrition and death. What is more worrying has been the refusal of the government to distinguish between military and civilian target, and the deliberate attempt to frustrate efforts by volunteers to provide humanitarian assistance has had heavy toll on suffering children. While the UN Security Council's 2 October 2012 Presidential Statement, in reiterating the need for humanitarian access, stressed the "obligation to distinguish between civilian populations and combatants, and the prohibition against indiscriminate attacks", (Statement, 2013) humanitarian access denial remain a major challenge for volunteers to reach trapped children in government-besieged territories.

Mental health

“The children are psychologically crushed and tired. When we do activities like singing with them, they don’t respond at all. They don’t laugh like they would normally. They draw images of children being butchered in the war, or tanks, or the siege and the lack of food.” (Save the Children, n.d.) The enduring pain that Syrian children have had to live with for the past seven years has been nightmarish and unbearable, with an enormous psychological pain becoming worse by day. It has been established that an estimated 3 million Syrian children under six years know nothing but war, and the growing up of millions in fear, under the shadows of the conflict is as startling as is worrying. A research into the mental health of Syrian refugee children by Save the Children has made worrying revelations that challenge our thinking: staggering level of trauma and emotional distress identified with the children, with heartbreaking accounts of children terrified by the shelling and continuous airstrikes, anxiety about their future and distraught by their inability to go school. (McDonald, 2017)

Poverty

“Nearly 7m children in Syria live in poverty”. (UNOCHA, 2017) The Syrian Arab Republic is on record to have about 7 million people living in conditions of poverty, according to UNICEF estimates. Following the repression that met the anti-establishment protests since 2011, in the wake of the Arab Spring, international trade sanctions and Syrian boycotts have had a heavy toll on the economy, negatively affecting the socio-economic life of the civilian population. The continuous shelling and airstrikes have frustrated economic activities and have placed many families at the receiving end, as the sanctions have limited the revenues of the state and shrank its budget, making its ability to pay salaries in the public sector very slim.

Education

“One-third of school-age children in Syria are not in school, with one-third of schools out of service”. (UNOCHA, 2017) Given the inviolability of the rights of children to education, (Convention, 1989) the shattered educational sector in Syria has become a cause for worry. The once effective educational sector in Syria is now on the brink of collapse due to the war, as bombings and airstrikes have destroyed school buildings and denied children access to

education. Prior to the war, Syria was on record to have had an effective system of education with a near 100% primary school enrolment and 70% in secondary school. Five years into the war, in 2016, reports indicated that 700,000 Syrian children did not have access to education. (Sinha, n.d.) Deliberate targeting of educational facilities and wanton destruction of school buildings have featured prominently in the war, and attacks have also been extended to students and teachers with targeted killings and abductions, making the future of some of the children very blur with uncertainties in all their forms. There have been verified attacks of consecutive pro-government air strikes hitting school complexes, killing teachers, school children and wounding many others. (Annual Report, 2017)

Child soldiering

One of the many despicable spectacles of the Syrian nuisance is the recruitment of childing into fighting, especially by the rebel forces. The government has failed on its responsibility to protect the children consequent upon which rebels have, on a large scale, recruited and used children in support roles and in combat. Available figures indicate that “the number of children maimed, killed or recruited to fight ... has increased dramatically” over the years, “with children as young as seven forced to act as frontline fighters, prison guards, suicide bombers and executioners.” (Hodal, 2017) The phenomenon of child soldiers has become a global canker which has attracted international attention in recent past. Recruitment or use of children as soldiers is one of the six grave violations identified by the UN Security Council. (UN, 2013)

Child labour

The Syrian legal system criminalises the employment of minors before reaching age 15 or completion of their basic education. The issue of child labour predated the war, however, following the humanitarian crisis that plagued the country, the matter has been more worrying than it was prior to the war. In Syria and neighbouring countries, children have not only been forced out of school but also compelled under prevailing circumstances to engage in hazardous work under conditions that are mentally, socially, and physically threatening. The impact of the war on the economic life of Syrian children has been very disturbing and, with no end to the war in sight, their situation is becoming worse each passing day.

Healthcare

One of the sectors of the Syrian society heavily affected by the war has been healthcare. There have been deliberate attempts by both sides to bring hospital buildings down and attack health workers. “The United Nations verified 81 attacks on medical facilities and 30 incidents of attacks on medical personnel resulting in 29 child casualties and 94 casualties among medical personnel, a nearly threefold increase compared with 2015”. (Annual Report, 2017) Prior to the commencement of the war, the infant mortality rate in Syria was akin to that of middle-income countries. Now, seven years into continuous fighting, unremitting violence has shattered the healthcare system, leaving millions of children suffering. Lack of access to health is a contributory factor to the death toll on children. The WHO has classified Syria as a grade 3 emergency – the highest level according to WHO’s Emergency Response Framework (ERF). The duration and severity of the conflict make Syria the longest major emergency the Organization has had to tackle since the ERF was introduced in 2013. (WHO Report, 2018) The right to health is a fundamental right to which children are entitled, (Convention, 1989, Article 24) and every effort needs to be made to ensure that Syrian children, especially those trapped in the besieged territories, are not denied access to healthcare. Continuous bombing and airstrikes targeting hospitals and health workers are inimical to the full realisation of the health of children.

Sexual violence

The repugnant phenomenon of sexual violence has become a major talking point within the international system. Sexual violence against children takes place both in times of peace and war, and it is frowned upon as one of the UN Security Council’s Six Grave Violations (UN, 2013) and ILO’s Worst Forms of Child Labour. (ILO, n.d.) The Convention on the Rights of the Child enshrines the protection of children from sexual violence, under Article 34. (Convention, 1989) Sexual violence against children in Syria has been on the increase and this presents a worrying trend.

Child marriage

Much as child marriage existed in Syria prior to the war, there has been an upsurge since the outbreak of the war. (Bartels et al., 2018) In some cases, such as in Syrian refugee communities in Jordan, the rate of child marriage has doubled since 2011, where we see an upsurge of marriages arranged by families for minors, against the wishes of the girls. Reported cases included “Accounts...received of ISIL fighters demanding marriage of girls living in ISIL-held areas”. In a “verified case, a fourteen-year-old girl was abducted and gang-raped by 6 ISIL fighters after her family refused marriage”. (UN Report, 2017)

Key issues and underpinning factors

The impunity with which actors in the Syrian conflict commit atrocities against children can be traceable to multiplicity of factors. It could be argued that in spite of UN Security Council resolutions that led to the destruction of Syria’s chemical weapons, the Syrian government has continued to launch chemical attacks on civilian populations, including children, to this day. While the government denied using chemical weapons, the symptoms suffered by hundreds of civilians was verified as being consistent with reaction to a nerve agent following government air strikes. (BBC News, 2017) Such attacks have prevailed because of the impunity with which the government has attacked its own people in violation of international law.

Another contributory factor, it could be argued, is attributable to the political divisions and partisan interests within the UN Security Council which have been an insurmountable obstacle. (Adams, 2015) “In particular”, writes Adams (2015), “Russia and China have on ... separate occasions employed their vetoes to block action in response to mass atrocity crimes in Syria, including ... a draft resolution that would have referred the Syrian situation to the International Criminal Court....each veto strengthened impunity and encouraged the expansion of war crimes and crimes against humanity” (Adams, 2015, p.3) Given what appears to be Russia’s blank cheque to the Syrian government, every effort at abating the conflict would be frustrated. Without agreement by the Permanent Security Council members to refrain from using their veto in mass atrocity situations, the future of Syrian children trapped in the conflict looks more blur than it has ever been.

Another factor attributable to the mass atrocities from which children are suffering is the international support received by the actors in the conflict. The foreign involvement has

contributed immensely to the fueling of the war, and children have had to pay the heaviest price. There has been a wider description of the war as a series of overlapping proxy war between the regional and world powers, where the United States against Russia and Iran against Saudi Arabia have been at paly. While the government has been politically and militarily supported by Iran and Russia and other neighbouring countries, the opposition has been supported financially, logistically, politically and in some cases militarily by most of the Sunni states in the region allied with the United States. Consequently, Syria has become a battleground for world and regional powers and the heaviest toll has been on children.

Conclusion

In the preceding pages, attempts have been made at highlighting the violation of children's rights in humanitarian emergencies in the Syrian Arab Republic. The shocking revelations in the Secretary General's report are, without doubt, a cause for worry. Unless an immediate action is taken to address the situation, the impunity with which the actors in the conflict are committing crimes in violation of international law would go unchecked and children would remain trapped and their rights violated beyond degree. Syria has become a failed state. The dreams of millions of children hang in a balance, as uncertainties stare at them in the face. Concerted efforts are needed to bring warring factions to the table to talk them into smoking the peace pipe to provide relief to the suffering population. Parties to the conflict ought to abide by their obligations under international law and observe a cease fire. The recruitment and use of children ought to stop, and all child rights violations must be prosecuted and save Syrian children from plunging into a lost generation. The role of the international community in the resolution of the conflict is indispensable. Most important, the UN Security Council is under an obligation to help end war crimes and crime against humanity in Syria. While issues of humanitarian access, negotiating a political solution and ending impunity for mass atrocities remain complex and fraught with political danger, the non-involvement of foreign governments in fueling the conflicts can make a headway in a peaceful settlement.

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THE CHANGE IN THE ROLE OF MILITARY IN TURKEY AND ITS JUDICIARY

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“Our aim is to make Copenhagen Criterion as Ankara Criterion”

Recep Tayyip Erdoğan (Hürriyet, 2002)

Introduction

Turkey's accession to the European Union is a protracted process. Turkey concluded an Association Agreement with the European Communities of 12 September 1963 (the Ankara Agreement), with in its Preamble declared purpose to facilitate the accession of Turkey to the Communities. (Kertészné Váradi, 2014, p.41) Turkey submitted its membership application to the Communities on 14 April 1987. (Kertészné Váradi, 2014, p.70) The Luxembourg European Council of 12 and 13 December 1997 confirmed Turkey's right of accession to the European Union and that it will be “judged on the same criteria as other applicant States”. The Presidency Declaration of the European Council in Brussels on 16 and 17 December 2004 concluded that “Turkey sufficiently fulfils the Copenhagen political criteria to open accession negotiations” with a pre-condition, “provided that Turkey brings into force the specific six pieces of legislation”; and appointed 3 October 2005 as the date of the opening of accession negotiations. (Söylemezoğlu, 2014, p.71) However, accession negotiations are currently under way, only fifteen of the thirty-five accession chapters have been opened, and so far only a single chapter has been provisionally closed.

The EU has highlighted many negative reasons objecting to the accession, such as excessive role of military, human rights' problems, shortcomings in efficiency, impartiality and independence of judiciary, insufficient immigration control and the situation in South-eastern Turkey. Turkey has become to the focus of international observers and politicians of the EU due to three different facts. First, after an attempted military coup in July 2016, a very harsh anti-terrorism act has been adopted, which is said to be against democracy and fundamental values of Europe. Second, Turkey has been involved in the civil war in Syria with its many consequences. Third, a new constitution was voted by a referendum in April 2017 that can and

will fundamentally change the political structure in Turkey. The European Union has to deal with all the three aspects.

In July 2016, the AKP government survived an attempted military coup. The authorities subsequently detained thousands of soldiers, judges and prosecutors on suspicion of involvement in the attempt that Erdogan said was inspired by his exiled opponent Fethullah Gülen. Turkey's parliament approved a new draft constitution paving the way for a presidential system of government in January 2017, in a move which would significantly increase Erdogan's powers. The bill was put to a referendum in April 2017, and became law as more than 50% of voters backed it. Critics say the move could usher in authoritarian rule, and amounts to a power grab.

While the EU emphasized mainly its concern about the consequences of the attempted military coup, including constitutional amendments, it could not be said that no major progress has taken place in last few years. In field of judiciary, the amendments of the Constitution solved a long-standing problem of the Turkish judiciary, namely the role of judiciary, and made the Turkish system more similar to its European (French) model. To assess the importance of this change, I shall also examine the development and the main characters of the former Turkish system, and the effects of the attempted coup.

Historical background

If we would like to understand the judicial system of Turkey, it is necessary to examine the background of history of Turkey. Back in the days, during the Ottoman Empire the Islamic law has determined the judicial system. The sources of Islamic law are basically different from any other system of law. If we would like to understand the main problems in connection with human rights in Turkey, we must first look into the Islamic law, which determines the rule of law in Turkey.

Islamic Law is a very unique legal system, and seems to be difficult to understand. In Islam, the old traditions determine many aspects of their life as the central source of Islamic law is the Holy Q'uran, which contains, under Islamic faith, the totality of eternal divine revelation including the way (*sharia*) in which men and women should live. (Munif, 2008, p.36) It is for the teachers of Islam to determine this way in practice. (Jany, 2006, p.102; 2011, p.48) There are four main traditional legal schools (*madhhab*) of Islamic jurisprudence (*fiqh*) in Sunni Islam.

(Iványi, 2008, p.12) The Islamic jurisprudence has a great contribution to legal culture. Many outstanding Islamic lawyers had assent to the world legal thought. Law is a major part of any culture in the world.

During the Ottoman Empire, the Chief Justice was the Sultan as the ruler of Ottoman Empire. His judicial power was exercised by judges (*qadis*) appointed by the Sultan for determined time period and status. *Qadis* need a higher madrasa-training, and also exercise administrative power. There are also a so-called Chief Justice (*kazasker*) in Ottoman Empire based in Bursa since 1360 or 1363, and two Chief Justices, one for Anatoly and one for Rumelia since 1482. (Turkish Judiciary, 2017, pp.16–17)

In the Tanzimat-period in 19th century, the Sultan initiated also a judicial reform, and implemented a French model, dividing the judiciary to ordinary and administrative branch, and the ordinary judiciary to civil and to criminal branches. (Turkish Judiciary, 2017, p.18; Akbulut, 2016, pp.102–104) In addition to traditional sharia courts, a new two-tiered court body was set up, the Nizami courts. As a continuation of the reform a Council of State (*Şurâ-yı Devlet*) and the Council of Judicial Judgments (*Divân-ı Ahkâm-ı Adliye*), the equivalent of the French Court of Cassation, were set up on a French sample on 6 March 1868. (Turkish Judiciary, 2017, p.19; Akbulut, 2016, pp.105–106; Yargıtay, 2017)

After the defeat of the Ottoman Empire in the 1st World War, some generals of the Ottoman Army by the leadership Mustafa Kemal Atatürk did not accept the dictated peace contract of Sevres, and initiated an independence war against the Western Alliance. After the victory of the independence war, Atatürk and his party eradicated the Sultanate, and have abolished the sharia courts and the sharia law, and established a modern, democratic and secularised state and legal system. The guiding ideology of the modern Turkey became the national sovereignty of Turks, and its elements are formulated as the six arrows of Kemalism, namely republicanism, nationalism, popularism, etatism, secularism and republicanism. (Başbakanlık, 2017)

Atatürk did not accept the division of the society under social classes, its concept of populism could be derived from the corporative model of papal encyclical *Quadragesimo Anno* in 1931. It is clearly visible from it, that Atatürk imported the most recent ideas from the West. The main guarantee of this Western-type modernization was the decisive role of the Kemalist army in the life of Turkey. Its curious consequences were also two military coups in 1961 and 1981 in defence of secularised Turkey.

As a consequence, the Turkish judiciary was divided not to two main parts as its French model, but to four. This quadripartite system comprised four branches, namely civil ordinary jurisdiction, civil administrative jurisdiction, military jurisdiction and military administrative jurisdiction. The military jurisdiction consisted of Disciplinary Courts, Military Courts and of Military Court of Cassation. The military administrative jurisdiction consisted of a single court, namely the High Military Administrative Court. This separated military court system was frequently criticized by the EU-organs.

Failed military coup and its crackdown in Turkey

Turkey witnessed the bloodiest coup attempt in its political history on 15 July in 2016, when a fraction of the Turkish military launched a coordinated operation in several major cities to topple the government and unseat President Recep Tayyip Erdogan. Soldiers and tanks took to the streets and a number of explosions rang out in Ankara and Istanbul. Turkish fighter jets dropped bombs on their own parliament, while the chairman of the Joint Chiefs of Staff, Hulusi Akar, was kidnapped by his own security detail.

As news of the coup attempt spread via social media, thousands of ordinary citizens, armed with nothing more than kitchen utensils, gathered in streets and squares around Anatolia to oppose the coup. The crowds resisted tank fire and air bombardments and, with the help of loyalist soldiers and police forces, they defeated the coup attempt in a matter of hours. The government swiftly declared victory and scores of troops that had taken part in the coup surrendered on the Bosphorus Bridge in Istanbul. Yet the overall price of victory was high: 241 people were killed and 2,194 others were injured. (Al-Jazeera, 2016; Worley and Cockburn, 2016)

Turkish government blamed Fethullah Gülen, US-based cleric for attempting to bring down the government. It also initiated a crackdown against anyone found having any trace of association with Gülen or possessing critical views against the government. As part of the crackdown, more than 131 media outlets were shut down (Karadeniz et al, 2016), more than 32,000 people were put behind bars, in addition to 100,000 plus individuals who were dismissed from their jobs in security and civil services. Even the top military officials were not spared amounting to roughly 40% of all generals and admirals in Turkey's military.

The government removed various police and government officials, judges and prosecutors who had any association with Gülen, and carried out mass rotation of judges. Eventually, the government brought in judges, who favoured it. For example: judge Mustafa Baser of Istanbul's Criminal Court of First Instance No.32 was put behind bars after he granted bail to 62 imprisoned police officials and journalist suspected of Gülen connection. This was done with help of judges, who supported the government. Baser was accused of exceeding his authority and working under orders of Gülen. (Prieger and Vohra, 2017, pp.38–51)

All of this has been a result of the fallout between AKP party and its former ally, the Gülen movement. Gülen movement had many followers within the government bodies including police force, judiciary and even non-government bodies like media houses. In December 2013, corruption scandal came to light, and Gülen-affiliated police and prosecutors arrested various government officials and relatives, which included even Erdogan's own family. The Government took this very seriously, and charged the Gülen movement with building a parallel state-structure attempting to plot a coup. (Prieger and Vohra, 2017, pp.38–51)

The coup and its crackdown has strained the Turkey-EU relations. Turkish government felt a delay in any support or response from EU despite the huge number of deaths of civilians and pro-government forces. While European leaders raised concerns over the crackdown carried out in response to coup by the Turkish government. The EU sees this as increasing concentration of power in Erdoğan's hands, and the EU members have become concerned about the rule of law in Turkey, and have sought changes in antiterrorism laws, which are deemed too broad and oppressive for European standards.

In addition, EU is concerned about the direction Turkey is taking under President Erdoğan i.e. the target of shifting Turkey to an executive presidential system, role of Turkey in Syria, Iraq and Ankara's relations with Moscow. (Hürriyet, 2017) The situation is so dire that Austrian government and Nicolas Sarkozy (French's presidency candidate) have stressed the need to end Turkey membership talks citing the country's attempt to flout EU policies.

Indeed, the situation has deteriorated with government interference in judiciary. Judges have been accused of acting against the government and organizing a coup. Judges have been put under pre-trial detentions for any judgments passed against the government, or their activities which were identified as unlawful. The Government has made use of its influence over the judges who support it, and put the judges in question behind bars.

Modification of the system of judiciary

The amendment of the Constitution in April resulted cardinal changes in Turkish judiciary. The constitutional amendment in Article 9 of the Constitution made impartiality, in addition to independence, a fundamental feature of the judiciary.

The constitutional amendment abolished the military courts, though as a principle, it maintained the possibility that they could try the disciplinary affairs of the armed forces in times of peace and the crimes committed by soldiers in the case of war. This is a continuation of the reform process begun in the early 2000s, which narrows the scope and power of the military. As a result, in September 2017, the Military Court of Cassation, the High Military Administrative Court and the separate system of Military Courts have been abolished, while the disciplinary courts survived but have been integrated into the ordinary court system as a specialized penal courts. (Venice Commission, 2017)

The constitutional amendment transformed the Supreme Council of Judges and Prosecutors: the number of members was reduced from 22 to 13 and its name has changed to the Council of Judges and Prosecutors. Of the members of the Council, 3 members from the judges and prosecutors of ordinary courts, 1 from administrative judges and prosecutors are appointed by the President of the Republic; a further 3 members from the members of the Court of Cassation, 1 member from the Council of State members, 3 members from the legal scholars and attorneys (at least 1 scholar and 1 attorney among them) will be elected by the Grand National Assembly. (CJP, 2017) The President of the Council remains the Minister of Justice and continues to be a member of the State Secretary for Justice.

The President retained the power to appoint certain judges of the Constitutional Court and the ¼ of Judges of the State Council.

The Constitutional Court has lost its right to review the statutory provisions that authorize to make a decree, and the President may also make regulations without separate statutory authorization. (Venice Commission, 2017, §122)

The Venice Commission examined these amendments before their entering in force. The Venice Commission has welcomed the abolition the separate military court system, (Venice Commission, 2017, §112–113) but expressed concerned about the transformation of the Council of Judges and Prosecutors, (Venice Commission, 2017, §94, 115–119, 121) and about the meaning of the incorporation of principle of impartiality into the Constitution. (Venice

Commission, 2017, §110–111) The Venice Commission overall considered that the constitutional amendments “introduce new provisions that are contrary to European norms and limit the independence of the judiciary to the president”. (Venice Commission, 2017, §114)

Conclusion

The concerns of EU because of the judiciary system in Turkey made a problematic atmosphere right now between Turkey and the EU. However, sooner or later Turkey should listen to voices especially from EU if it has to go ahead with the membership bid. Country’s media, judiciary, public administration must undergo reforms in accordance with the Copenhagen criteria and move towards a democratic society with an independent and impartial judiciary.

While the European Commission and the European Parliament expressed serious concern about the independence, impartiality and efficiency of Turkish judiciary, we should acknowledge that Turkey made important efforts to achieve EU standards in relation to its judicial system since the beginning of the accession process. In particular, the role of military in judiciary was decreased significantly and almost ceased to exist by the abolition of State Security Courts in the early 2000s and by the abolition of military court system in this year.

I strongly believed that Turkey getting closer and closer to the EU standards, however there are some concerns had left. An EU, which includes Turkey would be more efficient in tackling global political and economic issues, ranging from the threat of terrorism to illegal immigration and drug trafficking. Turkey’s accession should also enhance the EU’s position in regions close to its immediate neighbourhood. Finding the “truth” in this topic is very difficult, and may not be possible at all.

I hope the country can improve, and find a solution to all the problems, because Turkey has many great ability, many advantages. I believe that Turkey can face and solve the problems in the country, and a great future is waiting for Turkey.

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