Regional organisations and enduring defective democratic members

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Abstract

Instead of asking whether regional organisations can promote democracy, a well-established conclusion, this article asks what type of democracy regional organisations can promote. Where their commitments to democracy are weak, regional organisations can promote the transition away from authoritarianism but cannot drive that process to completion with the creation of embedded liberal democracies. Under such circumstances regional organisations serve as regimes of bounded toleration, and can provide regional linkages that sustain defective democracies. Through examining the relationship between the Association of Southeast Asian Nations and Myanmar, three supporting roles are identified; regional legitimacy, defence from external pressure, and future-oriented accommodation. The presence of these linkages between defective democracies and regional organisations provides a caveat to the positive assessments of regional organisations as socialisers of democracy.

Introduction

Defective democracies are a widespread feature of world politics. The term defective democracy, first used by Wolfgang Merkel in 2004, captures a wide variety of different forms of polity where democracy is in some way partial or restricted, and examples abound on every continent.[1] One of the key questions accompanying the presence of defective democracies is how we account for their endurance. Far from being temporary pit stops on the journey from authoritarianism to full democracy, defective democracies have shown remarkable stability in the face of wide-ranging pressures originating from Western states, regional partners and civil society.

This article examines a poorly understood explanation for the endurance of defective democracies – the role of regional organisations (ROs). The importance of ROs as promoters of democracy is well documented, and the role that they play in supporting authoritarian rule has recently also received attention. Yet between these opposing possibilities we know comparatively little about how ROs

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1 Wolfgang Merkel, 'Embedded and defective democracies', *Democratization*, 11:5 (2004), pp. 33–58 (pp. 48–9). See also Aurel Croissant, 'From transition to defective democracy: Mapping Asian democratization', *Democratization*, 11:5 (2004), pp. 156–78.

relate to the democratic status of their members. Most importantly, too little attention has been paid to the question of what type of democracy ROs can promote and, in turn, how defective democracies may gain support through membership of an RO. This is surprising given that it is now widely accepted that while almost all ROs possess some sort of commitment to democracy, the nature of that commitment can vary significantly, suggesting that not all play a similarly 'strong enforcer' role.

The first step in understanding this new role of ROs is to frame those that possess weak commitments to democracy as 'regimes of bounded toleration'. While such ROs are intolerant of particularly violent forms of authoritarian government, and often act to pressure those states to move towards democracy, they are tolerant of defective democratic members. This tolerance, in turn, opens the door to a range of regional linkages that actively and/or passively sustain that defective democracy. I identify three ways in which this support occurs. First, regional legitimacy describes a situation where a defective democracy is seen to subscribe to formal and social regional standards other than democracy, cementing their status as a worthy regional partner. This is often facilitated by a degree of incoherence in regional standards relating to democracy and its promotion. Second, ROs and other member states can defend defective democracies from external criticism and pressure to become a more embedded form of democracy. Third, ROs can create commitments that limit the pressure to which defective democracies will be exposed in the future through processes of regional reform. Realising the roles that ROs can play in supporting defective democracies has two benefits. First, it opens the possibility of establishing a typology of the relationship between an RO and domestic political forms beyond simple binaries of democracy and authoritarianism. Second, it provides a more nuanced take on the way that international organisations (IOs) serve not only as facilitators of the socialisation of human rights and democracy, but also as limiters of that process.

The capacity of ROs to play a democracy-limiting, as opposed to an overtly democracy-hostile, role is illustrated through the relationship between the Association of Southeast Asian Nations (ASEAN) and Myanmar between 2005 and 2015. In this period, ASEAN cannot be classified as an 'authoritarian club' comprising states openly hostile to democracy.[2] Instead, membership was diverse, comprising embedded, defective, and non-democratic members. At the regional level, a long-time hostility to democracy and human rights was replaced after 2005 with clear commitments to both in the 2007 ASEAN Charter and the 2012 ASEAN Human Rights Declaration (AHRD). During this ten-year period Myanmar moved from the nadir of authoritarianism to the widely applauded elections of 2015. Yet Myanmar today is far from an embedded democratic system. The military remains institutionally entrenched, holding 25 per cent of the seats in both houses of parliament, which effectively gives it a veto over constitutional reform, and the current constitution provides wide-ranging autonomy to the military.

The problem of enduring defective democracies

Democracy is under wide-ranging challenge, politically, economically, and conceptually.[3] The challenges are intimately related and together mark a rebuke to the triumphalism that characterised

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[2] This is Pevehouse's term to describe an RO with no democratic commitment. The reason that such ROs do not support democratisation of any kind is obvious. See Jon C. Pevehouse, 'Regional human rights and democracy governance', in Tanja A. Börzel and Thomas Risse (eds), *The Oxford Handbook of Comparative Regionalism* (Oxford: Oxford University Press, 2016), pp. 486–509 (p. 501).

[3] Christopher Hobson, 'Democracy: Trap, tragedy or crisis?', *Political Studies Review* (2016), pp. 1–8 (p. 2).

both political and academic assessment of democracy in the immediate post-Cold War era.[4] One dimension of this challenge is revealed in the increasing need to differentiate between full democracies, what Merkel calls embedded democracies, and the wide range of political systems that, while showing some sort of commitment to particular aspects of democratic governance, ultimately fall short of this standard. Embedded democracies rest upon universal adult suffrage, recurring, free, competitive and fair elections, multiple political parties and open access to multiple sources of information and, as Alfred Morlino continues, even then they must also be assessed on their ability to provide freedom and political equality.[5] Merkel suggests that embedded democracies must possess both elections and institutional guarantees 'that democratically elected representatives rule by democratic and constitutional principles'.[6] Merkel highlights the embedding of electoral regimes within inclusive commitments to political liberty, civil rights, horizontal accountability, and government effectiveness.[7]

Shortcomings across one or more of these dimensions create a defective democratic system of varying types; exclusive, domain, illiberal, and delegative.[8] Defective democracies may hold elections but they offer weak guarantees of democratic guarantees of oversight and constitutional governance. There is no reason why these defective democracies should represent transitional political forms as state journeys from outright authoritarianism towards embedded democracy.[9] Instead they can represent reasonably durable features of international politics. This endurance is worthy of explanation because, despite its travails, democracy retains a global presumptive legitimacy, strongly if erratically promoted by leading Western states, and is embedded in global organisations – especially global human rights treaties that articulate and promote the various component norms that together realise democracy.

Considerable work has identified the benefit of possessing some sort of minimal democratic commitment by authoritarian governments, which serves as a rough guide for the wider category of defective democratic states. Alongside the information, management, and neopatrimonial benefits that accrue to leaders in such states, Lee Morgenbesser for example identifies the legitimation benefits of 'simulating' democracy to avoid opprobrium from peers.[10] Here the endurance of defective democracies is implicitly assumed to be ultimately for internal reasons. One of the few references to external support for defective democracies is articulated by Merkel where, in little more than a short paragraph, he indicates that international/regional contexts are important for the maintenance of defective democracies, but he provides little detail about the substance of this

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[4] Christopher Hobson, *The Rise of Democracy: Revolution, War and Transformations in International Politics since 1776* (Edinburgh: Edinburgh University Press, 2015), pp. 2–6. The most widely cited triumphalist text remains Francis Fukuyama, *The End of History and the Last Man* (New York: Free Press, 1992).

[5] Alfred Morlino, 'What is a "good" democracy?', *Democratization*, 11:5 (2004), pp. 10–32.

[6] Merkel, 'Embedded and defective democracies', p. 37.

[7] Ibid.

[8] Exclusive denotes a situation where a portion of the adult citizenry is denied suffrage, domain where actors/issues are removed from oversight of democratic institutions, illiberal where the judiciary and constitutional norms only weakly bind government actions, and delegative where the legislative and judiciary only weakly control the executive. Merkel, 'Embedded and defective democracies', pp. 49–50. The scale of the variation that the term defective democracy captures, and the analytical costs that may come with this conceptual stretching, is investigated in Lee Morgenbesser, 'Elections in hybrid regimes: Conceptual stretching revived', *Political Studies*, 62:1 (2014), pp. 21–36.

[9] Merkel, 'Embedded and defective democracies', p. 48.

[10] Lee Morgenbesser, *Behind the Façade: Elections under Authoritarianism in Southeast Asia* (New York: SUNY Press, 2016), p. 2.

relationship.[11] ROs are not the only dimension of this support, and authoritarian countries, especially Russia and China, are often identified as crucial external supporters.[12] Yet we have good cause to suspect that ROs play their part in sustaining defective democracies. ROs are a near ubiquitous feature of world politics, and autocracies and defective democracies put as much, although likely often different, value in joining and then maintaining their membership as liberal democratic states.[13]

Reframing (some) regional organisations as regimes of bounded toleration

Scholarship on the relationship between ROs and domestic governance in their members focuses on two opposing possibilities, neither of which particularly illuminates the relationship between ROs and defective democracy. At one end, and far more investigated, is the role that ROs play in promoting democracy. Focusing on the experience of European organisations, often the European Union (EU), research emphasises the power of ROs in facilitating democratisation[14] and parallels the extensive investigation into how IOs facilitate change in states, playing the role of norm teachers and enforcers.[15] Here ROs incentivise democratisation through material and social rewards, lock in democratic commitments and develop clear enforcement procedures that police standards and punish transgressions. Recognising the significance of ROs in the creation and sustenance of embedded democracies, Merkel indicates the importance of 'external embeddedness' into regional assemblages for enduring and stable liberal democratic systems.[16] More recently the opposite position has started to garner attention – authoritarian states use ROs to foster authoritarianism abroad, whether that be through a reaction to democracy promotion by liberal states,[17] or under their own initiative.[18] Autocratic clubs have been identified as ways that states come together to

[11] Merkel, 'Embedded and defective democracies', p. 54.

[12] See discussion in Bruce Bueno de Mesquita and George W. Downs, 'Development and democracy', *Foreign Affairs*, 84:4 (2005), pp. 77–86; Thomas Carothers, 'The backlash against democracy promotion', *Foreign Affairs*, 85:2 (2006), pp. 55–68.

[13] The literature on regionalism is extensive. Andrew Hurrell provides one reason for the spread of regionalism around the world when he states 'the region is the most appropriate and viable level to reconcile the changing and intensifying pressures of global capitalist competition on the one hand with the need for political regulation and management on the other'. See Andrew Hurrell, 'One world? Many worlds? The place of regions in the study of international society', *International Affairs*, 83:1 (2007), pp. 127–46 (p. 131).

[14] Trine Flockhart (ed.), *Socializing Democratic Norms: The Role of International Organizations for the Construction of Europe* (Basingstoke: Palgrave Macmillan, 2005); Frank Schimmelfennig and Ulrich Sedelmeier (eds), *The Europeanization of Central and Eastern Europe* (Ithaca, NY: Cornell University Press, 2005); Jeffrey Checkel, 'International institutions and socialization in Europe: Introduction and framework', *International Organization*, 59:4 (2005), pp. 801–26; Jeffrey Checkel and Michael Zürn, 'Getting socialized to build bridges: Constructivism and rationalism, Europe and the nation-state', *International Organization*, 59:4 (2005), pp. 1045–79.

[15] Jon C. Pevehouse, 'Democracy from the outside-in? International organizations and democratization', *International Organization*, 56:3 (2002), pp. 515–49; Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (eds), *The Power of Human Rights: International Norms and Domestic Change* (Cambridge: Cambridge University Press, 1999); Margaret E. Keck and Kathryn Sikkink, *Activists beyond Borders: Advocacy Networks in International Politics* (Ithaca, NY: Cornell University Press, 1998). See also Kathryn Sikkink, 'Human rights, principled issue-networks, and sovereignty in Latin America', *International Organization*, 47:3 (1993), pp. 411–41.

[16] Merkel, 'Embedded and defective democracies', p. 44.

[17] Thomas Risse and Nelli Babayan, 'Democracy promotion and the challenges of illiberal regional powers: Introduction to the special issue', *Democratization*, 22:3 (2015), pp. 381–99.

[18] Tanja A. Börzel, 'The noble West and the dirty rest? Western democracy promoters and illiberal regional powers', *Democratization*, 22:3 (2015), pp. 519–35; Nicole J. Jackson, 'The role of external factors in advancing

'promote and legitimate authoritarian norms'.[19] Alexander Libman's focus on Russia and the Eurasian Economic Union provides a particularly sophisticated account, emphasising legitimacy, economic support, governance transfer, learning, and the role of private business in fostering authoritarianism in Russia's 'near abroad'.[20]

These twin possibilities, ROs promoting democracy or authoritarianism, are much like bookends – they identify the endpoints but tell us little about what falls between. Yet work on both democracy and ROs suggests that between these two endpoints lies a wide range of potentially very different relationships. As already noted, research into the quality of democracy has established numerous typologies of defective democratic systems.[21] Meanwhile RO scholarship, as part of its move away from European experiences, has begun engaging with ROs whose commitment to democracy and human rights are very different to the EU's – neither absent nor compelling.[22] The intersection of these two trends is poorly investigated. Understanding the relationship between defective democracy and an RO with weak commitments to democracy is a two-stage process. First, how is it possible that ROs with a commitment to democracy tolerate defective democratic members at all? Second, in what ways does that toleration work to support a defective democracy? The remainder of this section is dedicated to the first of these tasks, and the rest of the article to the second.

The coexistence of regional commitments to democracy and defective democracies is permitted because ROs that have weak commitments to democracy can be characterised as regimes of bounded toleration. While ROs are increasingly representing a 'global script' comprising 'commitments to human rights, democracy, the rule of law and good governance'[23] at the declaratory level, there remains considerable variation in terms of how this script is institutionalised within ROs, especially regarding the strength of commitments rather than their simple presence. Instead of convergence on a single model of RO design and function, the situation is more complex, with RO design existing at the confluence of the diffusion of ideas about what ROs should be and indigenous concerns across economic, political, and social issues.[24] The result then has been an emulation of form but not

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non-liberal democratic forms of political rule: a case study of Russia's influence on Central Asian regimes', *Contemporary Politics*, 16:1 (2010), pp. 101–18; Peter Burnell, 'Is There a New Form of Autocracy Promotion?', FRIDE Working Paper No. 96 (Madrid: FRIDE, March 2010).

[19] Pevehouse, 'Regional human rights and democracy governance', p. 501; Vera van Hüllen, 'Just leave us alone: the Arab League and human rights', in Tanja A. Börzel and Vera van Hüllen (eds), *Governance Transfer by Regional Organizations: Patching Together a Global Script* (Basingstoke: Palgrave Macmillan, 2015), pp. 125–40 (p. 130), arrives at similar conclusions regarding the Arab League in 2015. See also Tanja A. Börzel and Thomas Risse, 'Three cheers for comparative regionalism', in Börzel and Risse (eds), *The Oxford Handbook of Comparative Regionalism*, pp. 621–47 (p. 639).

[20] Alexander Libman, 'Supranational organization: Russia and the Eurasian Economic Union', in Anastassia Obydenkova and Alexander Libman (eds), *Autocratic and Democratic External Influences in Post-Soviet Eurasia* (Abingdon: Routledge, 2016), pp. 133–58.

[21] Merkel, 'Embedded and defective democracies', p. 37. See the ongoing debate about defining democracy in Morlino, 'What is a "good" democracy?'. Morlino builds his definition of democracy in a parallel direction to Merkel, emphasising the rule of law, accountability, responsiveness, and freedom and equality. Also, note his work in Leonardo Morlino, *Democracy between Consolidation and Crisis: Parties, Groups, and Citizens in Southern Europe* (Oxford: Oxford University Press, 1998). More recently, see Gerado L. Munck, 'What is democracy? A reconceptualization of the quality of democracy', *Democratization*, 23:1 (2016), pp. 1–26.

[22] See Pevehouse, 'Regional human rights and democracy governance', for an overview.

[23] Tanja A. Börzel and Vera van Hüllen, 'Towards a global script? Governance transfer by regional organizations', in Börzel and van Hüllen (eds), *Governance Transfer by Regional Organizations*, pp. 3–21 (p. 3).

[24] Anja Jetschke and Tobias Lenz, 'Does regionalism diffuse? A new research agenda for the study of regional organizations', *Journal of European Public Policy*, 20:4 (2013), pp. 626–37; Tanja A. Börzel, 'Do all roads

necessarily function, especially when it comes to democracy given the intimate relationship between regional commitments to democracy and the internal freedom of states.

Work on international legalisation offers a useful tool in assessing what distinguishes a weak commitment to democracy from a strong one. The framework developed by Abbott et al. has three dimensions: obligation, precision, and delegation.[25] First, weak obligation commitments to democracy are those adopted as recommendations and aspirations, or what Abbott et al. label 'hortatory'.[26] This is distinguished from commitments that create both clear obligations and conditionalities if those commitments are not met. Illustrating the meaning of this definition in practice requires introducing into our discussion ASEAN, first generally and then with a specific focus on its democratic commitments.

ASEAN was founded in 1967 with a specific purpose – to secure for a collection of weak states the maximum enjoyment of their sovereignty.[27] For a long time neither democracy nor human rights played any role in ASEAN, made up as it was of largely authoritarian states where all members jealously guarded their domestic freedoms from oversight either from each other or from the regional body they had created. Instead ASEAN focused on the creation of a set of governance principles that reassured its members of mutually benign intentions, together with cautious efforts in the area of economic activity.[28] Only after the advent of the 1997 Asian financial crisis was the consensus about an elitist and minimalist ASEAN broken, and the RO, under pressure from its own citizens, democratic members and external actors, especially the United States and Europeans, evolved commitments to a much wider range of issues, including human rights and democracy.[29] The product of these reforms, however, has been to craft a regime of bounded toleration, not to create a strong regional enforcer.

The ASEAN Charter was finalised in December 2007, ten years after the financial crisis, and the document serves ASEAN today as its legal foundation. The Charter illustrates in practice weak obligations to democracy. In its Preamble, the Charter calls for states to adhere to 'the principles of democracy, the rule of law and good governance, respect for and protection of human rights and fundamental freedoms'.[30] Preambles are assumed to consist of qualities that are declaratory and aspirational, rather than legally binding statements. Article 1 identifies the purposes of ASEAN, paragraph 6 of which calls on states to 'strengthen democracy' (note not to *be* democratic),

lead to regionalism?', in Tanja A. Börzel, Lukas Goltermann, Mathis Lohaus, and Kai Striebinger (eds), *Roads to Regionalism: Genesis, Design and Effects of Regional Organizations* (Farnham: Ashgate, 2012), pp. 255–67 (p. 257).

[25] Kenneth W. Abbott, Robert O. Keohane, Andrew Moravcsik, Anne-Marie Slaughter, and Duncan Snidal, 'The concept of legalization', *International Organization*, 54:3 (2000), pp. 401–19 (p. 404).

[26] Ibid., p. 410.

[27] ASEAN's founding members were Indonesia, Malaysia, Philippines, Singapore, and Thailand. Only Thailand had avoided formal colonisation from Western powers.

[28] For a discussion on the early nature of ASEAN, see Alice Ba, *(Re) Negotiating East and Southeast Asia: Region, Regionalism, and the Association of Southeast Asian Nations* (Stanford, CA: Stanford University Press, 2009), chs 2 and 3.

[29] An overview of these changes is offered at Mathew Davies, 'A community of practice: Explaining change and continuity in ASEAN's diplomatic environment', *Pacific Review*, 29:2 (2016), pp. 211–33; and in Ba, *(Re) Negotiating East and Southeast Asia*, ch. 4. See also Hsien-Li Tan, *The ASEAN Intergovernmental Commission on Human Rights: Institutionalising Human Rights in Southeast Asia* (Cambridge: Cambridge University Press, 2011).

[30] ASEAN, *The ASEAN Charter* (Jakarta: ASEAN Secretariat, 2007), Preamble.

while also calling for good governance, the rule of law, and the promotion and protection of human rights and fundamental freedoms, albeit 'with due regard to the rights and responsibilities' of member states.[31] Similarly in Article 2, the principles of ASEAN are outlined, and there are calls for 'adherence to the rule of law, good governance, the principles of democracy and constitutional governance'.[32] However, democracy is not a prerequisite for RO membership. This low-obligation environment has not been altered since 2007. Released in 2015, *ASEAN 2025* outlines the goals for the next decade, stating that members 'undertake to realise' 'an inclusive and responsive community that ensures our people enjoy human rights and fundamental freedoms as well as thrive in a just democratic … environment'.[33]

Second, weak commitments are also imprecise.[34] The greater the imprecision, the wider is the range of possible interpretations that fall within the standard being articulated, and the greater is the discretion of states in the interpretation of that standard. The ASEAN Charter may call for adherence to the principles of democracy, but does not enunciate what those principles are; neither does *ASEAN 2025*, the most recent ASEAN blueprint that outlines ASEAN's immediate future. Some specificity about its understanding of democracy can be found in the 2012 AHRD. The AHRD contains an entire section on civil and political rights that includes a commitment to the 1948 Universal Declaration of Human Rights (but not to the 1966 Covenant on Civil and Political Rights). Especially relevant to democracy are Articles 21 (rights to privacy), 22 (freedom of thought), 23 (freedom of expression), and 24 (peaceful assembly). Article 25 outlines the right to participate in the government of a country 'either directly or indirectly' and that there is a right 'to vote in periodic and genuine elections'.[35] However, both of those claims are limited by the language in 'accordance with national law', the effect of which is to prioritise any national interpretation of democracy over regional standards. Further, while important terms such as freedom of expression are now used within the ASEAN framework, there is no detail about what these terms mean. The rights listed in the AHRD are general and imprecise; the AHRD is also just a declaration, not a treaty, and so carries only declaratory value.[36] There is no similar declaration on democracy itself.

Third, weak commitments lack delegation – the RO is not empowered to mediate inter-member disputes or, more importantly in the democracy/human rights realm, to engage in enforcement activities of the standards it may possess. Institutionally, there is some delegation to ASEAN for the promotion of those human rights just mentioned (although nothing is delegated specifically for democracy), but there is no delegation for the protection of any standards. The 2010 ASEAN Intergovernmental Committee on Human Rights (AICHR) is charged with the promotion and protection of human rights within ASEAN, but is strictly limited to working within respect for the 'independence, sovereignty, [and] equality' of all ASEAN members, and absolute respect for the

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[31] Ibid., Article 1(6).

[32] Ibid., Article 2(2)(h).

[33] ASEAN, 'ASEAN Community Vision 2025', in ASEAN, *ASEAN 2025: Forging Ahead Together* (Jakarta: ASEAN Secretariat, 2015), pp. 13–17, para. 8.2.

[34] Ryan Goodman and Derek Jinks, 'How to influence states: Socialization and international human rights law', *Duke Law Journal*, 54:3 (2004), pp. 621–703 (p. 675).

[35] ASEAN, 'ASEAN Human Rights Declaration', Phnom Penh, Cambodia (18 November 2012).

[36] Attilo Pisanò, 'Human rights and sovereignty in the ASEAN path towards a human rights declaration', *Human Rights Review*, 15:4 (2014), pp. 391–411; Mathew Davies, 'An agreement to disagree: the ASEAN Human Rights Declaration and the absence of regional identity in Southeast Asia', *Journal of Current Southeast Asian Affairs*, 33:3 (2014), pp. 107–29.

principles of 'non-interference' and freedom from external coercion.[37] The result has been the creation of a system of 'opt-in' activities. Reviewing the most recently available work plan for the AICHR reveals an institution engaged in information gathering and sharing, education activities, and training programmes for national governments.[38] These activities are not meaningless, but neither do they represent a significant delegation of authority to the RO to police/enforce/demand that standards of human rights, let alone democracy, are protected.

Rejecting authoritarianism, accepting defective democracy

The effect of ASEAN's weak commitments to democracy is illustrated in the relationship between ASEAN and Myanmar, a particularly problematic member from its accession to ASEAN in 1997 through to 2015. Myanmar *was* subjected to pressure from ASEAN to curb the worst excesses of authoritarianism, including open military repression, during the late 2000s. The presence of this pressure confirms that ROs with weak democratic commitments are intolerant of outright authoritarianism, especially if accompanied by violence. However, the pressure from ASEAN on Myanmar to become more democratic ceased the moment an even remotely plausible defective democracy was established with the flawed elections of 2010, and well before pressure from the Western powers had diminished, which occurred primarily after the 2012 election that was viewed as more open.[39]

Prior to 2010, Myanmar's domestic political system was so repressive that it transcended even ASEAN's weak commitments to democracy/human rights/good governance as well as generating significant opprobrium for ASEAN. From 1988 to 2011, Myanmar was under effective military rule of one kind or another. The State Law and Order Reform Council (SLORC) repressed the results of the 1990 democratic elections, which saw the National League of Democracy (NLD), led by Aung San Suu Kyi, receive overwhelming public endorsement. In 1997, SLORC renamed itself the State Peace and Development Council (SPDC), and Prime Minister Khin Nyunt released the 'roadmap to democracy' in 2003 that, over seven stages designed by the military, outlined the drafting of a constitution and then elections to the Hluttaw, Myanmar's national legislature. Despite the roadmap, the mid-2000s marked a period of intense repression domestically, culminating in the 2007 repression of the Saffron Revolution, which saw the military killing dozens of activists on the streets of Yangon. In the wake of the Saffron Revolution, Singapore's Foreign Minister George Yeo spoke of 'revulsion' on the part of ASEAN and its other members about these events.[40]

ASEAN's dissatisfaction with Myanmar during this period was articulated in the language of democracy. In 2006 the Joint Communiqué of the 39th ASEAN Ministerial Meeting expressed the hope that there would be 'tangible progress [leading] to peaceful transition to democracy in the

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[37] ASEAN Intergovernmental Committee on Human Rights (AICHR), 'Terms of Reference' (Jakarta: ASEAN Secretariat, 2010), 2.1 a, b, c respectively.

[38] AICHR, 'Five Year Work Plan of the ASEAN Intergovernmental Commission on Human Rights 2016–2020', 2015, available at: {aichr.org/?dl_name=AICHR_Five-Year_Work_Plan_2016-2020.pdf} accessed 28 November 2016.

[39] Mathew Davies, *Realising Rights: How Regional Organisations Socialise Human Rights* (Abingdon: Routledge, 2014), pp. 39–65. Note that the claim here is not that ASEAN drove the limited democratisation of Myanmar – there is widespread assertion that this was not the case. Instead, the claim is that ASEAN's cessation of pressure supported the continuation of defective democracy.

[40] Derwin Pereira, '*Straits Times* interview with Singapore Foreign Minister George Yeo' (2–3 October 2007), available at: {www.mfa.gov.sg/content/mfa/overseasmission/washington/newsroom/press_statements/2007/200710/press_200710_08.html} accessed 28 November 2016.

near future'.[41] By 2008 the ASEAN Ministerial Meetings were calling for 'bolder steps' towards democracy and the holding of free and fair elections.[42] As Donald Emmerson notes, the language that ASEAN was using at this time was not disinterested or even-handed between the opposition and the junta – it was a commitment to democratisation within Myanmar.[43] At the 42nd ASEAN Foreign Ministers Meeting in July 2009, ASEAN encouraged Myanmar 'to hold free, fair, and inclusive elections in 2010, thereby laying down a good foundation for future social and economic development'.[44] At the following ASEAN Foreign Ministers Meeting held in Hanoi in July 2010, ASEAN underscored 'the importance of national reconciliation in Myanmar and the holding of the general election in a free, fair, and inclusive manner, thus contributing to Myanmar's stability and development'.[45]

While these statements are a notable departure for an RO committed so strongly to non-intervention, they were based on weak foundations – ASEAN's minimal commitments to democracy. The effect of these weak commitments, outlining little more than a broad commitment to some sort of election that could be called 'free and fair', was that once Myanmar reached this minimum threshold, regional pressure ceased. The best evidence for this comes from the different responses of ASEAN members and the wider global community to Myanmar's 2010 elections. The elections, the first held since the annulled 1990 election, were boycotted by Suu Kyi's NLD due to restrictive election laws and the continued house arrest of Suu Kyi herself during the run-up to the election. The military-backed Union Solidarity and Development Party, which ultimately won an overwhelming victory in the upper and lower houses, received widespread official and unofficial support from the government apparatus it claimed to be contesting. Foreign election observers were excluded from overseeing the vote.

The international community expressed sustained scepticism about the elections. United Nations Secretary-General Ban Ki-moon, via a statement delivered by his spokesperson, called the elections 'insufficiently inclusive, participatory and transparent' and called for greater efforts to meet democratic standards.[46] It was not until the 2012 by-elections, which were contested by the NLD and which occurred after the first wave of President Thein Sein's reforms, that European states and the US were willing to recognise Myanmar as moving towards democracy. The ASEAN response was very different. While Indonesia continued to urge reconciliation, it publicly welcomed the 2010 elections. Vietnam, in its role as ASEAN Chair, issued a statement that welcomed the elections as a

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[41] ASEAN, 'Joint Communiqué of the 39th ASEAN Ministerial Meeting', Kuala Lumpur, Malaysia (25 July 2006), para. 79.

[42] ASEAN, 'Joint Communiqué of the 41st ASEAN Ministerial Meeting, "One ASEAN at the Heart of Dynamic Asia"', Singapore (21 July 2008), para. 50.

[43] Donald K. Emmerson, 'ASEAN's "black swans"', *Journal of Democracy*, 19:3 (2008), pp. 70–84 (p. 75). Academic consensus around ASEAN's proactive stance regarding Myanmar during this period has quickly developed. See Lee Jones, *ASEAN, Sovereignty and Intervention in Southeast Asia* (Basingstoke: Palgrave Macmillan, 2012), pp. 180–210. Interestingly, Jones frames ASEAN as concerned with 'oligarchic democracy', paralleling the focus in this article with defective democracy. See also Mathew Davies, 'The perils of incoherence: ASEAN, Myanmar and the avoidable failures of human rights socialization?', *Contemporary Southeast Asia*, 34:1 (2012), pp. 1–22.

[44] ASEAN, 'Joint Communiqué of the 42nd ASEAN Foreign Ministers Meeting, "Acting Together to Cope with Global Challenges"', Phuket, Thailand (20 July 2009), para. 68.

[45] ASEAN, 'Joint Communiqué of the 43rd ASEAN Foreign Ministers Meeting, "Enhanced Efforts towards the ASEAN Community: From Vision to Action"', Hanoi (19–20 July 2010), para. 68.

[46] United Nations, 'Statement Attributable to the Spokesperson of the Secretary-General on Myanmar Elections', New York (8 November 2010), available at: {www.un.org/sg/statements/?nid=4911} accessed 28 November 2016.

step along the roadmap to democracy.[47] The 2011 Joint Communiqué was the first since 2005 not to have a dedicated section on the situation in Myanmar. Instead the communiqué noted ASEAN's 'welcome' of the positive developments in Myanmar and the steady progress that the 2010 elections represented.[48] Since then, ASEAN has been almost entirely mute on Myanmar's domestic politics. ASEAN stopped exerting any pressure on Myanmar over its democratic standards not only before others in the international community, but also in the absence of a complete democratic transition.

Today, Myanmar is widely lauded; the elections of 2012 and 2015 and the entry into power, if not the presidency, of Suu Kyi suggest the presence of a successful democratic transition. Yet under the 2008 Constitution, currently in force, Myanmar's military force, the Tatmadaw, retains far-reaching powers. The Tatmadaw has a right to appoint 25 per cent of the seats in both houses of parliament, in effect not allowing change to the current Constitution (changes to the Constitution require more than 75 per cent of members of parliament to pass the legislation). The Constitution protects the Tatmadaw as an autonomous entity, exempting it from political oversight, and grants it the right to appoint the Ministers of Defence, Interior, and Border Affairs.[49] The process of democratisation, as impressive as it has been, was undertaken on the initiative of the military, especially Thein Sein, and has unfolded along a timeline of the military's choosing, and largely in the way that the military had expected and understood.[50]

The benefits of membership: Regional linkages that support defective democracies

A defective democratic member of an RO with weak commitments to democracy enjoys, at the very least, silence from regional bodies regarding its domestic political system. However, beyond this tacit support, we can also identify a range of regional linkages that support the defective democratic member. I identify three as particularly important. The first is *regional legitimacy*, where the defective democracy through its fealty to regional standards other than democracy demonstrates its legitimacy to peers, citizens and others. The second is the active *defence* of defective democracies by other members and the RO itself in the face of potential or actual challenge by third parties. The third is forward-looking, *accommodation during reform*, where ongoing efforts to revise regional commitments to democracy and human rights produce outcomes that do not discomfort a defective democratic member.

Regional legitimacy

Regional legitimacy describes the situation where, through fealty to regional rules, expressed both formally and socially, a defective democracy bolsters its legitimacy in the eyes of its peers, citizens,

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[47] Talk Vietnam, 'ASEAN Welcomes Myanmar's General Elections' (9 November 2010), available at: {www.talkvietnam.com/2010/11/asean-welcomes-myanmars-general-elections/} accessed 28 November 2016.

[48] ASEAN, 'Joint Communiqué of the 44th ASEAN Foreign Ministers Meeting', Bali, Indonesia (19 July 2011), para. 104.

[49] See discussion in Damien Kingsbury, 'Political transition in Myanmar: Prospects and problems', *Asian Politics & Policy*, 6:3 (2014), pp. 351–73 (pp. 356–8); Renaud Egreteau, 'The continuing political salience of the military in post-SPDC Myanmar', in Nick Cheesman, Nicholas Farrelly, and Trevor Wilson (eds), *Debating Democratization in Myanmar* (Singapore: ISEAS Publishing, 2014), pp. 259–84.

[50] See Morten B. Pedersen, 'Myanmar's democratic opening: the process and prospect of reform', in Cheesman, Farrelly, and Wilson (eds), *Debating Democratization in Myanmar*, pp. 19–40; Kyaw Yin Hlaing, 'Understanding recent political changes in Myanmar', *Contemporary Southeast Asia*, 34:2 (2012), pp. 197–216.

and other actors. In turn, regional legitimacy enables RO membership to serve as a 'safe harbour', offering a path out of potential isolation, direct protection of domestic politics from regional states and the opportunity to engage with peers in regional governance. Regional sufficiency is greatly facilitated when RO commitments are incoherent in some way. This incoherence emerges from two possibilities – contradictory aims being expressed simultaneously in the legal framework of an RO, or formal rules conflicting with the social practices that delineate legitimate member state behaviour and expectation.

The formal dimension of regional legitimacy comprises not only meeting minimum democratic thresholds as already discussed, but also through engagement with the legal framework of an RO beyond the question of democracy and human rights, expressed most usually in key treaties and charters. Yet for a variety of reasons – the evolution of an RO over time, or the negotiations between different members about the scope and nature of commitments embedded within legal frameworks – these commitments are rarely coherent. Given that democracy concerns the domestic political constitution of states, the most obvious formal standards that cut across these are those that promote and protect sovereign equality, non-intervention and freedom from external interference, which buttress the 'sacrosanct' nature of a defective democracy. Comparative regionalism has shown that the EU, with its clear commitment to supranational governance and democratic government as the defining requirement of membership (expressed most clearly in the membership process where both the Copenhagen Criteria and the *acquis* exercise strict liberal democratic conditionality), is atypical. Elsewhere, especially in ROs beyond the West, strong commitments to national sovereignty, unsurprising given the postcolonial settings of these ROs and their members, predominate.[51] ASEAN has overwhelmingly strong commitments to standards that conflict with a regional interest in democracy. While containing pro-democratic provisions described above, the ASEAN Charter also contains stronger traditional commitments. The first purpose of ASEAN (stated six paragraphs ahead of a commitment to democracy and human rights), is to maintain inter-state peace, security, and stability.[52] Article 2a requires 'respect for the independence, sovereignty, equality and national identity of all ASEAN member states', while 2e commits to 'non-interference in the internal affairs of members' and 2f states 'respect for the right of every member state to lead its national existence free from external interference, subversion and coercion'. Importantly the commitments to the inviolability of member state domestic affairs in the Charter are also present in the self-denial clause (Article 40) in the AHRD, which says that none of the rights or values enunciated elsewhere in the Declaration can be used in any way to undermine the principles and purposes of ASEAN as outlined in the Charter. The AHRD commits to protecting domestic inviolability of member states over the protection and promotion of the values it contains, perhaps the most egregious example of its kind in the world.

Alongside formal legal frameworks are social standards that also help to define legitimate membership, especially with regard to the diplomatic environment and the 'way of doing things' that defines business as usual within the RO. These norms – intersubjective understandings – give substance to what it means to be a member of a particular RO.[53] Norms can possess either regulative or constitutive functions.[54] In their regulative guise, norms can delineate practices of members,

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[51] Amitav Acharya, 'Regionalism beyond EU-centrism', in Börzel and Risse (eds), *The Oxford Handbook of Comparative Regionalism*, pp. 109–30 (p. 117).

[52] ASEAN, *The ASEAN Charter*, Article 1(1).

[53] Davies, *Realising Rights*, pp. 27–30; Alastair Iain Johnston, 'Treating international institutions as social environments', *International Studies Quarterly*, 45:4 (2001), pp. 487–515.

[54] Annika Björkdahl, 'Norms in international relations: Some conceptual and methodological reflections', *Cambridge Review of International Affairs*, 15:1 (2002), pp. 9–23 (p. 15).

whether that occurs between themselves, in their relationship with the RO's institutions, or indeed in the working of those institutions relative to member states. Regulative norms then describe and legitimate modes of diplomatic engagement. For a regulative norm to serve a democracy limitation purpose, it would need to delineate practices of consultation and decision-making that provide member states with significant power over the reaching of agreement and discretion regarding the decision to implement that agreement. Consensual and consultative procedures, especially those that require unanimity, would be best able to protect defective democracies from regional pressure. In their constitutive mode, norms shape both the interests and identities of member states in terms of what it means to be a member of an RO. These deep intersubjectivities provide members with beliefs about what an RO means, what their obligations to that RO and its standards are and, crucially, what the informal expectations of other members are around questions of membership and compliance. Here there is no need to assume, especially as we reach beyond European examples, that RO members should believe that democracy is morally superior to other forms of governance.

This becomes particularly interesting when considering what happens to these intersubjective beliefs about the RO's purpose in the face of the RO's reform. ASEAN was created without a commitment to democracy or human rights, but over time, came to possess them. Yet the weak legal commitments discussed previously are weak precisely because they are not accompanied by the intersubjective belief that these norms should be followed or enforced. The legal and social frameworks of ROs do not necessarily have to align – indeed the majority of ASEAN scholarship identifies reasons other than moral belief for ASEAN's commitments to democracy and human rights.[55] States can happily create or indicate acceptance of standards that they have no interest in ever living up to, something which is particularly well documented in the human rights treaty space.[56] Considerable debate has erupted among ASEAN watchers as to whether these norms serve only regulative functions or also serve as constitutive beliefs.[57] The key norms that describe legitimate membership in ASEAN are found in the 'ASEAN way'.[58] The 'ASEAN way' comprises a set of regulative norms – *musyawarah* (consultation) and *muafakat* (consensus).[59] These standards denote a particular mode of diplomatic conduct that covers how members relate to each other, and is based on the 1976 Treaty of Amity and Cooperation (TAC) and the Declaration of ASEAN Concord.[60] These documents strongly protect and promote the sovereign equality of members and their right to structure their domestic affairs however they wish. Article 2 of TAC is particularly significant in this regard, paragraph A of which calls for 'mutual respect for the independence sovereignty, equality … Of all nations', and

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[55] Shaun Narine, 'Human rights norms and the evolution of ASEAN: Moving without moving in a changing regional environment', *Contemporary Southeast Asia*, 34:3 (2012), pp. 365–88, offers a typical review.

[56] Oona A. Hathaway, 'Do human rights treaties make a difference?', *Yale Law Journal*, 111:8 (2002), pp. 1935–2042.

[57] Amitav Acharya, *Constructing a Security Community in Southeast Asia: ASEAN and the Problem of Regional Order* (London: Routledge, 2001); John Ravenhill, 'East Asian regionalism: Much ado about nothing?', *Review of International Studies*, 35:S1 (2009), pp. 215–35.

[58] Tobias Ingo Nischalke, 'Insights from ASEAN's foreign policy co-operation: The "ASEAN way", a real spirit or a phantom?', *Contemporary Southeast Asia*, 22:1 (2000), pp. 89–112. Extensive history into the genesis, development, and indeed exceptions to these values is offered by Ba, *(Re) Negotiating East and Southeast Asia*; Jürgen Haacke, *ASEAN's Diplomatic and Security Culture: Origins, Development and Prospects* (New York: Routledge, 2005).

[59] Amitav Acharya, 'Ideas, identity, and institution building: From the "ASEAN way" to the "Asia-Pacific way"?', *Pacific Review*, 10:3 (1997), pp. 319–46 (p. 330).

[60] ASEAN, 'Treaty of Amity and Cooperation in Southeast Asia', Denpasar, Indonesia (1976); ASEAN, 'Declaration of ASEAN Concord', Denpasar, Indonesia (24 February 1976).

paragraph B 'the right of every state to lead its national existence free from external interference'.[61] TAC retains its centrality to ASEAN's procedural framework, being invoked repeatedly and explicitly in the documents surrounding reform proposals in the 1990s and 2000s and remaining front and centre in *ASEAN 2025*.[62]

Beyond the actions of other member states, regional legitimacy also allows a defective democracy to avail itself of the benefits that membership bestows upon it. This can include holding rotating leadership positions, chairing meetings with members and external parties, and hosting prestigious summits. Given the continued preoccupation that states display towards status, these are desirable goals, but they also serve as opportunities for states (especially if previously criticised) to display their legitimacy as recognised and valued peers of other members and as key partners for other actors. Denied the Chair of ASEAN in 2005 because of its domestic situation, Myanmar held the position in 2014. Despite early suspicion that Myanmar would prove unable to organise and run the heavy schedule of ASEAN meetings, it successfully hosted the 24th ASEAN Summit in May 2014 in Naypyidaw and then the 25th ASEAN Summit and associated East Asia Summit, which saw Myanmar hosting then US President Barack Obama as well as other regional leaders.[63] The message was clear – Myanmar was now a full and legitimate member of ASEAN, and from the nadir of the mid-2000s now receives the same full range of rights and privileges as other members. Myanmar's holding of the Chair of ASEAN was an undoubted 'victory' for then President Thein Sein and his policy of careful, limited, democratic reforms.[64] Part of this package of rights included Myanmar's ability to set the theme of meetings and activities throughout 2014 as well as to use its role as Chair to augment its own interests. For example, at the regular Asia–Europe meeting of 2014, Myanmar's President Thein Sein (as Chair of ASEAN) urged European states to curtail their pressure on Myanmar, especially the European practice of introducing a resolution each year at the United Nations (UN) critical of Myanmar's record.[65]

Defence of defective democracy

Membership legitimacy opens the door to the second dimension of regional support for defective democratic members in two ways – RO-led defence of a defective member from external pressure, and member state-led defence.

The very fact that Myanmar gained membership of ASEAN and has maintained that membership provided a type of support first to the outright authoritarian government, and then to the emerging defective democracy. Accession itself was widely criticised by Western states, and Myanmar's continued presence within ASEAN was a key tension in EU–ASEAN inter-regionalism where for the most part ASEAN resisted efforts by the EU to exclude Myanmar from participation.[66] We should

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[61] ASEAN, 'Treaty of Amity and Cooperation in Southeast Asia', Article 2; ASEAN, 'Declaration of ASEAN Concord', Preamble.

[62] ASEAN, *ASEAN 2025: Forging Ahead Together* (Jakarta: ASEAN Secretariat, 2015), para. 2.

[63] Tin Maung Maung Than, 'Myanmar in 2014: Great expectations unfulfilled', *Asian Survey*, 55:1 (2015), pp. 184–91 (p. 191).

[64] Catherine Shanahan Renshaw, 'Democratic transformation and regional institutions: the case of Myanmar in ASEAN', *Journal of Current Southeast Asian Affairs*, 32:1 (2013), pp. 29–54 (p. 38). Similarly, in reference to the Southeast Asian Games and Myanmar's return to the competition, see Simon Creak, 'National restoration, regional prestige: the Southeast Asian Games in Myanmar, 2013', *Journal of Asian Studies*, 73:4 (2014), pp. 853–77.

[65] Than, 'Myanmar in 2014', p. 191.

[66] Magnus Petersson, 'Myanmar in EU–ASEAN relations', *Asia Europe Journal*, 4:4 (2006), pp. 563–81.

not forget that continuing membership, beyond what has already been said about legitimacy benefits, has also provided Myanmar with political and economic opportunities that its suspension or exclusion would deny it. Politically, membership provides Myanmar not only with a dense network of meetings with its immediate neighbours, but also, through mechanisms such as the ASEAN Regional Forum, ASEAN+3 meetings and the East Asia Summit, allows access to leading states across the Asia-Pacific. Economically, the ongoing effort to build the ASEAN Economic Community as one of the central pillars of ASEAN provides Myanmar with investment and trade openings that it otherwise would not have were it excluded, and which is of particular importance to states whose performance legitimacy matters to those in charge.

Since 2010, Myanmar's fellow ASEAN members have shifted their position on the country. In situations where they interact beyond Southeast Asia, they now defend Myanmar. In 2005 the Philippines, then a member of the UN Security Council, abstained when voting on a resolution condemning the situation in Myanmar – a significant diplomatic snub to Myanmar given the presumption that ASEAN members seek to defend each other's right to exist free of external interference. In regard to a UN General Assembly draft resolution put forward by the EU in 2006 condemning Myanmar's repression of human rights and democracy, Singapore, the Philippines and Thailand broke ranks with other ASEAN members and abstained from the vote.[67] As Renshaw records, ASEAN Secretary-General Ong Keng Yong was told that 'ASEAN has lost the credibility and ability to defend Myanmar'.[68] This situation has now been reversed. During the November 2015 Universal Periodic Review for Myanmar, fellow ASEAN members were in the vanguard of supporting Myanmar. Indonesia 'welcomed the strong commitment and significant progress made to democracy and the promotion and protection of human rights', while Vietnam commended Myanmar for its human rights record.[69]

There is a tension here that warrants explanation. The coexistence of embedded and defective forms of democracy within ROs such as ASEAN is not in itself surprising, but the willingness of Myanmar's democratic peers to defend defective democracy requires elucidation. It is not that more embedded democratic members offer nothing but unstinting praise for their defective democratic peers. Instead the evidence suggests that embedded democratic states reserve for themselves the right to criticise other members, rather than allowing any external democratic state to do so, seen especially clearly in the period before 2010 when ASEAN robustly defended its own prerogatives relative to Myanmar and rejected Western-led criticism. Why the distinction? Membership legitimacy provides the answer. The plethora of regional standards results in a situation where defence of defective democracies works to support other regional standards, most notably regional independence and the freedom of member states. Subscription to weak democratic standards when accompanied by broad agreement with other regional standards facilitates a strong insider/outsider distinction – the result of which is that often 'our' defective democracies are preferable to 'your' embedded democracies. Part of the package of rights and entitlements that membership of ROs can provide, and thus part of the motivation for seeking to join them, is this defence from external pressure.

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[67] The draft resolution was 'Situation of Human Rights in Myanmar', A/C.3/61.L.38/Rev.1. For the voting pattern, see UN General Assembly Third Committee, Summary Meeting of the 52nd Meeting, 22 November 2006, A/C.3/61/SR.52, pp. 1–6.

[68] Catherine Shanahan Renshaw, 'Human Rights and Regionalism in Southeast Asia' (PhD thesis, University of Sydney, 2014), pp. 180–1; Eileen Ng, 'Myanmar told that Suu Kyi's detention a slap to ASEAN, says official', *Kyodo* (11 December 2005).

[69] United Nations, A/HRC/31/13, 'Report of the Working Group on the Universal Periodic Review', 20 November 2015, paras 96, 24, available at: {www.upr-(info.org/sites/default/files/document/session_23_-_november_2015/a_hrc_31_13.pdf} accessed 28 November 2016.

Accommodation during reform

Beyond the creation of RO form is the increasingly studied question of RO reform – how once 'up and running', an RO, through a variety of processes, engages in reforms of existing rules and institutions. One belief especially prominent in the literature on different forms of regionalism is that there is a tidy, linear, and escalating story of regionalism to be told – that weak and diffuse organisations over time become stronger, broader and deeper, that incoherence gives way to order, and that as part of this there is an ever-growing intrusion of regional standards into national life. This is especially prominent in the various schema of different forms of regionalism.[70] However, this narrative does not match the regional reform politics of many ROs, who show a significant willingness to continue to accommodate defective democracies during processes of regional reform that see a considerable increase in the sophistication and mandate of the RO. There are simple procedural reasons for this – part of the bundle of rights that membership bestows is an equal say in the politics of regional reform, which often can be reduced to near veto-like powers, especially when augmented by procedural norms of consensus and unanimity as discussed earlier. The effect of the power bestowed on defective democracies is the ability to ensure that future RO forms retain sufficiently weak commitments to ensure their continued comfort within those standards.

We see this clearly in the Southeast Asian case. Regional reform within ASEAN has, as shown previously, resulted in a distinctly layered outcome, with newer commitments to democracy laying over pre-existing commitments to sovereignty and non-intervention. Not only does this overall outcome accommodate defective democratic members, the results of which have already been discussed, but the process by which this was achieved is similarly comfortable for them even when it comes at considerable cost to the RO itself. The process of developing ASEAN's commitments to democracy was an open-ended and consensual affair conducted behind closed doors, almost completely isolated from uncomfortable public insight or civil society input.[71] The most contentious of documents, the AHRD, was drafted and discussed in a series of private meetings, much to the chagrin of regional civil society who expressed 'grave concern and disappointment over the continuing secrecy' that surrounded the then draft document.[72] This secrecy may have comforted Myanmar and other members, but the resulting weak AHRD was openly criticised not only by regional civil society,[73] but also by the United States, where the State Department expressed deep concern that the 'Declaration's principles and articles could weaken and erode universal human rights and fundamental freedoms'.[74] The irony is that a process of regional reform intended to enhance the legitimacy of ASEAN resulted in a document that was widely criticised in the eyes of ASEAN's most important partners.

[70] Mohammed Ayoob, 'From regional system to regional society: Exploring key variables in the construction of regional order', *Australian Journal of International Affairs*, 53:3 (1999), pp. 247–60. See also Alex Warleigh-Lack and Luk van Langenhove, 'Introduction: Rethinking EU studies: the contribution of comparative regionalism', *European Integration*, 32:6 (2010), pp. 541–62 (p. 547).

[71] Tan, *The ASEAN Intergovernmental Commission on Human Rights*, pp. 139–79; Mathew Davies, 'Explaining the Vientiane Action Programme: ASEAN and the institutionalisation of human rights', *Pacific Review*, 26:4 (2013), pp. 385–406.

[72] Forum-Asia, 'Joint Statement: Calling AICHR to Release ASEAN Human Rights Declaration' (8 April 2012), available at: {www.forum-asia.org/?p=12451} accessed 17 January 2017.

[73] Human Rights Watch, 'Civil Society Denounces Adoption of Flawed ASEAN Human Rights Declaration' (19 November 2012), available at: {www.hrw.org/news/2012/11/19/civil-(society-denounces-adoption-flawed-asean-human-rights-declaration} accessed 28 November 2016.

[74] US Department of State, 'ASEAN Declaration on Human Rights', Press Statement (20 November 2012), available at: {2009-2017.state.gov/r/pa/prs/ps/2012/11/200915.htm} accessed 23 June 2017.

Socialisation, comparative regionalism, and defective democracies

Realising how ASEAN has facilitated the maintenance and stability of defective democracy within Myanmar illuminates the role of ASEAN as a diffuser of values. ASEAN has long served as a laboratory for the discussion of norms in the context of the potential presence of a security community.[75] Where democracy has been discussed it has focused more on why ASEAN has adopted these standards after 1997 as opposed to the effect of them on member states.[76] ASEAN's weakness as a diffuser of democratic standards stems from both its institutional design and the nature of its commitments.

This conclusion is relevant more generally for how we understand the role of ROs in the socialisation of democracy. Weak RO commitments to democracy de-legitimate the most authoritarian and repressive of regimes, especially when committing overt acts of violence that attract international opprobrium. However, those same weak standards limit the ability of the RO to play a positive role once legally sufficient democracy has been achieved by a member state – resulting in the silencing of that RO and its transition from a facilitator of democracy to a limiter of democratisation.

For those concerned with socialisation, the presence of ROs as retarders of democratic socialisation provides complexity to our appreciation of what Thomas Risse, Stephen Ropp, and Kathryn Sikkink understand as the 'human rights polity'. ROs are not automatically in the vanguard of pushing forward democracy and human rights and may actually represent actors/arenas where contrary norms are articulated and defended. In turn, this suggests that the regional level cannot always serve as a crucial partner for civil society/transnational advocacy networks in their attempts to drive human rights and democracy socialisation. The famous 'boomerang effect' that Margaret Keck and Sikkink describe relies on regionally expressed standards to facilitate pressure on states to alter their practices.[77] Weak regional standards offer considerable temptation to authoritarian elites who are seeking to develop an electoral system within which to entrench their power. This parallels, albeit inversely, the identified role of ROs as external anchors for pro-democratic reforms.[78] Domestic political coalitions use external rights and democracy standards expressed in an RO, and the rewards associated with implementing them, to improve the likelihood of success of their own domestic programmes. If we accept that many processes of democratisation are elite-led and concerned with entrenching elite power while minimising criticism, then the imprecision of RO legal standards is strategically beneficial to those elites, allowing them to claim allegiance to 'democracy'. Just as strong commitments to democracy can institute a 'regional lock-in' to prevent backsliding, so can weak commitments be used to limit the chances of 'front-sliding' further towards a democratic transition that would jeopardise their entrenchment.

This institutionalisation of weak, pro-democratic legal standards and social practices that support partial democracy within members, is particularly important for socialisation as those regional forms tend to exhibit design 'stickiness' that endure over time. Reform of ROs can occur via processes of

[75] With Acharya's work in the vanguard and a strong push back against those claims. See in particular David Martin Jones and Michael L. R. Smith, 'ASEAN's imitation community', *Orbis*, 46:1 (2002), pp. 93–109; Nicholas Khoo, 'Deconstructing the ASEAN security community: a review essay', *International Relations of the Asia-Pacific*, 4:1 (2004), pp. 35–46.

[76] Jörn Dosch, 'ASEAN's reluctant liberal turn and the thorny road to democracy promotion', *Pacific Review*, 21:4 (2008), pp. 527–45.

[77] Margaret E. Keck and Kathryn Sikkink, 'Transnational advocacy networks in international and regional politics', *International Social Science Journal*, 51:159 (1999), pp. 89–101 (pp. 93–5).

[78] Nathalie Tocci, 'Europeanization in Turkey: Trigger or anchor for reform', *South European Society and Politics*, 10:1 (2005), pp. 73–83 (pp. 79–82). Merkel, 'Embedded and defective democracies', p. 47.

mimetic adoption, where elites in one RO emulate the form, if not the function, of other ROs (most usually the EU).[79] The diffusion of regional form through processes of mimicry and emulation is driven by strategic self-interest, especially concerning the interests of states to enhance their apparent legitimacy and thus decreasing the amount of criticism that they receive. In ASEAN, fundamental commitments to non-intervention, sovereign equality, and consensus decision-making systems have remained constant and have shaped the reception of newer standards of democracy and human rights. This layering suggests that there is no 'easy fix' to these impediments to democratic socialisation. This is significant for both the chances of a shift away from defective to embedded democracy, and for minimising democratic backsliding. If, as Merkel argues, integration into regional organisations 'has considerable implications for the stability and quality of a democracy', then the quality of that regional commitment must be considered.[80] Here we have an example of how integration into a weakly articulated democratic commitment to an RO can play a similar conceptual role, supporting the political preferences and practices of a member state, but with a very different result – the support of defective democracy which, in Myanmar's case, appears stable and enduring. Weak RO commitments not only curtail pressure to democratise, but also legitimate and thus promote the endurance of defective democratic systems.

The enduring quality of democracy-limiting commitments within ROs also holds important lessons about the diffusion of regional forms. Recently there has been an interest in how and why ROs have come to share commitments to democracy and human rights.[81] It is true that ASEAN subscribes to this at the broadest level in terms of its organisational form, given its commitments to democracy and human rights as previously discussed. However, the role it has played relative to Myanmar suggests that organisational form is not the same as organisational function, and that the presence of similarities between ROs should not be assumed to indicate similar activities. Comparative regional analysis cannot assume that different parts of the globe will have their own 'mini-EU' or, failing that, some sort of RO on the road to becoming a mini-EU. The similarities between regional integration projects as highlighted by convergence in the macro-institutional designs obscures rather than removes the continued divergence between ROs at the micro-level. Birthed in a different context and for very different purposes to the EU, ASEAN continues to display the consequences of its genesis – the defence of sovereign rights and member states' domestic freedoms, not their transcendence through regional integration.[82]

The current problems facing the EU, in terms of both the desirability and sustainability of its model of integration, suggests a final point. Comparative regionalism has long been accustomed to the EU representing a benchmark for good regional practice. However, while we can critique ASEAN's institutional design and its defence of national sovereignty as significant impediments to the diffusion of norms, it is also the case that this design has proven remarkably durable. At a time when the EU's 'one size fits all' approach to regional governance is under threat, might not the more permissive practices of ASEAN actually be preferable, at least for certain goals? The EU's travails signal to others the need to be wary of overly intrusive regional governance, and perhaps will further limit ASEAN's future engagement with democracy promotion. In such circumstances the model of regional governance that ASEAN offers, limited but enduring, presents a very different, and perhaps now preferable, model for ROs to emulate.

[79] Hiro Katsumata, 'Mimetic adoption and norm diffusion: "Western" security cooperation in Southeast Asia?', *Review of International Studies*, 37:2 (2011), pp. 557–76; Thomas Risse, 'The diffusion of regionalism', in Börzel and Risse (eds), *The Oxford Handbook of Comparative Regionalism*, pp. 87–108 (p. 91).

[80] Merkel, 'Embedded and defective democracies', p. 47.

[81] Tanja A. Börzel and Sören Stapel, 'Mapping governance transfer by 12 regional organizations: a global script in regional colors', in Börzel and van Hüllen (eds), *Governance Transfer by Regional Organizations*, pp. 22–48.

[82] Berthold Rittberger and Philipp Schroeder, 'The legitimacy of regional institutions', in Börzel and Risse (eds), *The Oxford Handbook of Comparative Regionalism*, pp. 579–99 (p. 589).

Conclusions

The diversity of RO forms across the world suggests that the nature and effect of the linkages, both supportive and critical, between region and member state, varies significantly. Instead of asking whether an RO promotes democracy in its members, it is more pertinent in the face of this diversity of form and function to enquire as to what form of democracy they promote and in what ways. That ROs can play a role in driving the development of political systems that comprise elections should not be read as inferring that they can only play a positive role in democratisation. Elections are only one component of an embedded democracy, which are relatively easy to embed within other structures that then allows the entrenchment of power of the authoritarian elites who are driving domestic reforms. The intersection of this realisation with a growing interest in ROs beyond Europe reveals that the role that ROs play in regard to democratisation is more varied than previously imagined. This article has sought to identify three ways in which an RO has facilitated the durability of defective democracy – regional legitimacy, defence from external pressure, and future-oriented accommodation. Consequently, the regional space can provide a 'safe harbour', an arena in which a defective democracy receives no criticism for its defects but instead garners support and prestige, and in which it can exert control over standards that might in the future cause it to be chastised. The single study in this article, and the argument developed around it, is a small step towards explaining the endurance of defective democracies. RO membership is not the only causal factor in play, and it is to be expected that different ROs will interact with democracy, both its promotion and limitation, in different ways.

Recognising ROs as supporters of defective democracy in members is a very different conclusion to expectations generated by Eurocentric research. Yet the conclusion is also inevitably the consequence of following through on the call for greater inter-regional comparison.[83] The relationship between ROs and democracy is not binary, but instead covers a wide range of potential relationships, including the option that ROs can shift from positive endorsement of democratisation to a silent ambivalence about a member state. In assessing the potential of any RO to promote democratisation, attention must be paid not only to those rules that promote democracy, but also to the wider frameworks within which those rules are embedded and the diplomatic practices that characterise legitimate membership. The above suggests that there is not one single reason why ROs limit democratisation and, thus, it will not be easy to turn ROs into more efficient democratising bodies.

Acknowledgements

Biographical information

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[83] Amitav Acharya, 'Comparative regionalism: a field whose time has come?', *International Spectator*, 47:1 (2012), pp. 3–15 (p. 8).