Understanding ASEAN’s approach to sanctions against norm breakers

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Abstract
Regional organisations (ROs) increasingly act as promoters of democracy by applying sanctions against members who do not comply with collectively agreed norms. Despite the absence of an official sanctions policy, the Association of Southeast Asian Nations (ASEAN) does interfere in certain ways into member states’ internal issues in some cases of norm violations. This study empirically explores how and why ASEAN decides to interfere or not in such situations. The findings derived from case studies on Cambodia and Myanmar, drawing on evidence from documents, media, and interview data reveal novel insights on ASEAN regionalism in the context of non-compliant member behaviour. I argue that the informal approach to regionalism provides ASEAN with a lot of room for discretion in responding to members’ norm violations. The article identifies geopolitical preferences, extra-regional interference, and legitimation as explanatory factors for the RO’s varying punitive actions.

Keywords
Regional organisations, democracy, non-compliance, sanctions, norm conflict, Association of Southeast Asian Nations, Myanmar, Cambodia

Introduction
Regional organisations (ROs) increasingly apply sanctions against members for non-compliant behaviour with collectively agreed (democratic) norms. Insights from existing research on regionalism and enforcement of non-compliance derive from cases of member states’ violations of formal norms. Such studies tend to assume a deeply institutionalised democratic commitment, as evident in the presence of official sanctions policies, tying an ‘explicit disapproval of a wrongdoing . . . to an actual deprivation of a benefit’ (Hellquist and Palestini, 2020). In contrast, the Association of Southeast Asian Nations (ASEAN) is a negative case of intra-regional sanctions, as it lacks an official sanctions policy addressing non-compliant member state behaviour. In line with ‘ASEAN Way’ and its central tenet of non-interference, ASEAN does not prescribe intra-state characteristics.
for members. However, growing transnational challenges within and outside ASEAN have moved the RO from an exclusivity of inter-state norms towards the inclusion of intra-state norms of democratic character. Due to the low formalisation level of such emergent democratic norms and the RO’s rather weak democratic commitment, democracy can be considered an informal norm within ASEAN. At the same time, ASEAN officially does not use sanctions, which is grounded in the RO’s preference for informal regionalism. Importantly though, ASEAN has shown varying punitive responses to democratic crises in member states. For example, ASEAN, on the one hand, did not apply sanctions in the 2014 military coup in Thailand or the Rohingya crisis escalating in Myanmar in 2015. On the other hand, ASEAN has also repeatedly interfered in member states’ (internal) issues due to non-compliant behaviour. In some cases, such as anti-democratic developments in Cambodia and Myanmar in the 1990s, ASEAN engaged in debates or applied measures that are intimately linked to concepts of sanctions or punishments (Schembera, 2016).

This article addresses this puzzle of ASEAN’s varying (punitive) responses – ranging from more informal rhetorical means to more formal measures such as delaying membership – to non-compliant behaviour of member states with informal norms. I argue that ASEAN’s informal approach leaves a great deal of room for discretion regarding the application of its democratic commitment in such situations of member states’ non-compliant behaviour. The case study evidence shows that within this scope, a combination of several factors contribute to the explanation of ASEAN’s inconsistent punitive behaviour. These factors include: (a) RO geo-political interest; (b) extra-regional pressures for regional democratisation; and (c) RO concerns about its (international) credibility and reputation.

The analysis of debates and reactions surrounding (prospective) member states’ violations of informal ASEAN norms is important, as informal norms may be interpreted differently across actors and over time. Consequently, they risk being neglected and face a much higher potential of standing in conflict with each other as well as with more formal norms. Such ruptures of order may activate a constellation of different regional norms at the same time – non-interference versus (violations of) democratic principles, demanding contradicting and irreconcilable behaviour from the RO. This offers an ideal setting to explore the RO’s distinct normative commitments and motives prevalent in a particular case of norm conflict, and to relevantly explain the variation in the RO’s respective behaviour. More generally, this helps us to comprehend whether and when ROs (especially weakly institutionalised ones), at least, rhetorically deal with sanctions in cases of violations of informal norms. Understanding such ‘grey areas’ around the form and extent of an RO’s sanctioning responses to norm violations or (non-)compliance is essential in order to know when ROs turn informal norms into formal or, in contrast, try to avoid dealing with them and change boundaries of (non)acceptable behaviour. Finally, such analyses also inform debates about normative and distributive implications resulting from RO action against norm breakers: who gains or loses with RO action?

The article contributes to the literature on RO democracy protection and enforcement, specifically to a still young but growing field of research on a type of regionalism that lies between democracy and authoritarianism and such regionalism’s relationship with domestic democracy. Moreover, the article ties in with the literature on the close, but still understudied, link between norms and rationality.

The remainder of the article reviews the existing literature on democratic norm (promotion) and sanctions in ROs and introduces the argument. The comparative case studies on anti-democratic events in Cambodia and Myanmar reinforce the argument. The article uses official documents, articles from Southeast Asian newspapers and data from 24 elite and expert interviews – conducted in Southeast Asian capitals in 2014 with former or acting ASEAN or national government officials.
and representatives of non-governmental organisations and civil society organisations. The article concludes with a discussion of results.

**ROs, formal behavioural standards and sanctions**

*Regional democracy promotion and norm conflicts*

Regional cooperation is most effective if community members share fundamental norms and values (Haas and Schmitter, 1964; Kelley, 2013), defining standards of appropriate behaviour (Finnemore and Sikkink, 1998). Regional normative orders can comprise procedural norms of behaviour in inter-state relations and constitutive norms of intra-state characteristics – the latter including democracy and human rights among others. ROs as socialisers of democracy have become a widely studied phenomenon in the (comparative) regional integration literature (Checkel, 2005; Flockhart, 2006; Pevehouse, 2002; Schimmelfennig and Sedelmeier, 2005), especially ROs with a democratic identity and ‘a rather homogeneous membership of democratic states’ (Van Der Vleuten and Hoffmann, 2010: 740). Yet, ‘(e)xisting theoretical arguments on the impact of regional groupings rely almost exclusively on the experience of organisations that are composed of democracies . . . or created and led by democratic states’ (Libman and Obydenkova, 2018: 151). Despite an almost global script of democracy in regional governance arrangements (Börzel and van Hüllen, 2015), there is not one global norm of democracy. Instead, democracy and respective regional commitments come in regional flavours. In consequence, ‘the nature of that commitment can vary significantly, suggesting that not all (ROs) play a similarly ‘strong enforcer’ role’ (Davies, 2018: 175).

The socialising roles of ROs with rather weak democratic commitments have not been sufficiently studied. Weakly democratised ROs often are heterogeneously composed with regard to members’ democracy levels, so that specific situations may lead to discursive confrontations between democratically more advanced members on the one hand – with probable regional democratisation ambitions and preferences for democratic norm enforcement – and less democratic members on the other hand – with an emphasis on the defence of rather non-democratic norms.

This requires collective action by all RO members in order to decide which of the norms in question shall be followed and, consequently, which of the other norms will be violated or disregarded, and which of the divergent practices linked with these norms shall be fulfilled. Such decisions are the result of weighing several rational-bound factors, which are linked to issues of RO geopolitical interest, extra-regional interference and RO legitimation.

Democratic ruptures in member states constitute specific situations. As states show particularly extreme behaviour that deviates from the ordinary, this can create suspense-packed moments of norm conflict for the RO. Regionalism literature has so far paid little attention to norm conflicts, specifically *intra*-RO ones. Exceptions, referring however more to *inter*-RO norm conflicts, can be found in the literature on overlapping regionalism (Malamud and Gardini, 2012; Nolte, 2016) and regime complexity (Alter and Meunier, 2009; Drezner, 2009; Keohane and Victor, 2011; Orsini et al., 2013). As ROs usually embrace several norms at once, situations demanding the practical application of more than one norm can lead to conflicts, as ‘norms sometimes clash (and) their prescriptions are contradictory’ (Smetana and Onderco, 2019: 5). Legal academia (see e.g., Milanovic, 2009; Oeter, 2019; Vranes, 2006) defines norm conflict as a collision or incompatibility of different norms. To illustrate this, inter-state behavioural norms may be tied to procedures incompatible with practices associated with intra-state norms: non-interference into the domestic affairs of other states seems to be juxtaposed against democratic norms prescribing a state’s internal affairs. In addition, divergence from norms may also be linked to the dual quality of norms, creating room for norm contestation (Wiener, 2014).
Informal regionalism and intra-regional sanctions

Although ROs with clear democratic commitments may equally face norm contestation and norm conflicts, ROs with informal approaches to regionalism and weak democratic commitments encounter an additional level of complexity in such situations, as clear definitions for norm violations are often missing. This confluence of informal regionalism and weak democratic commitment importantly links to intra-RO sanctions against (prospective) members with non-compliant behaviour.

To assess the level of (non)legalisation or (in)formality of norms, the legalisation literature (Abbott et al., 2000) has specified three dimensions: obligation; precision; and delegation. Obligation refers to whether rules or commitments are binding; precision points to the unambiguous definition of the requested behaviour; and delegation means there is an authority tasked with monitoring, and in some cases even enforcing, the norms. The less binding and the more imprecise norms are (and consequently the less clear-cut their violations), the more variance regarding their application or enforcement is possible (Davies, 2018; Goodman and Jinks, 2004). As the collective act of punishing norm violations is the result of a concerted decision, pre-decision processes may be intensively debated. Similarly, as norms leave communicative traces when they emerge (Finnemore and Sikkink, 1998), they do so when applied in practice.

Regional sanctions, such as ‘the imposition of material, political, or reputational costs on a norm-violating government’ (Donno, 2010: 594), comprise economic sanctions, targeted sanctions, military sanctions, or the suspension of membership rights. Sanctions have been traditionally defined as:

actions initiated by one or more international actors (the ‘senders’) against one or more others (the ‘receivers’) with either or both of two purposes: to punish the receivers by depriving them of some value and/or to make the receivers comply with certain norms the senders deem important. (Galtung, 1967: 379)

Due to the intimate link between norms and sanctions, ‘sanctions are normative signifiers – they signal disapproval with certain norm violations and thus support of the violated norm’ (Hellquist, 2014: 8). In order to prospectively ensure compliance among members or to re-establish such compliance in the aftermath of norm breaches, most ROs have agreed on (enforcement) measures. Such ‘intra-RO sanctions’ constitute formal means of interference in the domestic affairs of members of an RO, aiming to protect its values against some wrongdoing. Therefore, ROs must specify situations that ‘cross the line’ of (non-)acceptable behaviour (Smetana and Onderco, 2019) and justify the imposition of sanctions. Respect for an RO’s values is important for mutual trust between members, and a breach of an RO’s values endangers the legitimacy and credibility of the RO’s decisions (see Hilla, 2016). Thus, sanctions against members largely depend on the definition of an RO’s norms and values, as well as the political power and will to ultimately release sanctions (see Björkdahl, 2002: 14). This enables considerable variance among ROs regarding their sanctions approach towards non-compliant members and the practical implementation of this commitment, for example, via institutions for democracy protection and enforcement. Furthermore, this holds especially for ROs with weak or declaratory democratic commitments. In brief, regional sanctions are symptomatic of a struggle between an RO’s normative commitments and aspirations of achieving them.

ASEAN, democratic commitment and sanctions

When Indonesia, Malaysia, the Philippines, Singapore, and Thailand founded ASEAN in 1967, the primary purpose was to secure regional peace and stability. ASEAN leaders designed the regional
project with a preference for informal cooperation, consensus, and consultation style decision-making. To start, a set of norms regulated inter-state behaviour. Non-interference in the internal affairs of member states, based on traditional understandings of sovereignty, became the central tenet of Southeast Asian regional cooperation. The Treaty of Amity and Cooperation specifies ASEAN’s normative architecture:

mutual respect for the independence, sovereignty, equality, territorial integrity, and national identity of all nations; the right of every state to lead its national existence free from external interference, subversion, or coercion; . . . settlement of differences or disputes by peaceful means; renunciation of the threat or use of force; and effective cooperation among the regimes. (Association of Southeast Asian Nations, 1976)

ASEAN’s founding fathers intentionally left out any provisions of intra-state character from the RO’s founding documents, meaning that up to today ASEAN makes no prescriptions or requirements for prospective member states regarding democracy or human rights commitments. Yet, ASEAN recently, at least rhetorically, embraced a delicate regional democracy agenda (Dosch, 2008; Sukma, 2008) – with the Asian financial crisis (see e.g., Rüland, 2000) and ASEAN’s membership expansion (Schembera, 2017) – contributing to cautious regional reforms in this regard. In 2008, the ASEAN Charter officially added a novel dimension to the RO’s norm set, as it stated that member states shall adhere to ‘the principles of democracy, the rule of law and good governance, respect for and protection of human rights and fundamental freedoms’ (Association of Southeast Asian Nations, 2007).

Applying the dimensions of obligation, precision, and delegation to ASEAN’s democratic norms classifies them as quite informal. They are not very precise, as ASEAN did not further elaborate on how it understands these principles in practice and the kind of member state’s behaviour required. They are not obligatory, as they are aspirational rather than binding. And lastly, there is no delegation of authority towards ASEAN regarding the protection and enforcement of these norms. This significantly limits ASEAN’s democratic commitments (Davies, 2018). Crucially though, most ASEAN leaders only reluctantly accepted regional democratic norms and never intended any strong ASEAN mandate for promoting and enforcing democracy from above (Dosch, 2008). Many ASEAN observers consider these commitments to be the result of (external) reputation and legitimacy considerations. Due to the fact that democracy is still rather contested among ASEAN states, this introduces an uncertainty about the nature and scope of norm violations in cases of democracy or human rights abuses in Southeast Asia. In addition, the absence of explicitly specified violations makes formal sanctions as an ‘explicit message of disapproval’ (Hellquist, 2019) difficult, and an RO’s ability to identify a norm violation is intimately linked with its enforcement abilities.

Importantly, as ASEAN has not set democracy or any aspects tied to that concept as a condition for achieving or maintaining RO membership, it has also not agreed on any sanction provisions in cases of norm violations. This means that ASEAN member states have not provided the RO with any institutionally delegated mandate for intervention in cases of a member state’s non-compliance with regional standards, specifically in the area of democracy and human rights (see Davies, 2018: 180). On a more practical note, almost all ASEAN states over time exhibit more or less problematic behaviour with regards to international democracy norms. Accordingly, ASEAN leaders tend to be reluctant towards regional guarantees for democracy enforcement, as this bears the potential of backfiring domestically in cases of norm violations (see Closa and Palestini, 2018). In summary, ASEAN’s approach to democracy protection and sanctions is closely tied to survival politics and postcolonial identity that emphasises non-interference and regional self-determination, but also to its preference for informal regionalism (Hellquist, 2015).
The article explores situations of violations of informal norms committed by ASEAN members (or by countries that have already been officially accepted as ASEAN members but have not yet entered the RO). Such situations may constitute a transgression of latently existing but not yet formalised regional standards by a violator state displaying a conduct that deviates from what regionally seems to be considered normal. The article traces the processes surrounding such norm violations and analyses the resulting debates about ASEAN’s ‘no sanctions approach’. It sheds light on the factors that become active in such ‘grey areas’ of norm violation and explains the RO’s actions. It, therefore, analyses the regional normative discourses, as they reveal the twilight zone of what exactly constitutes a norm violation and why, as well as how, it should be addressed. Two cases of (domestic) democratic crisis illustrate how ASEAN discusses the question of sanctions or interference in the domestic sphere in the case of violations of informal norms: (a) the situation around two almost simultaneous events in the case of Cambodia: the planned accession to ASEAN and the country’s coup d’état in July 1997; and (b) the situation around Myanmar’s repeated gross human rights violations from 1997, the year of Myanmar’s accession to ASEAN, until 2007, the year of ASEAN’s first official democratic commitment. Despite the fact that ASEAN’s democratic commitment only became explicit in 2007, it was already confronted with an increasing democracy discourse from the 1990s (Schembera, 2017). In addition, during the period under investigation, ASEAN showed a mixed and diverse membership of ‘embedded, defective, and non-democratic members’, so that ASEAN ‘cannot be classified as an ‘authoritarian club’ comprising states openly hostile to democracy’ (Davies, 2018: 175). Anti-democratic practices during that time should, hence, not have gone unnoticed.

Anti-democratic processes in ASEAN member states: Understanding ASEAN’s approach to sanctions

The success of ASEAN as a regional project is essentially contested among ASEAN scholars (see Acharya, 2009a). ASEAN, on the one hand, is praised for its verdict of setting an end to violent inter-state conflict in the region. On the other hand, it is criticised for largely condoning enduring domestic authoritarian practices, thereby undermining universally acknowledged democratic norms. Coups d’états, violent repression of government critics, imprisonment of political opposition, or the persecution of ethnic minorities are some of the instances that ASEAN oftentimes leaves uncommented and that establish a large universe of cases for the observation of ASEAN’s no sanctions policy. To give an example, the most recent Thai military coup in 2014 did not provoke any decisive dynamics in ASEAN, not even discursively. This is mostly linked to the fact that past military interventions in Thailand had always been rather brief, and ASEAN members felt that after months of economic and political paralysis and blockade a short military intervention may even stabilise the country and re-enable domestic progress.1 In addition, Thailand’s regional role as the second-biggest economy and an important driver in regional economic integration progress was another factor on the minds of ASEAN leaders. In a similar vein, the Rohingya Crisis, emanating from Myanmar and climaxing in 2015, illustrates ASEAN’s no sanctions approach. Although labelled as genocide by the United Nations, ASEAN kept its distance on the issue. The absence of any official punitive action in this crisis against its member, Myanmar, is among others linked to the fear that pressure would drive Myanmar out of the regional grouping. The formation of ASEAN itself, however, had been quite an effort, and Myanmar is of high geostrategic importance for the RO due to its rich raw material deposits and its position between India and China.2 Crucially though, ASEAN has also repeatedly interfered in domestic issues. Anti-democratic events in Cambodia and Myanmar in the 1990s, as two instances of (prospective) member states’ norm breaches, reveal insights into the slightly changing (discursive) dynamics underlying the RO’s
overall and official stance on the enforcement of regional norms of both intra- and inter-state behaviour.

**Cambodia: Deferral of admission and pre-accession conditionality**

On 5 July 1997, a violent *coup d’état* shook Cambodia, as Hun Sen ousted Prince Ranariddh. In consequence of Cambodia’s descent into chaos, constitutional bodies such as the senate were also powered down. At that time, ASEAN had already officially accepted Cambodia as a member with the formal ceremony to be held in July 1997. Intra-ASEAN conflict emerged about the appropriate reaction to the coup, especially in connection with the question of the country’s admission into ASEAN. These debates involved three core ASEAN norms: political stability; non-use of force; and non-interference. ASEAN members debated whether non-interference should be respected (supported especially by Malaysia and Indonesia) or whether regional peace and stability, particularly with respect to non-use of force and constitutional government change (especially Thailand, Philippines, and Singapore), shall be pursued. Rather surprisingly, ASEAN foreign ministers in an ad-hoc meeting on 10 July 1997 decided to defer Cambodia’s admission into ASEAN:

> While reaffirming the commitment to the principle of non interference in the internal affairs of other states, they decided that, in the light of unfortunate circumstances which have resulted from the use of force, the wisest course of action is to delay the admission of Cambodia into ASEAN until a later date. (Association of Southeast Asian Nations, 1997)

Crucially, ASEAN tied its region-level handling of the domestic-level *coup d’état* to the enlargement process and interlinked the domestic and the regional spheres. What is more, ASEAN demanded the full functioning of several democratic elements (Narine, 2002) and with the denial of membership applied a measure against Cambodia that may be classified as punishment – albeit never explicitly using the language of democracy, human rights, conditionality, or sanctions. Yet, ASEAN insisted on the peaceful resolution of the conflict, the restoration of political order, and elections, as well as the formation of a senate prior to Cambodia’s admission. This introduced a novel element of conditionality emerging stepwise (Schembera, 2017).

In order to understand ASEAN’s historically rather resolute clampdown on Cambodia, which led to the somewhat unique case of ASEAN conditions for membership, one must consider the RO’s special role in the Cambodian peace process. ASEAN had gained much international applause and respect for its regional role in the diplomatic solution of the Cambodian–Vietnamese conflict, with the *coup d’état* putting ASEAN’s reputation at stake. Inaction would caricature ASEAN as ‘a club without standards’ (Severino, 2006: 58), hence pushing ASEAN on a path of ‘democracy promotion’ vis-à-vis Cambodia. These reputation and legitimacy concerns for ASEAN regarding norm violation must be considered in order to understand the RO’s (punitive) action in the Cambodian case.

Furthermore, ASEAN judged the violent *coup d’état* a strong norm violation, as mirrored in the RO’s official statement deferring Cambodia’s admission in July 1997. Not only did Cambodia break with international law and earlier commitments from the 1991 peace deal but also with ASEAN’s predominant behavioural standard of the non-use of force. In addition, geopolitical concerns played a role for ASEAN states’ individual positions. Domestic political instability and concerns regarding the country slipping into anarchy made Cambodia a regional problem for ASEAN as a whole, threatening regional stability. ‘ASEAN’s organizational interests were not served by having a member state on the verge of collapse. Strategic concerns about the development of a regional power vacuum were also relevant’ (Narine, 2002: 117). The strong regional desire and
awareness for domestic political stability had its roots in the Declaration of ASEAN Concord from 1976:

The stability of each member state and of the ASEAN region is an essential contribution to international peace and security. Each member state resolves to eliminate threats posed by subversion to its stability, thus strengthening national and ASEAN resilience. (Association of Southeast Asian Nations, 1976)

Economic interests in ASEAN and its member states further explain why ASEAN lastly decisively acted in response to anti-democratic events in Cambodia. Although some countries insisted on non-interference in order to allow Cambodia into the RO and, thereby, gain immediate market access; other ASEAN states with economic stakes in Cambodia judged political stability of utmost importance in order to secure the many investments that had been placed in the country by ASEAN states – especially in promising economic sectors of textile manufacturing and tourism (Möller, 1998: 1095).

Next to the finding that concerns of reputation and economic benefits dominated ASEAN’s decisions regarding its punitive action, ASEAN’s handling of the situation around the coup d’état constitutes a primary example for an RO norm conflict resulting from a violation of an informal norm committed by a (in this case, already accepted but prospective) member state. In fact, ASEAN’s established norm of the non-use of force officially referred to interstate contexts. In the Cambodian case, however, ASEAN applied this norm to the intrastate context, classifying violent events in Cambodia as norm violation of a latently existing behavioural standard of the non-use of force for unconstitutional government change in intrastate issues. This norm conflict contributed to ‘an important area of ambiguity about the norms of ASEAN’ (Acharya, 2009b: 109) and to incompatible demands regarding the practical application of these norms. Overall, ASEAN traded off the norm of non-use of force against the norm of non-interference in the Cambodian case, and ASEAN decisions were ‘the products of back-room compromises’ (Severino, 2006: 65).

Myanmar: Rejection of ‘counterproductive’ sanctions

The situation in Myanmar during the 1990s and early 2000s is rooted in the State Law and Order Restoration Council’s ‘policies towards ethnic minorities and its refusal to surrender power to a democratically elected government’ (Kraft, 2000: 463). Two major events stand for the junta’s deviance from what ASEAN considered tolerable or normal. In 2003, a convoy of opposition leader Suu Kyi and her National League for Democracy (NLD) was attacked, killing NLD supporters and leading to Suu Kyi’s re-arrest by the Burmese junta. In 2007, the junta violently cracked down on the peaceful protestors of the ‘Saffron Revolution’, led by Buddhist monks marching for an end to the military government.

This situation led to the condemnation of the military regime and the imposition of sanctions by the United States (US), the European Union (EU), and other mainly Western powers from the early 1990s. These sanctions continued when Myanmar became a member of ASEAN in July 1997. ASEAN considered sanctions vis-à-vis Myanmar as counterproductive and instead practised ‘constructive engagement’ with the country. Next to a better handling of refugee issues, as well as questions of economic development, ASEAN’s idea behind this special policy was to avoid the country’s total isolation, ‘keep the lines of communication open’, and to ‘give Myanmar more international diplomatic space’, but at the same time ‘to check further departures from internationally-accepted codes of behaviour’. ASEAN wanted to develop friendly peer pressure and to ‘socialise’ the country into regional norms, including democracy and human rights. Even if such norms did not yet formally exist in ASEAN at that time, they were on the rise and discussed in the RO’s inner circle. Many ASEAN leaders disapproved of the junta’s behaviour and its critical failures in Myanmar,
which had amounted to a level that represented for the majority of ASEAN leaders a transgression of what they considered a normal form of government. ASEAN, hence, identified Myanmar as a deviant outlier and expressed its dissatisfaction ‘in the language of democracy’ (Davies, 2018: 181). ASEAN’s goal was at least some slight movement towards democratisation (Katanyuu, 2006) and ‘certain norms of behaviour’.8

The emerging discourse on democratic standards and associated practices produced a norm conflict for ASEAN, as the Burmese case also touched the norms of non-interference and regional self-autonomy (i.e., the freedom from outside (power) interference into regional affairs). Some ASEAN leaders – mostly from the more democratic countries such as Thailand, the Philippines, and from 1998 onwards, Indonesia – not only expected more appropriate behaviour from the Burmese leaders but also requested democratic ideals to play a (more official) role in ASEAN. This, however, stood in conflict with non-interference in domestic affairs, a regional norm defended by more authoritarian states.

Interestingly, the Myanmar issue led to two rather unprecedented ideas in ASEAN regionalism. In 2003, Mahathir bin Mohamad, then Malaysian leader, threatened the country with expulsion from the RO (Bandoro and Luhulima, 2003). Inspired by this proposition and in preparation of the ASEAN Charter, the Eminent Persons Group intensively discussed the introduction of a sanctions provision as a possibility to punish defecting members (Association of Southeast Asian Nations, 2006), including loss of membership rights or expulsion. The High-Level Task Force, lastly, did not accept these rather visionary ideas, considering such an approach as inconsequential, as ASEAN had previously not defined any formal membership criteria. Given the fact, then, that membership was accorded on the basis of informal aspects, formalising membership sanctions seemed at odds with ASEAN’s approach. Finally, the Charter (Articles 5 and 20) states that monitoring should be carried out over compliance to the Charter and in cases of a member state’s non-compliance with the RO’s norms an ASEAN summit should determine the approach to be taken.

Despite cautious traces of the sanctions idea gaining (more) footing in ASEAN, the RO’s leaders could not agree on formal sanctions in the form of membership suspension in the case of Myanmar, as for most of them it seemed inconsistent to not request conditions for entry and then suspend a country.9 Crucially, due to Myanmar’s problematical human rights situation – specifically regarding the Muslim Rohingya minority – many refugees entered neighbouring countries, predominantly via Northern Thailand. As a consequence, Thailand particularly encouraged a more flexible use of ASEAN’s non-interference norm in order to find a regional solution for the Myanmar problem.10 Yet, ASEAN did not judge the implicit norm violations in Myanmar as a threat to regional stability, repeatedly classified violations of democracy and human rights as the country’s domestic issue, and rejected measures in support of democratic norms on the basis of non-interference (Severino, 2006: 131ff.).

Moreover, extra-regional interference contributes to the explanation of ASEAN’s dealings with Myanmar. ASEAN’s policy of constructive engagement represented a conscious alternative draft to the policy of isolation and sanctions employed by mainly Western powers. ASEAN experienced a lot of pressure, especially from the US and the EU, to either not accept Myanmar into the association or, at a later stage in ASEAN–Myanmar relations, to suspend its membership. This pressure, however, had a rather opposite effect: ASEAN leaders – even those with more democratic visions of ASEAN’s regional community project – rallied around the flag, defending ASEAN unity and regional self-autonomy (Acharya, 2009b) and rejecting outside power interference into this ‘intra-mural’ issue: ‘acceding to sanctions would not only be tantamount to intervening in the internal politics of Myanmar, it would also signify consent to interference from external powers in regional affairs’ (Kraft, 2000: 463).
Geoeconomics or geopolitical preferences are another central factor for understanding ASEAN’s stance regarding sanctioning norm violations in Myanmar. With a large endowment of natural resources and the prospect of opening up for foreign direct investment, Myanmar represented an asset to ASEAN that it did not want to risk with the imposition of sanctions. Furthermore, as Myanmar occupies a strategic location between India and China, ASEAN was afraid that sanctions would drive the country into the arms of these two competitors.\(^1\)

Overall, ASEAN’s geostrategic interests in Myanmar were better served by refraining from sanctions. In addition, the RO’s defence of the norm of regional self-autonomy explains its decision to rather include the country in the association. However, debates and institutional modifications resulting from the Myanmar case outline ASEAN’s need for the specification of boundaries of compliant behaviour and show the emerging reflections about sanctioning mechanisms for non-compliant members.

**Notions of conditionality, compliance, and sanctions in ASEAN regionalism**

My findings reveal that despite the absence of an official and formal democracy clause or sanctions policy, we can observe ASEAN punitive action in some cases. In reaction to the violation of informal ASEAN norms in the cases of Cambodia and Myanmar, ASEAN took diverging decisions, in both cases resulting from intense internal debates. As regards Myanmar, ASEAN did not classify events in the country as a violation of regional norms and justified its decision not to sanction Myanmar on the basis of non-interference into domestic issues. At the same time, as shown before, other non-official forms of punitive action developed so that ASEAN did in some way interfere in the country, and contributed to the idea of sanctions at least gaining a greater foothold in ASEAN.

On the contrary, ASEAN considered the coup in Cambodia as a violation of the RO’s norm of the non-use of force and made use of quite drastic measures in order to enforce a certain domestic behaviour in line with regional norms. The two case studies have helped us better understand whether, how, and why ASEAN reacts to non-compliance with informal norms. In the following, I will discuss these findings by relating them to the existing literature on intra-regional sanctions, which so far has focused only on cases of violations of formal norms (i.e., non-compliant member behaviour in ROs with strong democratic commitments).

The ROs must collectively act in order to present reactions to norm violations. As the case studies of Cambodia and Myanmar reveal, this collective decision-making process tends to be dominated by rational-bound calculations trading-off the respective norms against each other. More specifically, I argue that ASEAN’s decision for giving supremacy to a specific norm in a norm conflict situation, as well as the RO’s related reactions towards the country, is steered not primarily by a universal set of guidelines and principles but rather by a multi-causal discursive process that aims to combine the RO’s overall preferences together with the preferences of its member states in the respective cases.

The most prominent preferences identified and negotiated in the analysed cases are: (a) reputation and legitimacy concerns for ASEAN regarding norm violations; (b) extra-regional pressures for democratisation; as well as (c) strategic geopolitical interests in the violator state. As regards (a), the case studies have provided evidence that the negative effects for the RO in terms of reputation and legitimacy resulting from a member state’s norm violation must be considered for understanding ASEAN’s reactions towards anti-democratic behaviour. Whether an RO actively enforces democratic norms or not creates costs, as the agreement to norms regionally (or internationally) takes place under the attention of the international community, usually demanding credible commitments. This means that expectations arise that the RO actively promotes and protects democratic norms to which it has ascribed and, consequently, also cares about its member states’
compliance with such norms. Otherwise, the RO risks reputation and legitimacy loss. Additionally, bilateral (intra-regional) trade may also be endangered in cases that trade partners specify democratic conditions for trade relations. In the case of Cambodia, ASEAN was quite respected for how it dealt with the Cambodian problem and contributed to the peace process. As such, this high international reputation was probably a motivation to act decisively in the Cambodian case and to continue the positive role as a regional problem solver. Actually, reputation costs should also be expected in the case of Myanmar, so that one may question why they did not play in favour of RO sanctions on the regime. In fact, at that point another factor comes into play, ideational as well as material pressure by extra-regional third parties.

With regards to (b), the case studies presented evidence that, especially in ROs with weak democratic commitments at the declaratory level, extra-regional pressures for democratisation play a role in the RO’s decision regarding sanctions. Such pressure carries the potential for reversing intended into unintended consequences, as extra-regional power involvement into Southeast Asian affairs is considered a specifically sensitive issue due to the region’s colonial legacy. As such, pressures originate from actors with rather strong democratic commitments, including not only states but also ROs; this can teach us something about inter-regional relations and inter-regional conflict. The aspect of third-party pressure connects to the literature on democracy enforcement in ROs with democratic identities, in which ‘the ideational costs of pressure by third parties (. . .) can explain the behaviour of regional organizations’ (Van Der Vleuten and Hoffmann, 2010: 738) with regards to varying democracy enforcement. And regarding (c), the case studies have brought forward that the ‘violator’ state’s geopolitical role for the RO also has significance for its decision on how to handle norm violations. This is in line with findings from the literature on international organisation (IO)/RO democracy enforcement, suggesting that the presence of geopolitical interests can be one explanatory factor in an RO’s (or more broadly IOs) enforcement of democratic norms (Donno, 2010), making ‘enforcement . . . less likely in countries of high geopolitical importance’ (Donno, 2010).

Finally, the following quote reveals yet another crucial aspect explaining why ASEAN saw a clear difference between the norm-violation cases of Myanmar and Cambodia:

Myanmar is a reality, its coup was many, many years ago and time makes a difference. Cambodia had just come out of elections sponsored and fostered by the UN and the rest of ASEAN and then you pull de facto a coup. . . . So there is to my mind a very clear difference. Myanmar’s coup was in 1960 something, so we accepted a reality that Myanmar is going to be this way. We did not think that it would always going to be this way, but we cannot put a time frame to it.12

This underlines that ASEAN has a different idea of compliance than many other ROs, especially compared to the EU. It has a rather ‘dynamic perspective with incremental compliance’ as opposed to the ‘static perspective with immediate compliance’ of the EU’ (Schembera, 2016: 1028). This also relates to its general stance on sanctions, as explained by former ASEAN Secretary-General Ong Keng Yong on the example of Myanmar: ‘We believe we can get certain good results without having to threaten anyone with any sanctions’.13

My findings also suggest that the potential of producing norm conflicts seems much higher in ROs with weak democratic commitments, as actors may easily ignore or neglect informal norms until they become ‘activated’ through a major rupture or crisis; that is, the prevention and effective governance of norm conflicts seems much harder in less democratically institutionalised ROs compared to ROs with strong democratic commitment and formal democratic norms. In ASEAN, domestic democratic ruptures trigger a clash of (at least) two regional norms: the norm of non-interference, which implies regional restraint in matters of domestic democratic quality; and norms
such as the non-use of force or constitutional government change, which are associated, however, with matters of domestic democracy.

**Conclusion**

This article analysed ASEAN’s variation in its reactions to two cases of violations of informal norms committed by (quasi) member states, Cambodia and Myanmar. It argued that in the context of rather undemocratic regional governance, conforming to democratic norms follows a rational-bound logic of collective decision-making between competing norms. To understand the conditions under which ASEAN approached the idea of sanctions in the defence of democratic norms, the case studies identified several factors. Extra-regional pressures for democratisation, strategic geopolitical interests by the RO and its member states in the violator state, as well as reputation and legitimacy concerns for ASEAN are part of the explanation. I have also shown that ASEAN’s approach to sanctions is not a given with easy applicability on cases of implicit norm violations, but instead is constructed along ‘norm violation’ cases. This means, as democratic norms are lowly institutionalised only, and the result of a weak commitment, their enforcement is not based on a logic of appropriateness. Instead, decision-makers decide from case to case, and it is the rational logic of consequentiality that dominates these processes.

In addition, the case studies revealed that democratic crises in member states have the potential to produce norm conflicts for ROs, requiring a decision regarding which of the norms in question to follow or to neglect. Domestic democracy failures do not always result in decisive regional defence of democracy. Especially in ROs with weak democratic commitments, they can disclose incompatible normative commitments. In the case of ASEAN, conflicts emerged between long-time ASEAN norms of non-interference and regional self-determination, on the one hand, and newly embraced democratic norms, on the other hand. What we can learn from these cases is that there is no fixed normative hierarchy with complete superiority for non-interference as the central tenet of ASEAN. Instead, the slight erosion of that norm also enables new normative dynamics and the emergence of debates about the RO’s normative architecture.

More generally, what can we learn about the relationship between ROs, the status of domestic democracy, and sanctions? Most probably, it can deliver insights into the struggles of an RO’s normative underpinnings when it comes to situations in which the practices associated with them must be concretely delivered.

This may also enable better evaluations about how reliable ROs will be in delivering enforcement for the global script of democracy. Distinguishing ROs according to the strength of their democratic commitment yields the insight that for ROs with weak democratic commitments it is important to pay attention to the wider regional normative structure that democratic commitments are put into.

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Notes

3. Cambodia at that time had not yet made the final step from official acceptance towards official entry into the Association of Southeast Asian Nations (ASEAN). Nonetheless, the acceptance was considered as if it was membership (see CNN, ‘ASEAN nations disagree on admitting Cambodia’, December 15, 1998. http://edition.cnn.com/WORLD/asiapcf/9812/15/asean.03/index.html). One may argue that in very strict terms ASEAN’s actions do not constitute interference into a member’s domestic affairs. Yet, even for a country that has been accepted but has not yet entered the regional organisation (RO), such interference by ASEAN constitutes a rather unusual approach for the RO and, thus, needs explanation.
4. From 1997 onwards, the State Law and Order Restoration Council was known under the name State Peace and Development Council.
5. Interview with Carolina Hernandez, Chair of Institute for Strategic and Development Studies Philippines, 26 March 2014.
6. Interview with Ong Keng Yong, Association of Southeast Asian Nations Secretary General 2003–2007, 10 April 2014.
8. Agence France-Presse (1997), ASEAN stands firm on Burma’s entry despite Western pressure, 01 May.
9. Interview with Ong Keng Yong, Association of Southeast Asian Nations Secretary General 2003–2007, 10 April 2014.
12. Interview with Bilahari Kausikan, Ambassador-at-Large at the Ministry of Foreign Affairs Singapore, 14 April 2014, Singapore.

References


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