
A Democratic ASEAN: Intergovernmentalism and Thin Democracy

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Abstract

The ASEAN Charter of 2007 upgraded the status of ASEAN from an informal organization of Cold War origins to a legally recognized regional organization that would in theory produce binding and credible agreements. The ASEAN Charter created the ASEAN Communities architecture in the image, but not the substance of the European Union. In this context, ASEAN affirmed in its legally binding treaty to uphold new normative understandings of human rights, rule of law, and democracy. This paper will conceptualize, problematize, and analyze the rhetoric to reality of an ASEAN as a democratic regional organization. The article demonstrates that current frameworks of a democratic ASEAN are misunderstood due to an analytical misalignment of units/levels of analysis. Lastly, the article argues that ASEAN is a democratic regional organization from a 'thin' definition and understanding of democracy.

Keywords

ASEAN, Democracy ASEAN, ASEAN Democracy, Regionalism and Democracy, Democracy

Introduction

The Association of Southeast Asian Nations (ASEAN) was established in 1967 with the ASEAN Declaration or more colloquially known as, Bangkok Declaration (ASEAN, 1967). The Bangkok Declaration is important in that it brought four newly independent and one independent Southeast Asian states together under the rubric of anti-communism. The 1967 Declaration is also a gentlemen's agreement not to support movements seeking to undermine and/or seize authority from these newly independent states to allow nation-building and to roll back communist movements active in every original member state (Poon-Kim, 1977). As a gentlemen's agreement the Bangkok Declaration is not legally binding. The principles and purposes of ASEAN are spelled out clearly in point 2.2 which states that ASEAN's purpose is to "promote regional peace and stability through abiding respect for justice and the rule of law in the relationship among countries of the region and adherence to the principles of the United Nations Charter" (Ibid). Concerning the United Nations Charter, ASEAN is directly referencing Articles 1 and 2 of the UN Charter. These articles articulate the purposes and principles of the United Nations which are to act as a forum to develop friendly relations with the principles of sovereign equality, non-interference in internal affairs, and peaceful settlement of disputes (United Nations Charter, 1945 Article 1, 2).

ASEAN Foreign Ministers did not meet again until 1976 when they signed the Bali Concord I (ASEAN, 1976a), formally known as the Treaty of Amity and Cooperation (ASEAN, 1976b). The TAC was the culminating legal document of a political push of ASEAN leaders in the face of American withdrawal from Vietnam and the need to act independently in the face of Communist expansion throughout Indochina (Goodman, 1996). The TAC was ASEAN's first legally binding treaty which formalized the organization of ASEAN from an informal regional organization to a quasi-formal organization with a weak but embryotic Secretariat (Müller, 2023). At the end of the Cold War, the decision was taken at the 4th ASEAN Summit to push regional integration towards economic ends from strictly security based with an agreement to establish an ASEAN Free Trade Agreement (ASEAN, 1992). This agreement was built on in 2003 at the 9th ASEAN Summit which produced the Bali Concord II to establish an ASEAN Community and transform ASEAN into a legal entity capable of binding agreements and substantive regionalism (ASEAN 2003). Regionalism reached its culmination point at the 13th ASEAN Summit with the agreement to establish the ASEAN Community by 2015 which produced the ASEAN Charter (ASEAN, 2007a; 2007b).

The ASEAN Charter in its preamble committed ASEAN to "adhere to the principles of democracy, the rule of law and good governance, respect for and protection of human

rights and fundamental freedoms (ASEAN, 2007a). Further, Article 1.7 states that the purpose of ASEAN is to “strengthen democracy, the rule of law and good governance, respect for and protection of human rights and fundamental freedoms, with due regard to the rights and responsibilities of the Member States of ASEAN” (Ibid). This seeming equivocation is an important point in that the same language is used with the extension of rights and responsibilities of member states. This point is clarified in Article 2.1 which reaffirms member states’ need to adhere to previous declarations (i.e. the TAC) and Article 2.2 respect for sovereignty, non-interference in internal affairs, and peaceful settlement of disputes (Ibid, Articles 1, 2).

This article will argue that ASEAN is a democratic regional organization based on a regional unit/level of analysis. Furthermore, previous studies have conflated ASEAN as its member states and incorporating into their analysis of ASEAN, its member states governance systems. This is analytically incorrect as the regional organization and level of ASEAN is misinterpreted as its member states. To correctly analyze this, this article advances the argument that an analysis of ASEAN as democratic or not must be fixed on ASEAN as an organization.

The ASEAN Charter is the entry point for the discussion of this article. The rhetoric of ASEAN can be taken at face value to be one of a regional organization that supports democracy and is democratic. This will be the point of reference for the following discussion. The article will first discuss the literature surrounding democracy and ASEAN. The second, will be a conceptual portion that engages the literature on democracy and democratization to find different interpretations of democracy as a system of organizing politics and social relations. Third, will be a conceptualization of notions of ‘thick’ and ‘thin’ democracy. Lastly, the article will consider an anchored perspective of ASEAN as a regional organization inclusive of its principles and methods of operation. The article concludes that ASEAN is a democratic regional organization from a narrow perspective of the regional unit of analysis and a ‘thin’ democratic definition.

Literature Review

The literature concerning democracy and ASEAN is broad in scope and this portion will address different perspectives utilized and identify the gap in the conceptual gap in the literature. The literature around ASEAN and democratization can be roughly grouped into three large areas. This review while not being exhaustive, is indicative of perspectives that are common and frames of reference that are present in the literature.

Among the literature surveyed, the question of whether ASEAN as a regional organization is democratic has not been answered.

The first area of literature addresses the processes of democratization within member states as a twin product of normative intrusion external to the region and domestic processes of member states. Acharya has argued that domestic processes of democratization in major ASEAN states of Indonesia, Thailand, and the Philippines would perhaps lead to greater space within ASEAN for democratic participation and the spread of liberal norms thereby opening a process of democratization to the rest of ASEAN's members (Acharya, 1999; 2003). Emmerson further expanded this line of thought by arguing that democratization processes in ASEAN member states would open space for civil society to influence policy. As such there could be liberalization of foreign policy and security-related issues thus opening the door to liberal norms of human rights, human security, and democracy in the region (Emmerson, 2005). Emmerson later bookended this line of thought with an internal perspective of ASEAN principles embodied in the ASEAN Charter by taking a wait-and-see approach in the early days of the Charter and inclusive of the problem of Myanmar's enduring military of the time (Emmerson, 2007; 2009). Singh views the democratization process as a linear process of progress reform throughout ASEAN with the context of community formation (Singh, 2008). Sukma sees democratization through a broader normative lens as being the foundation of the expansion of relations between ASEAN and the European Union which would engender deeper cooperation and a broader scope of integration between the regions (Sukma, 2009). Haacke argues that democratization spreading in ASEAN member states is a mechanism to spread liberal norms to reform Myanmar.

This view takes the perspective of 'regional tipping points' in terms of the mass of ASEAN democracies being able to push other authoritarian members towards liberalism (Haacke, 2008). Ruland and Jones see democratization through the lens of member states and Track 2.5 diplomacy. They argue that democratization within member states provides a platform for liberal frameworks into member states foreign policies which then interact within ASEAN institutions and externally (Jones, 2009; Ruland, 2009). These views while being centered in regional realities fail to engage with the level of analysis above the member states within ASEAN itself. The primary limiting factor is the scope of analytical capture. By focusing on ASEAN member states and providing a semi-linear purview there is an implicit assumption that democratization will continue within the more liberal ASEAN states and that other more authoritarian members would take up the mantle of reform. The lack of an organization basis for

analysis leaves a purely normative framework that argues norm seepage but does not incorporate ASEAN principles or degree of socialization.

The second area of literature addresses secondary phenomena of human rights, good governance, and civil society as downstream effects of democratization processes that have entered ASEAN via the previous process of domestic democratization. Gomez and Ramcharan argue that democratization in member states provides a normative and political framework for supporting human rights processes within ASEAN (Gomez & Ramcharan, 2014). Other scholars have supported the view that democratization would lead to the spread of liberal norms and also include substate participation to further the depth of democratization within ASEAN and the member states (Aviel, 2000; Collins, 2013; Gomez & Ramcharan, 2012; Manea, 2015; Ryu & Ortuoste, 2014). These scholars while providing important insights hold as their unit of analysis the national unit with the implicit understanding that democratization processes would or can seep into the regional level. Given the passage of time since the ASEAN Charter it can be empirically seen that there are clear limitations with the lack of forward depth of human rights that began in 2009 with the founding of the regional human rights mechanism.

The third area of literature addresses the effects of democratization within member states. This school of thought is highly skeptical of democratization within ASEAN and its member states and has identified the lack of progress on liberal regional initiatives of human rights and democratization. Peou, Rüländ and others have noted that there have been clear limitations to the spread of liberal norms within ASEAN since the ASEAN Charter. They locate this at the domestic level of governance with democratic backsliding and/or lack of consolidation among the liberalizing ASEAN states best indicated by Myanmar, Thailand, and the Philippines (Arnakim and Aqil, 2023; Drajat, 2022; Haacke, 2006; Peou, 2012; Rüländ, 2012; Rüländ, 2021; Sirijintana, 2021). This school, while drawing on the previous area of literature, holds a couple of important points which will be drawn upon later in the article. There exists a gap in the literature surrounding ASEAN as a democratic regional organization that stems from the lack of clarity regarding units or levels of analysis.

Method of Study

This article drew on Allen and Landman's articulation of Thick vs. Thin concepts of democracy. In particular the notion of thin democracy was applied which sees democracy from a procedural and structural perspective rather than a deep deliberative and substantive practice. This article drew on ASEAN's structural characteristics of

decision-making and the norms which underpin ASEAN principles. Levels or units of analysis were then differentiated to focus only on the regional level of analysis with regard to ASEAN decision-making and practice. Primary source data consisting of ASEAN treaties and legal texts were analyzed to identify principal foundations of ASEAN as an organization and its decision-making. Secondary sources were used to analyze ASEAN's organization structure and capacity to understand the limitations of ASEAN as a regional grouping. ASEAN's structure, funding, and capacity was analyzed and juxtaposed in comparison the European Union to provide a deeper understanding of how ASEAN has been analyzed from the regional level.

There is a lack of analytical clarity in the studies cited above. This does not detract from their advances and contributions, but there is a misappropriation of unit of analysis which leads to a conflation of ASEAN with its member states and approaches ASEAN as a unit that is equal to its constituent parts. Furthermore, to locate an analysis of democracy in ASEAN in a normative sense misses the mark of the basis of ASEAN in the first place. It is proposed here to use a framework of unit of analysis which is centered on the regional level of analysis. This is not to say that the member states are not important; they are. However, when member states of ASEAN interact, they do so according to ASEAN norms and principles not their domestic norms. While preferences of member states may be informed by domestic norms, there is always an accommodation at the ASEAN level for first principles of ASEAN. Therefore, any analysis of democracy in ASEAN must focus on the hardware and software of the regional organization. A second concern is the criteria for membership and domestic level governance system. ASEAN member states are diverse in their governance styles but all are accommodated within the ASEAN frameworks and this is reflective of membership criteria set out in the Bangkok Declaration, being regional geography. Third, the concept of a 'thin' understanding of democracy will be advanced to buttress the argument of this article that ASEAN is indeed a democratic organization from a unit of analysis of the regional level.

First, the notion of liberal norms of democracy and its attendant sub-articulations of human rights, rule of law, and good governance are not linear. Democratization and the spread of norms is connected to many facets of a complex society which can include economic performance, elite buy-in and responsive government. Second, is the seeming contradiction between democracy and the ASEAN Way. Namely, how ASEAN copes with a principled stance towards sovereignty and non-intervention in internal affairs, especially when serious breaches of democracy take place such as repeated coups in Thailand and the crisis currently in Myanmar.

In this article's regional-level approach, the individual state is a unitary actor that embodies the will of its people as represented in its form of governance. The unitary state is not the unit of analysis at the internal state level. Rather this study argues that when democracy and ASEAN are considered, the state as a unitary actor, acting at the regional level should be the correct method. Given the level of analysis of the state at the regional level, as will be argued, is the correct level of analysis, domestic governance form and attendant theories of democratization fall short in their explanatory power. Put simply, previous studies that argue one way or another about ASEAN as democratic have an analytical fault at their center. They reduce ASEAN as a regional grouping to its member states and then proceed to a conclusion. It is argued here that the regional level is the correct level of analysis and by isolating ASEAN decision-making, principles and norms of regional interaction one can arrive at a more analytically correct interpretation.

Conceptualizing Democracy: Perspectives of Thick vs. Thin Democracy

This section will draw on different perspectives of democracy in order build a conceptual framework for an analysis of a thick vs. thin understanding of democracy in the ASEAN context. This survey of the literature on the study of democracy is not exhaustive in the least but it provides a general feel for different perspectives which tune into features of study within ASEAN.

Traditional political research focused on political culture and domestic influences on democratic governance or a values-based assessment by considering democratic governance as a mechanism of input-output analysis on a socio-political basis (Almond, 2000; Almond & Verva, 1963; Easton, 1975).

There are studies of the meanings and understandings of democracy which is focused on the debates of democracy research, with a particular view towards the notion of 'quality of democracy' (Munck, 2009), crises of democracy (Keane, 2014; Merkel & Kneip, 2018), the legitimacy of democracies (Kriesi, 2013) and innovations in democratic research and practice (Smith, 2009; Newton & Geissel, 2012). Studies in democracy have transformed the meaning of democratic modeling and forms of democratic governance (Dahl, 1989; Keane, 2014). There has also been a burgeoning literature on democratic decline and the rise of populism (Norris, 2020; Norris & Inglehart, 2019; Schäfer, 2021) There is also a strain of inquiry which considers meanings of democracy at the elite level (Osterberg-Kaufmann & Stadelmaier, 2020) and between non-democratic and democratic understandings of democracy (Lu and Shi, 2015). There is a broad literature on methodologies which focus on traditional methods of quantitative research as well as more modern methods of mass surveys such as the World Values

Survey (Dalton et al., 2007; Davis et al., 2021). Osterberg-Kaufmann et al., have carried out a wide-ranging study to bridge the three aforementioned gaps (Osterberg-Kaufmann et al., 2020).

Within the context of methods and approaches an important conceptual framework is the notion between 'thick' and 'thin' conceptions of democracy. Allen and Landman articulate a binary of visions of democracy in terms of the degree to which they engage on a meanings and output basis of the citizenry. They see thin democracy as a version of democracy that is largely a measure of the process of the mechanism of democracy; elections. Having a formal mechanism for popular expression as well as periodic, free, and fair competitive elections with universal suffrage is the standard model for a thin understanding of democracy. The domestic correlate would be defined in line with electoral democracy (Allen, 2006; Landman, 2007). Ulbricht argues that a thick interpretation conceptualization of democracy is one where values, wishes, and expectations of the electorate can be measured in the output of the government and political parties that are working within a liberal democratic system. This allows for the expression of interests from the bottom up to be identified in policy and substance at the government level (Ulbricht, 2018). These two conceptualizations point to the degree of input with a democratic framework but also the structural ability for expression to be expressed to the elite or policy-making level. The binary sits atop a conceptual understanding of procedure vs. substance in response to a government that at least in theory should be responsive to those they govern.

To highlight the different notions of thick and thin democracy it is essential to refer to some of the extensive literature on definitions of democracy to hone the prior conceptualization. The literature on defining democracy is vast and as such this article will be highly selective in choosing only definitions that conform to the conceptual framework of thick and thin to highlight its meaning. Within the rubric of thick democracy, Seidenfeld defines democracy as "according to civic republicanism, the state acts legitimately only if it furthers the 'common good' of the political community...[C]ivic republicanism embraces an ongoing deliberative process, inclusive of all cultures, values, needs, and interests, to arrive at the public good. Civic republicans see the development of a conception of the common good as a fundamental purpose of democracy—a purpose necessary for individual self-identity and self-fulfillment. Civic republicanism also posits that no individual acting in her political capacity should be subservient to other political actors. Hence, the theory does not equate the public good that legitimates government action with majority rule. Social consensus about what is

best for the community as a community, not as the aggregation of individuals' private interests, is the defining feature of the common good." (Seidenfeld, 1992 p. 1528-29).

Cohen uses a republican perspective to define democracy as "the fundamental idea of democratic, political legitimacy is that the authorization to exercise state power must arise from the collective decisions of the equal members of a society who are governed by that power." Collective decisions can be either aggregative (based on counting preferences) or deliberative. "[A] decision is collective just in case it emerges from arrangements of binding collective choice that establish conditions of free public reasoning among equals who are governed by the decisions. In the deliberative conception, then, citizens treat one another as equals not by giving equal consideration to interests—perhaps some interests ought to be discounted . . .—but by offering them justifications for the exercise of collective power" (Cohen 1998, 185-6). These definitions are indicative of an expansive and inclusive conceptualization of democracy.

The opposite of the previous definition is a thin conceptualization of democracy, best articulated by two scholars. Przeworski takes a minimalist position arguing that democracy is "[D]emocracy is a form of institutionalization of continual conflicts . . . [and] of uncertainty, of subjecting all interests to uncertainty" (Przeworski, 1986 p. 58). Bobbio captures the notion of minimalism and participation more comprehensively, by arguing that a 'democratic regime' is "first and foremost a set of procedural rules for arriving at collective decisions in a way which accommodates and facilitates the fullest possible participation of interested parties." (Bobbio, 1987 p. 19). The thin framework of democracy is best served by these two definitions of democracy that spotlight democracy as a method of conflict resolution under a set of defined rules with voluntary participation by parties to achieve their interests.

In this context, as it is argued in the following sections, ASEAN's membership criteria, structures, principles, and domestic governance form militates against a thick conceptualization of democracy being possible in ASEAN. Instead, the hardware of ASEAN structures and principles and software of domestic norms do not allow for anything but a thin conceptualization of democracy. Bridging units of analysis and a thin concept of democracy the article will now demonstrate that ASEAN is a democratic regional organization.

Agency of the ASEAN Secretariat

The prevailing gap in the literature is one of isolating what is meant by 'ASEAN' and what is meant by 'democracy' within the framework of studying ASEAN. This gap stems from the incompatibility in units of analysis chosen by scholars studying ASEAN

where ASEAN and its member states are used interchangeably. This implies some degree of agency at the level of ASEAN. The only standing ASEAN wide institution is the ASEAN Secretariat.

Müller in the first focused study of the ASEAN Secretariat has brilliantly articulated the fact that the Secretariat lacks any formal ability to act independently. Furthermore, the Secretariat lacks material resources which would allow for any creative interpretation and action outside of specified competences (Müller, 2023). ASEAN Secretariat resources have deliberately been kept meagre which puts it in the 'shadow' of ASEAN member states in all circumstances. As of 2017 the Secretariat had total personnel numbering 347 staff spread unevenly across the three ASEAN Communities with 49 in the Political Security Community, 116 staff in the Economic Community, 47 staff in the Socio-Cultural Community and 98 staff in the Community Affairs directorates (Müller, 2023 p. 52). The Secretariat budget has not increased in over a decade stagnating at \$20 million bankrolled equally at \$2 million per member state (Jones, 2017). Needless to say, the ASEAN Secretariat does not exercise any agency. Its competencies are narrowly defined and it is not funded well. As such the Secretariat is a delegate of ASEAN member states. With this in mind the only areas of inquiry as to the degree of democracy in ASEAN lies with the member states or with ASEAN.

Membership of ASEAN and the ASEAN Way

The section will outline ASEAN decision-making procedures, and norms of conduct and isolate the unit of analysis for understanding democracy in ASEAN. The Bangkok Declaration while being a broad and non-binding document is important as it informs historical, current, and possible membership of ASEAN. The Bangkok Declaration point four laid down the criteria for membership in ASEAN which state that the "Association is open for participation to all States in the South-East Asian Region subscribing to the aforementioned aims, principles and purposes" (ASEAN, 1967). The geographic approach to ASEAN membership is a self-limiting approach. During the Cold War, it was limited by ideological concerns to the original five ASEAN members. At the end of the Cold War there opened the possibility to expand membership to the formerly excluded bloc of the CMLV states (Cambodia, Myanmar, Laos, and Vietnam). All CMLV states wished for and were invited to join ASEAN; Vietnam in 1995, Laos and Myanmar in 1997, and Cambodia in 1999. Brunei was granted membership upon independence from Britain in 1984. With membership criteria based on the geography of Southeast Asia, the only two possible new members would be Timor-Leste and Papua New Guinea which are both ASEAN observers.

The expansion of ASEAN to include these five new members expanded and diversified the ideological and normative bases of domestic governance within ASEAN. The original five members whilst not being stalwart liberal democracies had engaged to varying degrees in liberalization and democratization in the late 1980s and 1990s. With enlargement, ASEAN now counted as members an absolute monarchy of Brunei, a military junta of Myanmar, two single-party communist/socialist states of Laos and Vietnam, and a single-party anocracy of Cambodia. This led to a wide norm divergence within the political framework of ASEAN leading to a completely different understanding of democracy, human rights, and development (Natalegawa, 2017; Than & Gates, 2001). Notwithstanding, the difference in domestic governance systems the inclusion of the CMLV states also led to a wide development gap with Singapore being an industrial high-income country in the same organization as three least developed countries. This divergence of domestic governance and development levels had and still does have a strong impact on the performance of ASEAN regarding interpretations of human rights, democracy, and pathways of integration along the liberal axis.

The Treaty of Amity and Cooperation further codified the inferred ASEAN principles into a formal treaty which stands as ASEAN's primary legal instrument for signing, ratifying, and state accession to the organization as well as external parties who seek formal relations with ASEAN. The TAC formalizes ASEAN principles in Article 2 as:

- a. Mutual respect for the independence, sovereignty, equality, territorial integrity and national identity of all nations;
- b. The right of every State to lead its national existence free from external interference, subversion or coercion;
- c. Non-interference in the internal affairs of one another;
- d. Settlement of differences or disputes by peaceful means;
- e. Renunciation of the threat or use of force;
- f. Effective cooperation among themselves (Treaty of Amity and Cooperation, 1976; Article 2 a-f).

The previous principles of ASEAN as a regional organization are an echo of principles of the United Nations embodied in Article 2 of the UN Charter (United Nations Charter, 1945; Article 2.1, 2.3, 2.4, 2.6). Basu-Mellish has argued that state sovereignty and subsequent principles as post-colonial norms can be traced to the UN Charter and UDHR within the context of decolonization (Basu-Mellish, 2023). The decolonization movement was provided strong expression at the Bandung Conference of 1955 which provided the intercontinental scope for further decolonization of territories which were still

non-self-governing (Bandung, 1955). Decolonization and the sovereignty norm is best exemplified by UNGA Resolution 1514 which stakes moral claim to decolonization as “believing that the process of liberation is irresistible and irreversible and that, in order to avoid serious crises, an end must be put to colonialism and all practices of segregation and discrimination”. This is further expressed in maximalist terms by stating that “all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development” (United Nations, 1960).

The underpinning of ASEAN principles in terms of its performance is referred to as “The ASEAN Way”. The ASEAN Way refers to constitutive and procedural norms that guide ASEAN member states in their interactions as well as with third parties that interact with ASEAN.¹ ASEAN’s constitutive norms are adherence to territorial integrity, primacy of state sovereignty and independence, no external interference or subversion (TAC Article 10), non-interference in internal affairs and peaceful settlement of disputes (TAC Article 2, 11, 13). Furthermore, ASEAN constitutive norms are conjoined with procedural norms that inform the method of conducting diplomacy and substantive agreements which are *consultation* and *consensus* in the decision-making process (Narine, 1997. p. 365, 1999, p. 360, Sebastian & Lanti, 2010. p, 155).

ASEAN’s constitutive norms are crucial to understanding all institutional and structural configurations within ASEAN frameworks. They serve to make ASEAN a purely intergovernmental regional organization where every member state has veto power over the pace of integration, areas of cooperation, and depth of regional initiatives. Furthermore, they also serve to provide resistance to institutional change and, many times, to initiatives that are considered too intrusive to make all parties satisfied of conduct and agreements achieving the appearance of international standards. Leviter (2010) and Volkmann (2008) have argued these structural and regulative norms mixed with varied understandings and internalization of non-interference, democracy, human rights, and national interests often lead ASEAN to the lowest common denominator outcomes and weak systems of enforcement. Furthermore, ASEAN agreements can be considered as soft laws that are premised on the relational dynamics of a regional community that heretofore has engaged in agreements that lack legally binding characteristics and enforceable status (Leung 2004, Leviter 2010, Orosa 2012).

¹ See Acharya, 1997, 2001, 2005; Ba, 2009; Jones, 2011(a); Jones, 2011(b); Nischalke, 2002; Stubbs, 2008 for a definitive discussion on the formation, history and impacts of the ASEAN Way as a method of regional interaction.

The problem with ASEAN's structural configuration lay in its constitutive norms which simultaneously strengthen and shield member states from external interference while slowing down regional initiatives of progressive member states about institutional change and reform. The reasons for this, of course, are historically bound in the establishment of ASEAN as a Cold War organization of newly independent states with weak governments. But ASEAN's historical DNA carries over to the present in an unaltered official form. Alternatively, the consistent paralleling of ASEAN principles with UN principles does offer ASEAN states a significant level of legitimacy in the conduct of their affairs whilst maintaining some degree of regional integrity and order. ASEAN Secretary-General Yong, recalled on the verge of the second Iraq war the fundamental nature of UN principles. UN principles should stand as focal points of national and regional importance to ASEAN institutionalism by stating "ASEAN members differ in many aspects, such as political ideologies and government systems, levels of economic development, sizes of population, cultural affinities, world views and external relations. The ASEAN membership is never intended to replace the national policy of each member government. But it is the indispensable "glue" binding these countries together in "unity in diversities"...[ASEAN members] uphold the principles and purposes of the UN as enshrined in the Charter of the United Nations" (Yong, 2003).

ASEAN does have an alternative method of integration, referred to as ASEAN Minus X formula. This stipulates that two or more countries can engage in integration projects with others joining at a later time (Aimsiranun, 2020). This formula is only applicable in economic affairs and may be extended to services integration. This formula does not necessarily break from ASEAN practice as it is one of voluntary inclusion to get to consensus and unanimity rather than voting, external force and compulsion.

Lastly, ASEAN as an *intergovernmental* organization, has as its first principle the fact that all states must find consensus, or at least no state objects to regional agendas or decisions. In the case of having democracy forced on a member state this is a *non sequitur*. Intergovernmentalism as an organizational paradigm by definition means ASEAN operates according to one member state, one vote or one position equating to a vote. The proper unit of analysis for an understanding of whether ASEAN is democratic lies in an analysis of the regional level, not the national level. ASEAN is diverse in its members' governance systems and the ASEAN Way is a mechanism for *status quo* protection of state interests and preference.

Understanding ASEAN: A Thin Notion of Democracy

The ASEAN Charter formalized and codified its existence as a regional organization imbued with legal personality. Furthermore, the ASEAN Charter committed ASEAN in its purposes to “ensure that the peoples and Member States of ASEAN live in peace...in a just, democratic and harmonious environment” (ASEAN Charter, Article 1.4. The link to democracy was echoed in the same section concerning a further purpose being to “strengthen democracy, enhance good governance and rule of law, and to promote and protect human rights and fundamental freedoms” (ASEAN Charter, Article 1.7). The functionality of democracy can be seen through the explicit aspiration of ASEAN to “promote a people-oriented ASEAN in which all sectors of society are encouraged to participate in, benefit from, the process of ASEAN integration and community building” (ASEAN Charter, Article, 1.13). To arrive at a balanced view of the twin notions of democracy and its correlation to inclusion in decision making, an examination of ASEAN principles is required. These are echoes of the previous portion regarding the ASEAN Way and reflect “respect for independence, sovereignty, equality of all ASEAN Member States” (ASEAN Charter, Article 2.a), “non-interference in the internal affairs of ASEAN Member States” (ASEAN Charter, Article 2.e) and “respect for the right of every Member State to lead its existence free from external interference, subversion or coercion” (ASEAN Charter, Article 2.f). ASEAN principles are balanced by the principle of “respect for fundamental freedoms, the promotion and protection of human rights” (ASEAN Charter, Article 2.i).

This circle of seemingly contradictory foundational principles and purposes of the organization is not simple rhetorical but substantive with regard to the notion of democracy and human rights in ASEAN. To clarify what the contradictory claims suggest, it is instructive to consider the thoughts of long-time former ASEAN Secretariat official Termsak Chalermpananupap for an insider understanding of democracy within the ASEAN context. Chalermpananupap contextualizes democracy in ASEAN within the framework of ASEAN as an intergovernmental organization that follows the aforementioned principles of sovereign equality, rotating annual chairmanship and a lack of weighted voting where all decisions are made through consultation and consensus as well as equal contribution to the annual budget (Chalermpananupap, 2010; pp. 46). Chalermpananupap further argues that sovereign equality is conjoined with non-interference and states that “no member state can pick and choose to highlight some principles and ignore the rest” (Ibid).

This hints at reductivism by extrapolating sovereign equality of member states to democracy as a form of governance but it is instructive in terms of firmly segmenting the level of analysis, that is the regional level. Democracy in this sense is based not on

domestic governance structures and normative application of democratic processes but on procedural norms and structural procedures within ASEAN as a regional body, regardless of domestic governance. Thus, as it pertains to ASEAN and its legal documents, reference to democracy simply means one state, one vote; one member state representative, one vote, and equal budgetary contribution and no further. It can be further inferred that concerning a people-oriented ASEAN, the dynamics are one of a top-down nature where leaders 'decipher' the 'common good/will' of the people of their respective member states and make decisions on their behalf within ASEAN. As such the notion of a people-centered ASEAN in terms of inclusive decision-making is left entirely within the confines of the member states and their domestic governance systems.

Table 1 Types of Domestic Governance in ASEAN

	Absolute Monarchy	Constitutional Monarchy	Pluralist Democracy	Anocracy	Communist Party Rule	Military Rule
Brunei Darussalam	X					
Cambodia				X		
Indonesia			X			
Lao PDR					X	
Malaysia			X			
Myanmar						X
Philippines			X			
Singapore				X		
Thailand		X		X		
Vietnam					X	

Source: Adapted from CIA Factbook, IFES Election Guide & Freedom House Data

*Anocracy is defined as a system of governance with elections but Freedom House index is below 50/100 (Not Free)

ASEAN's notion of democracy cannot be isolated at the member state level given the diversity of governance forms. Some of which such as military rule and absolute monarchy are antithetical to democratic rule. This is further reinforced by ASEAN norms or the ASEAN Way of non-interference and sovereignty. Regime change

or external pressure to democratize and have norms forced onto the member state political system is simply not possible within the confines of how ASEAN operates. Nevertheless, democracy in the thinnest form of one state, one vote is how democracy can be understood within ASEAN.

ASEAN and the 2021 Myanmar Coup at the United Nations Security Council: A Brief Case Study of Thin Democracy and ASEAN

This section will focus on the period of time immediately following the military coup in Myanmar against the elected government. The section will draw on an internal secret document of an ASEAN state that summarizes the April 2021 ASEAN Summit where Myanmar was the primary agenda item. The purpose of this section is to highlight the different positions and motivations ASEAN members took towards the coup, with specific reference to Vietnam. Vietnam at the time occupied a non-permanent seat on the United Nations Security Council (UNSC) and would use this enhanced position to advocate for Myanmar's position and shield it from external sanctions. Ultimately, this provides insights into ASEAN member states' identities and interests towards regional autonomy and human rights in the broad sense. These minutes are taken *verbatim* from the document and reflect ASEAN leaders' discussion regarding the unfolding situation in Myanmar at the time. On February 1, 2021 the Myanmar military launched a coup against the recently re-elected government of the National League for Democracy under the stewardship of Aung San Suu Kyi (Paddock, 2022). The UNSC was quick to condemn and call for a peace process to begin towards de-escalation and restoration of democracy. Interestingly, the UNSC called on "regional organisations, in particular the Association of Southeast Asian Nations (ASEAN) and its readiness to assist Myanmar in a positive, peaceful and constructive manner. It commends ASEAN's continued efforts to engage with all relevant parties in Myanmar" (UNSC, 2021). With the Myanmar issue firmly off the radar of the international community it is left solely to ASEAN to deal with this regional issue. As such it is instructive to get insight into the positions which each ASEAN member state took with regard to the regional issue in the immediate aftermath of the coup.

The ASEAN Leaders Meeting immediately following the Myanmar coup took place on April 24, 2021. The ASEAN Chair Statement addressed the Myanmar issue at length stating "We, as an ASEAN family, had a close discussion on the recent developments in Myanmar and expressed our deep concern on the situation in the country, including reports of fatalities and escalation of violence. We acknowledged ASEAN's positive and constructive role in facilitating a peaceful solution in the interest of

the people of Myanmar and their livelihoods, and therefore agreed to the “Five-Point Consensus” attached to this Chairman’s Statement. We also heard calls for the release of all political prisoners including foreigners.” The operative part of the statement is that ASEAN is playing a constructive role in finding a peaceful solution and agreed on the Five-Point plan of action to reduce the violence towards civilians in Myanmar. With this regional positioning as a contextual starting point, an examination of lengthy statements and analysis of each member state’s internal position towards the Myanmar coup and consequences will now be made to interrogate whether there is consensus and to what degree.

Myanmar briefed the members on the reasons for the Tatmadaw’s decision to intervene and declare a state of emergency, namely alleged vote rigging in the 2020 election. With Aung San Suu Kyi and the President rejecting requests from the Tatmadaw to hold meetings with the National Defence and Security Council hence the need for military intervention. With regard to COVID it was noted that the Myanmar’s health security was at risk due to health officials’ participation of civil disobedience. A summary of the briefing recounted that “[h]e also denied exercising excessive use of force and considered it necessary to respond to the protestors as they are prone to use violence. The terrorist acts have increased and the pro-NLD radicalists tried to create negative image of Myanmar among the international community. The Tatmadaw is committed to holding free and fair multiparty election and will transfer power to the winning political party. He concluded his 30-minute-long remarks by stating that the Tatmadaw did not want to be named as ‘notoriety’ in history and expressing his readiness to fully cooperate with all ‘friendly’ Member States” (Confidential Department of ASEAN Affairs, 2021). There are two points of interest, namely the justification for military intervention and the distinction between friendly and by definition unfriendly Member States. The latter is more important as Member States can be inferred to be ASEAN member states who have taken friendly positions and those that have taken oppositional positions towards the junta government. This augers for a hunker-down approach from the military government and an unwillingness to work towards finding an amicable solution lest it be on terms friendly towards the military.

Cambodia paralleled its position stating that “Myanmar is not different from Cambodia in the 1970s. Countries outside the region, or even the UN, could only contribute some parts, but the success depended on Cambodian people themselves. Although Cambodia was not a member of ASEAN at that time, ASEAN and the late Dr. Surin Pitsuwan, played a crucial role in facilitating dialogues and the peace process. He made 3 requests: (1) all parties to de-escalate violence; (2) Myanmar to consider the role

of ASEAN; and (3) Myanmar to accept humanitarian assistance” (Confidential Department of ASEAN Affairs, 2021). The Cambodian position is interesting in that it plays to two primary roles and parties, the people of Myanmar and ASEAN. Firstly, it can be inferred that Cambodia sees this as an internal matter to be dealt with solely through the lens of the government and forces opposing the government. Second, Cambodia conceives of an itinerant role that ASEAN can play as an indirect partner helping to facilitate but not intervene.

Indonesia voiced concern that the ASEAN Charter “attaches importance to the people. The principle of non-interference should be considered along with other key principles including adherence to the rule of law, good governance and democracy. ASEAN must prove its credibility to avoid external intervention. He emphasized that [the peace process and humanitarian assistance] should be a ‘Myanmar led and Myanmar owned’ process with ASEAN as the facilitator” (Confidential Department of ASEAN Affairs, 2021). The Indonesian position is interesting as the Charter is used to bring into question ASEAN’s long held principles of sovereignty and non-interference. Indonesia positioned this with respect to the stated purpose of ASEAN as referred to in Article 1.7 of the Charter which emphasizes ASEAN as resting on democracy, rule of law and human rights (ASEAN, 2008). Second, Indonesia emphasized that Myanmar itself must be the primary instigator of peace with ASEAN playing only a facilitator role. Last, is the view of regional credibility and fear of external intervention if ASEAN does nothing. This is of high importance as external forces and pressure have been a continuous force for regional initiatives and integration, in this case ASEAN’s albatross, which continually gives ASEAN a black eye.

Malaysia “recalled that it was the first ASEAN member state to recognize Myanmar in 1997, demonstrating its belief in Myanmar as its potential partner. The principle of non-interference does not mean that ASEAN should ignore the crisis in Member States. Myanmar is now housing more than 200,000 displaced persons from Rakhine State who are vulnerable to human trafficking and terrorist recruitment” (Confidential Department of ASEAN Affairs, 2021). Malaysia’s position is one of concern and annoyance as it has been the most vocal of ASEAN members to condemn Myanmar government actions with regard to the Rohingya. In this sense it is reminding Myanmar of the original position and the need to collectively work as a united ASEAN.

Thailand’s position was to point out it’s unique status of having direct connection to Myanmar. Furthermore, Thailand stated that “ASEAN can play a crucial role in addressing the situation and needs to take into account the historical, social, and political context of the country. Thailand supports D4D and is not in favor of imposing

sanctions as it would be the people of Myanmar who suffer" (Ibid). This reflects Thai foreign policy during the government of General Prayut Chan-o-cha who took an approach of security to its external affairs and did not want to pressure Myanmar but in fact supported the military government by pushing fleeing civilians back across the border (Olan and Regan, 2021).

Lao PDR Foreign Minister "supported dialogue and urged all parties to exercise restraint" (Ibid). The Philippines Foreign Minister "stressed the need for ASEAN to help address the situation in Myanmar as 'the hurt of the small finger is felt by the whole body'. He called for the release of Aung San Suu Kyi and for Myanmar to return to the path of democracy...supporting the ASEAN Secretary General to visit" (Ibid). The contrast between these two is interesting as the Lao PDR demonstrated little interest in Myanmar whilst the Philippines took an approach to Myanmar that conceived of the crisis affecting all of ASEAN and intimated the need for ASEAN to play a role.

Singapore's approach is interesting as they "addressed Min Aung Hlaing as 'Commander in Chief'. He emphasized that Myanmar is a valuable member of ASEAN. ASEAN needs to take action as silence will affect ASEAN credibility" (Ibid). Singapore's position is interesting as reference to the junta leader as Commander in Chief suggests resistance to giving the junta government legitimacy. Singapore's position also echoes Indonesia's view of Myanmar damaging ASEAN's credibility with its external partners.

Last, is the position of Vietnam which is most interesting. Vietnam "expressed deep concern and urged all parties to exercise restraint as well as resume dialogue and reconciliation. The Tatmadaw has a crucial and decisive role, therefore should take the lead and initiate dialogue. As a non-permanent member of the UNSC, Vietnam will ensure that discussions relating to the situation in Myanmar is balanced and no further actions (sanction/embargo) are imposed" (Ibid). Vietnam's position cut to the core of ASEAN and its Myanmar problem. That while Myanmar damages ASEAN's credibility and the international community has provided ASEAN full responsibility to deal with the issue regionally, Vietnam used its position on the UNSC to shield and protect Myanmar. This belies two very important points; behind the veil of ASEAN unity in the Chair's statement, there is no unity whatsoever in ASEAN. All ASEAN member states take different positions and have a different rationale for their respective positions and the member that has an enhanced position in the international arena via non-permanent membership on the Security Council uses its position to help ASEAN's most egregious member (Jones & Rhein, 2023).

This brief case study of ASEAN member state behavior at the April 2021 Emergency ASEAN Summit demonstrates ASEAN principles and norms in operative

manner. The rejection of imposing external force to coerce another member is paramount to secure regional autonomy. Vietnam used its enhanced international position to protect Myanmar and internalize decision-making and crisis management within ASEAN structures. Furthermore, each member state position whilst varied in orientation and motivation adheres to the principle of one state, one vote and consensus. When consensus and unanimity cannot be reached the organization reverts to quiet diplomacy thus protecting member states from unwanted intrusion into internal affairs in line with ASEAN notions of democracy and ASEAN as a democratic organization at the regional level.

A Brief Comparative with the European Union

While not a comparative study, it is worth providing a brief comparative sketch of the world's oldest regional organization, the European Union with regards to regional organization (RO) and democracy. To get a useful macro-level understanding, a brief examination of competencies and capacity is needed. The European Union is a hybrid regional organization with four primary institutions exercising different areas of governance over certain aspects of EU-wide policy, the European Commission, the European Court of Justice, the Council of the European Union, and the European Parliament (Wunderlich, 2012). The latest EU treaty, the Lisbon Treaty altered institutional competencies which are briefly sketched below.

The Lisbon Treaty altered significantly the procedures and powers of each institution. To put it simply, the EU Parliament by a simple and then absolute majority in conjunction with the Council has the power of passing or enacting legislation whereas the Commission has the exclusive right of drafting legislation (European Union, 2024a; European Parliament, n.d.). The EU Parliament while being directly elected since 1979 has found enhanced powers with the Treaty of Lisbon which expanded powers of budgetary drafting and approval with the Council as well as legislative authority and ratification of international treaties (European Union, 2007). The Commission has had this right since the EEC's establishment in 1957 (European Union, 1957). The Commission has a substantial budget of €189.4 Billion (European Union, 2024). The Commission as of the Lisbon Treaty has competency over the Single Market and Common Foreign and Security Policy with the abolition of the pillar system (Laursen, 2013; Verdun, 2013). Lastly, the Council has ceded many of its veto powers which began with the Single European Act with many decisions now taking place according to weighted qualified majority voting (Armstrong, 2008; Treaty of Lisbon, 2007).

When viewed in comparison, the world's two oldest standing regional organizations have markedly different forms, functions, competencies, and capacity. The ASEAN Secretariat has a miniscule budget of \$20 million whilst the EU has over €180 billion (Destradi, 2019). As such while the EU Commission enjoys a significant amount of independence, capacity, and competency the ASEAN Secretariat has little and as Muller argues lies in the shadow of member states (Müller, 2023). The ASEAN Summit or Heads of Government/State enjoy full veto rights due to the consensus principle whereas the Council takes decisions on a majority of issues according to weighted majority voting. ASEAN has no correlation to the EU Parliament with all ASEAN agreements being agreed upon at the Summit level. Lastly, ASEAN has no correlation to the EU Commission as all ASEAN agreements are undertaken by member states and implementation of agreements are taken at the member state level within national bureaucracies. There is a broad literature on the democratic deficit within the EU but this study provides a unit-centered analysis that is correctly situated at the regional level as there are supranational institutions with a degree of democratic authenticity and legitimacy that can be brought into consideration (Crombez, 2003; Katz, 2001; Norris, 1997).

The issue of external force is also a compelling aspect of difference between the two organizations. The EU has the power to force compliance of member states to accept majority decisions. This is done through the procedure of the EU Commission proposing to the Council of the EU measures to be taken due to breach of EU principles of democracy, human rights and rule of law. Most recently this procedure was imposed by the Council on Hungary for violations of EU rule of law principles, resulting in the freezing of budgetary funds allocated to Hungary from the EU budget (European Commission, 2024b). There is also, the ability for a member state to leave the organization or to have a member relinquish its membership. This allowance was made in Article 50 of the Lisbon Treaty which formulated a procedure for withdrawal from the EU (European Parliament, 2016). ASEAN has no equivalent of external coercive force over its member states. Entry into the organization is by unanimous approval of ASEAN members and there is no official exit mechanism. This has become readily apparent and problematic with post-2021 coup Myanmar. Myanmar since mid-2021 has not sent high level personnel to any ASEAN meetings, instead it has been represented by junior bureaucrats at the suggestion of ASEAN members (The Nation, 2024). This was evidenced early on at the Emergency ASEAN Summit of April 2021 when ASEAN members diverged in their opinions of the junta government and were unable to find consensus on how to act (Jones & Rhein, 2023). The importance of this is to highlight

the lack of capacity to act when consensus cannot be achieved and ASEAN as a collective is unable to act to enforce or coerce its members.

The implicit question embedded in this article is a question; Is ASEAN Democratic? The answer to this question is yes. Any analysis of "ASEAN" in terms of its principles, institutions, organizational decisions, or normative interaction must be centered at the regional level of member-state interaction. This does not detract from scholarly arguments that ASEAN can change if its member states change. This by definition is true of an intergovernmental organization. However, the fact that diversity of rule is the norm and more than half of the organization's members are undemocratic or anocracies cancel any analysis at the domestic level.

Conclusion

This article has argued that many studies of ASEAN about democracy are flawed in their unit of analysis and conflation of domestic to regional conceptualizations. It has been demonstrated that a correct method of analysis of ASEAN about norms of democracy must firmly be anchored in analysis that lies at the regional level of member-state interaction. At the regional level, the ASEAN Way and ASEAN norms are organizational first principles. This method of decision-making and normative basis for how ASEAN does business means by definition, if every member state is present, and is allowed to voice its opinion and preference on issues discussed then ASEAN is democratic. The 'thin' conception of democracy is critical to understanding democratic logic. To apply a 'thick' or deep conception of democracy to an intergovernmental organization is a leap of logic too far. It must be implied that member states of an intergovernmental organization represent the entirety of their population and all votes cast by each member state are an expression of democratic will. A comparative example has been articulated to demonstrate the validity of the European Union's democratic credentials vis-à-vis ASEAN. The comparative demonstration highlights the conceptual importance of centering a valid unit of analysis that does not conflate a regional organization to the sum of its parts, and member states. With this comparison and the adoption of this regional approach, this article has answered a question not previously articulated in the literature on ASEAN and has provided a framework for conceptualization of regional democracy and refocuses research on democracy and ASEAN for the future.

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