

The EU as Diffusion Agent of Regional Integration? – Latin America, Asia and Beyond

Paper presented at the FLACSO-ISA Conference
Buenos Aires, Argentina

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Abstract

We live in an era of regionalization and regional organization (Katzenstein 2005; Paul 2012). New approaches explicitly depart from the perceived Eurocentrism of the existing literature and focus on regional integration occurring outside of Europe (Farrell *et al.* 2005; Hettne and Söderbaum 2000; Söderbaum and Hettne 2010). A lively debate on the aims of ‘comparative regionalism’ is on the way (Acharya 2012; Elliot and Breslin 2011; Jørgensen and Valbjørn 2012; Sbragia 2008; Warleigh-Lack and Van Langenhove 2010).

Yet, despite the development of innovative research programmes, the existing literature – with only a few exceptions – has neglected two key phenomena that characterize regional organizations: their institutional similarities and their wave-like emergence. Why do regional organizations reveal similarities when it comes to their institutional design? Why, for example, does the Common Market of East and Southern Africa (COMESA) or the Andean Community look like a copy of the European Union – i.e. why do they have similar institutions and pursues similar policies? Or, why have ten regional organizations outside of Europe created a regional court based on the template of the European Court of Justice (ECJ), and why have they partly implemented its rulings – even if there is little evidence of similar integration challenges being faced by them (Alter 2011)? The paper argues that to account for these similarities, we have to consider the diffusion effects of regional organizations on other regional organizations. The paper develops the concept of diffusion for regional organizations and explicates some major diffusion mechanisms. It then provides examples for these mechanisms for individual regional organizations.

Keywords: regionalism, comparative regionalism, diffusion of regional organizations

The EU as Diffusion Agent of Regional Integration? – Latin America, Asia and Beyond

We live in an era of regionalization and regional organization (Haftel 2013; Katzenstein 2005; Mansfield and Solingen 2010; Paul 2012). Regional organizations are defined here as organizations constituted by at least two contiguous states, which define their membership therein on a regional basis (e.g. ‘African’, ‘Middle Eastern’) and are multipurpose in scope. Since the mid-1980s the number of regional organizations has grown remarkably from 42 to 73 (Comparative Regional Organizations Project Dataset I) – a figure that does not include bilateral free trade agreements (see Figure 1, Appendix 1). In the wake of this second wave of regionalism – the first having occurred in the 1960s after the establishment of the Treaty of Rome that would create the European Community – a vibrant literature on regional integration and comparative regionalism has developed. This literature has recently been joined by new approaches that explicitly depart from the perceived Eurocentrism of this literature and seek to systematically compare regionalism and regionalization broadly defined (Acharya 2012; Fawcett 2004; Hettne and Söderbaum 2000; Hurrell 1995; Sbragia 2008; Warleigh-Lack and Van Langenhove 2010).

Yet, despite the development of innovative research programmes, the existing literature – with only a few exceptions – has neglected two key phenomena that characterize regional organizations: their institutional similarities and their wave-like emergence. Why do regional organizations reveal similarities when it comes to their institutional design? Why, for example, does the Andean Community look like a copy of the European Union – i.e. why do they have similar institutions and pursue similar policies? Or why have eleven regional organizations outside of Europe created a regional court based on the template of the European Court of Justice (ECJ), and why have they partly implemented its rulings – even if there is little evidence of similar integration challenges being faced by them (Alter 2012)?

The existing literature on international institutions provides three theoretical explanations for such similarities: functional necessity, random co-evolution and more or less coercive external pressures.

The first **functional approach** regards similarities as being the outcome of functional necessity (“Sachzwang”). In this case, the set of relevant regional institutions is determined functionally, i.e. by the type of cooperation problem that needs to be solved. Higher levels of interdependence are likely to create externalities and hence will be associated with greater regional institutionalization in the form of bureaucracies or specific dispute settlement mechanisms (Haftel 2013: 391; Hawkins *et al.* 2006: 15). The most prominent approaches are regional integration theories asserting that the technical regulation of cooperation problems requires regional institutions that later expand from economic or non-political realms into the political one (Haas 1970; Haas 2004 [1958]; Lindberg 1970; Malamud and Schmitter 2011: 147; Schmitter 2009). More generally, problem-structural approaches to international institutions start from similar assumptions (Hasenclever *et al.* 2002: 59f.; Koremenos *et al.* 2001; Mitchell 2006; Zürn 1997): Regional institutional similarities are the result of

comparable levels of regional integration, as expressed by similar patterns of interdependence and lead to a specific institutional demand (Haftel 2007, 2013; Krapohl and Fink 2012; Mattli 1999).

In contrast, explanations of **random co-evolution** place the focus not on the nature of the underlying problem structures, but on the configuration of state preferences and characteristics. Random co-evolution of institutional forms would occur where member states are arranged in similar constellations of interests or ideas. Rationalist (Haftel 2012; Hawkins *et al.* 2006; Koremenos *et al.* 2001; Milner and Kubota 2005; Solingen 1998) as well as constructivist approaches, focusing on the role of ideas of regional integration and legal cultures (Acharya and Johnston 2007; Duina 2006), are compatible with this view. Rationalist approaches view international institutions as the product or outcome of specific constellations of interests and structures: “[S]tates use international institutions to further their own goals, and they design institutions accordingly. [...]” (Koremenos 2001: 762). The number of states seeking to cooperate, their preferences, and the nature of the collective action problems needing to be resolved determine the design of a regional institution (see also Böhmelt and Pilster 2011). More developed states or more democratic states agree on institutional designs that systematically differ from those of less developed or less democratic states (Milner and Kubota 2005; Solingen 2008, 2012). Because such factors vary considerably both cross-regionally and intra-regionally, organizational variance should be high, and random co-evolution of institutional designs should be a correspondingly rare event: “Major institutions [are] organized in radically different ways” (Koremenos *et al.* 2001: 761). Likewise, rationalists would expect similar institutional designs among regional organizations in which members exhibit considerable similarities.

The third perspective emphasizes **external pressures**, either in the form of powerful actors coercing members of regional organizations into adopting specific policies and institutions, or of the pressures of globalization, which impose on regional organizations the need to adapt to system-wide challenges. This perspective is broadly compatible with realist and international political economy (IPE) approaches to regional organizations.

Realist theories of international relations traditionally hold that international institutions in general, and regional organizations in particular, are established by a hegemon as a way to pursue its own core interests (Krasner 1976). “Regions are the creation of political power and purpose. Powerful states tend to extend their purposes beyond national borders through a combination of strategic action and sheer weight.” (Katzenstein 2005: 21). More recently, some authors have contended that the European Union has emerged as a powerful supporter of regional integration efforts worldwide (Schimmelfennig 2009, Telò 2007), doing so by acting as an external federator.

Theories of IPE explain regionalism as an outcome and a rational response of political actors to structural changes in the world economy. The recent literature assumes that increasing integration and interdependence in the world economy and the tightened institutional arrangements that come with it also lead to the strengthening of regional integration (Mauro *et al.* 2008). Hence, regional integration is progressing parallel to increased global integration (Mauro *et al.* 2008; Dees *et al.* 2007). Consequently, the expectation here is that increasing integration at a global level also leads to greater regional integration, with those states and

regions that are more integrated into global structures also developing more similar regional institutions (Dees *et al.* 2008).

While these theoretical approaches provide important insights into both why states establish regional organizations, and how these institutions subsequently develop, several facets of regional organizations pose a challenge to them. Dominant in this regard is the already mentioned enigma of why similarities of regional institutional design exist between groups of states that vary radically in their preferences and interests. Why, then, would groups of states as different as African and European ones choose similar institutional designs, as we see in the cases of the European Union and the African Union? Why do we find regional parliaments where there is no functional need for them, i.e. within regional organizations to whom members have not delegated sovereignty or in regions where governments are autocratic? How do we conceptually deal with the observation that many regional organizations take the EU or other regional institutions as models according to which they themselves intend to develop? Russia's President Vladimir Putin, for example, declared in 2012 that members of the newly formed Eurasian Economic Community will take the European Community as their model.

Recent approaches claim that such similarities are an outcome of forces operating between regional organizations in a horizontal fashion (Börzel and Risse 2009; Jetschke and Lenz 2013). This means that members of regional organizations do not act in isolation, nor do they determine institutional design and policy completely from scratch. Rather, they observe each other, draw lessons and look for model institutions that could be used as templates for their own development. Such approaches speak of a diffusion effect on regional organizations. This field connects to an earlier literature that emerged in the context of comparative regional integration research in the 1970s, one which did not, however, have any lasting impact (Avery 1973). Thus far, despite the anecdotal evidence for diffusion effects being compelling, systematic evidence about the design of regional organizations and their possible determination by other such bodies elsewhere in the world is lacking.

The focus on the possible influences emanating from other regional organizations also demonstrates an additional weakness of existing IR approaches to the subject. These view regional organizations as operating independently of each other, and thus either tend to neglect international influences altogether – as is the case in functional and co-evolution approaches – or they conceive of them as impacting on regional organizations, as forces to which regional organizations react commonly but independently.

Thus, the core research gaps in the existing literature can be summarized as follows:

- Functional and co-evolution theories of regional organizations emphasize regional-specific factors in the explanation of the institutional design of regional organizations. Not only do these approaches neglect international or exogenous contextual factors, they also assume that regional organizations act independently of each other.
- Hegemonic and IPE theories of regional organizations do consider external international influences in the explanation of institutional design, but conceive of them either as coercion or as globalization pressures. In the case of coercion, regional organizations are conceptualized as being interdependent; yet, interdependence is created by the existence of the hegemon as a steering agency, and is not created by the

effects that regional organizations have on each other. In the case of globalization, exogenous contextual factors are considered (and said to exert an influence on the institutional design), but potential similarities emerge as independent reactions to common pressures. A perspective taking the interdependence of decisions seriously is thus clearly missing.

Analytical Concept: Diffusion

The core features of the concept of diffusion (Busch and Jörgens 2007; Gilardi 2012; Holzinger *et al.* 2007; Holzinger and Knill 2005; Levi-Faur 2005) are that:

It is a situation of *interdependent, uncoordinated* decision-making that is characterized by the *voluntary* adoption of specific institutions and policies (Aldrich 1979; Rogers 1983: 5f.). ‘Interdependent’ means that the decision of actor A alters the likelihood of actor B making a similar decision (Simmons and Elkins 2004). Neumayer and Plümper similarly define spatial dependence as existing whenever ‘the marginal utility of one unit of analysis depends on the choices of other units of analysis’ (2010: 146).

This definition differentiates diffusion from similarities that occur as common but independent reactions to an event or force, such as system-wide shocks or globalizing pressures (Franzese and Hays 2008a). ‘Uncoordinated’ means that it is a form of decision-making, in which similar decisions are not steered by a central force – be it a hegemon (coercion) or the occurrence of active negotiations among a group of related actors (harmonization). While we acknowledge that some of the literature subsumes coercion under diffusion mechanisms, we will not do so, as it contradicts the assumption that diffusion is a voluntary process. The two should thus be separated, even if they can both lead to convergence. We thus use a more narrow understanding of diffusion (see also Holzinger *et al.* 2007: 29).

There are, however, softer modes of coercion, such as conditionality: the innovator controls resources that the adopting agents desire, providing innovators with opportunities to pressure adopters to accept specific institutions or regulative standards. EU conditionality for accession, or the conditionality of the International Monetary Fund (IMF) for loans, both provide examples of this. International harmonization describes a process in which actors negotiate common rules and regulations that they then implement. Both of these phenomena hence represent *coordinated* efforts leading to similar institutions and policies, thus falling outside of our definition of diffusion as an uncoordinated process.

The concept of diffusion rejects the notion that actors take their decisions in isolation and hence independently of each other. Instead, actors observe each other and react to decisions made by their peers. Whether or not this interdependence arises is contingent on the level of interaction occurring between regional organizations. Most of the studies that focus on forms of cultural or policy transmission conceptualize the channels through which it occurs as ties or connections existing between units of a system. In the social sciences, these channels are usually grouped under various mechanisms that constitute causal mechanisms of transmission (Elkins and Simmons 2005; Holzinger *et al.* 2007; Simmons and Elkins 2004). We will follow this convention and identify the specific

trigger mechanisms leading to similar institutions and policies being adopted. We will differentiate between five mechanisms, with each indicating a distinct channel of influence: learning; peer-based “social” learning; legitimacy-driven mimicry; competition-driven mimicry; and soft coercion. In the following, we take great care to distinguish the individual diffusion mechanisms from another and – what appears even more important – to distinguish them from independent adaptations to external stimuli. Moreover, we try to find indicators for each mechanism that match the theoretical concepts underpinning the diffusion mechanisms, thus reflecting the current state of the debate on diffusion (Graham *et al.* 2013: 654).

Learning

Rational theories of diffusion emphasize the lessons that can be learned from following the example of a more successful regional organization. Learning refers to the change in beliefs, or the change in one’s confidence in existing beliefs, that results from exposure to new evidence, theories or behavioural repertoires (Haas 1990; Sommerer 2011; Meseguer 2009). Actors assume institutional designs from elsewhere because they obtain information about the effectiveness of other institutions and policies, allowing them to better evaluate the consequences of making their own policy innovations. Actors can acquire new beliefs that only affect their evaluation of the appropriate means for achieving a goal (simple learning), but they might also acquire new beliefs about these goals themselves (complex learning). Actors not only respond to “who does what” but also to “what happens when they do it” (Lee and Strang 2006: 894). Especially if they need to solve cooperation problems or face external shocks, they are likely to look to other actors’ experiences (Meseguer 2009; Sommerer 2011).

According to rational theories of learning, actors are ‘Bayesian updaters’. Bayesian updating is a rational process that assumes actors change their evaluations of the probability of an outcome based on any new information that they receive. The classical example of this is learning from success: in this case, members of an organization (or those willing to establish one) follow the lead of more successful organizations, which they observe “period after period” in a sequential updating process in order for lessons to be learned (Meseguer 2009: 39).

While we acknowledge that regional organizations’ goals vary considerably, and that ‘success’ and the perception of it therefore also vary, we focus on two possible outcomes of regional integration that might serve as evidence for learning as an underlying mechanism of diffusion: learning from economic success and learning from peaceful change. We suggest those two factors because they are usually cited as the justifications for establishing regional organizations, with the European integration process providing a good illustration of this mechanism (Powers and Goertz 2011; Schiff and Winters 2003), they are widely acknowledged as regional organizations’ core functions in the literature, and some of the other functions of regional organizations, such as the promotion of collective values, might even be considered a correlate of a regional organization’s ability to keep the peace among members. Economic studies suggest that the main effects of regional organizations on members consist of capital accumulation and investment, rather than direct growth effects (Pereira *et al.* 2011). We therefore include a measure of economic success along these lines. Another measure of success might be the contribution of regional organizations to collective

security. Recent studies have found a positive correlation between the level of institutionalization of a regional organizations and peace among its members (Haftel 2012). It is one of the founding narratives of the EU that it helped member states to overcome war. If members of other regional organizations observe that states who earlier were beset by conflicts manage to now cooperate peacefully, and the former link this progress to the maintenance of an effective regional organization by and between the latter, then the former might subsequently decide to establish and develop a similar regional organization.

Peer-Based “Social” Learning (Social Learning)

Sociological theories emphasize that rational learning can “go wrong”, in the sense that actors learn more easily from close peers or peers in their in-group and that the flow of ideas is mediated more effectively through existing communication channels and networks. Thus, they might learn wrong lessons just because they are better connected to specific actors. Ideas diffuse faster between states or groups of states that share more or denser network connections, which are also referred to as “direct ties”. As Beck *et al.* (2006) suggest, these direct ties can be any type of interaction that indexes the degree to which two regional organizations are likely to intensively interact, to be aware of each other’s policies and to serve as prominent referents for each other: be it geographical proximity, similar language, culture and colonial history or high levels of interaction achieved through shared membership in other organizations.

As former colonies remain frequently influenced by their former colonial master’s culture and policies, colonial history might play a role. Members of regional organizations might be generally more inclined to adopt the policies of their former colonial powers, simply because they share a historical legacy, have generally denser communication patterns or because they are still trade dependent on them. France, Great Britain and Spain for example, historically have had close economic, cultural and political ties to their former colonies, ones that continued even after the independence of their former colonies. One might thus expect that regional organizations whose members have a shared colonial experience (i.e. that were colonies of either France, Great Britain or Spain) also reveal greater similarities with regional organizations of which these three countries are members.

An important direct tie is constituted by membership in the same regional organization(s) (Beck *et al.* 2006). If two organizations – be they international or regional – reveal a considerable degree of overlap in terms of their memberships, this is likely to significantly determine the formal structure of them. Such overlap occurs in almost all regions, as is evident from the popular notion of overlapping regional organizations in Asia being similar to a ‘noodle bowl’ (Baldwin 2008).

Social learning can also be driven by close interaction between regional organizations or international and regional organizations. Here, similarity of formal organizational structures results from the greater opportunities afforded to share information on successes and failures or to develop common understandings. Trade interactions provide a specific opportunity to develop shared understandings about regional integration.

Another opportunity is provided by institutionalized interactions, in the form of regular meetings between regional organizations. The EU pursues official dialogue with many

regional organizations, which might facilitate the emergence of shared and common knowledge among participants (Jakobi and Martens 2007: 250; Simmons and Elkins 2004).

As an additional measurement of direct ties, we assume that having observer status as a regional grouping in another regional or international organization increases the similarity of different regional organizations.

More recent studies on international organizations suggest that institutional design decisions are influenced by the existence of expertise within international organizations (Barnett and Finnemore 1999), which can either be supplied by the knowledge of bureaucrats or wealthy, established states (Johnson 2013; Montecino 1996). “[I]nternational bureaucrats’ *raison d’être* regularly includes the accumulation of knowledge on specific topics” (Johnson 2013: 504). Montecino (1996) provides a narrative of institutional adaptation in Latin American regional organizations, which draws heavily on the technocratic expertise and self-understanding of bureaucrats adopting similar institutional designs. One can easily extend that argument to social learning: We assume that the existence of such bureaucrats also influences the ability of regional organizations to learn from another and adopt similar institutional designs.

Legitimacy-Driven Mimicry (Legitimation)

Constructivist and organizational sociologists focus on a different mechanism of diffusion, namely that of mimicry. This is defined here as the conscious adoption of a policy innovation out of a concern for status and legitimacy. Meyer *et al.* (1977) have shown that many organizations routinely adopt innovations that do not correlate with their capacities or endowments. Here, adopters obviously take up innovations because they value the prestige and legitimacy that is connected to them. They follow the logic of appropriateness. Rather than expressing functional necessity, adoptions symbolize the commitment made to the values of the community. This theory would expect an across the board adoption of similar institutional designs even among extremely varying sets of states because particular institutional designs are associated with quasi-universal values of bureaucratic rationalization and modernity (Finnemore 1996; Meyer and Rowan 1977).

Threshold models posit that actors’ decisions will be influenced by the proportion of actors who have already made a similar decision or who have undertaken similar institutional reforms (Granovetter 1978). Jupille and Jolliffe (2011) argue, for example, that regional integration has become a trend in international relations, indicating cooperative behaviour. Hence, the number of regional organizations exhibiting specific institutional characteristics should influence a regional organization’s institutional design.

Threshold models leave open the question of who spreads these universal values. Most work concentrates on the role of international organizations (IGOs) spreading specific discourses connecting regional organization to universal values such as international trade integration (Finnemore 1993; Lee and Strang 2006). “[O]nce organizational models become institutionalized, they become diffused, which causes organizational structures to become more and more alike.” (Beckert 2010: 150) A distinct channel of influence might be official programme activities run by international and regional organizations in order to support regional integration. The United Nations has shaped regional organizations in this way in the past, and continues to influence their institutions and policies in a similar fashion (Lombaerde

2012). The UN has promoted regional integration in all five global regions through its Economic and Social Commissions. Katzenstein describes how the United Nations Economic Commission for Asia and the Far East (UNECAFE) furthered regional integration in Asia in the 1960s (Katzenstein 1997: 16). The UN had a similar programme in Africa, which was channelled through the Economic Commission on Africa and financed by the African Development Bank (van den Boom 2005: 98).

Moreover, several studies (Cao 2009; Fink 2013; Füglister 2011) find that international organizations influence policy convergence among states. Cao found the World Trade Organization (WTO), the International Monetary Fund (IMF) and the Organization for Economic Cooperation and Development (OECD) to influence economic policies of member states. One could similarly assume that joint membership of the members of regional organizations in these international organizations also influences the institutional design of regional organizations, as when the choice for a dispute settlement body for economic disputes brings either the WTO mechanism or a court modelled after the European Court of Justice to the attention of member states (Alter 2012).

Competition-Driven Mimicry (Competition)

Another important mechanism for diffusion is rivalry between competitors. Competition-driven mimicry describes a self-selection process between organizations that might equally lead to a similarity of institutions and policies. Here, what is adopted by one regional organization might also have profound consequences on other regional organizations. Similar formal structures might thus emerge as a result of actors competing for external resources. For example, many states around the world decided to reform regional organizations or to create new ones after the EU adopted the Single European Act (1986), and later the Maastricht Treaty (1992). Kathleen Hancock notes, for example, that “the EU’s deepening integration and ensuing economic power have made many regional groupings eager to replicate its success”. She further notes the “pressures” of an “integration race” (Hancock 2009: 27). Since many regional organizations are established as a way to liberalize markets in the global competition for FDI, this mechanism is likely to positively affect the similarity of agreements in place as well. Simmons and Elkins (Simmons and Elkins 2004) and Elkins *et al.* (2006) found the rival policies of economic competitors to be a strong influence on the decision in favour of adopting liberalization policies.

We approximate this particular mechanism of diffusion by drawing on the concept of “structural equivalence” (Burt 1987). Structural equivalence models assume that it is position rather than direct ties that triggers diffusion. It is “the imitation of the behaviour of others who are in a similar position in the social space, but not necessarily others with whom the potential adopter communicates” (Valente 1999: 14). We assume that states that are structurally equivalent with regard to their economic position (i.e. their level of development) or their power position in the international system develop similar regional organizations in a competitive bid for survival. To capture specifically the horizontal effects arising from competitors (and not just similar reactions by similarly positioned states to external globalization pressures), we assume that competition is driven by the FDI inflow to a regional organization as compared to its competitors.

Soft Coercion

Rational material theories expect actors to adopt institutional designs that they would otherwise not accept if these institutions and policies are linked to specific resources that positively alter the cost–benefit analysis of actors. The adoption of institutional designs might be costly to implement, for example, but the material incentives associated with them significantly offset these costs.

In the case of European enlargement, EU conditionality has provided a key incentive for states wanting to become members of the EU to change their domestic structures and to implement EU regulations. A similar process might be what leads other regional organizations to adopt institutional designs from elsewhere. The EU has implemented programme activities for many regions outside of Europe and foresees considerable amounts of financial support being given to regional integration around the globe (Farrell 2005, 2009; Lombaerde and Schulz 2009). The EU has supported regional economic integration efforts between the group of African, Caribbean and Pacific states (ACP), the MERCOSUR in Latin America and many regional organizations in Africa. Since 2003 it has also been providing assistance to the ASEAN (Martin 2009). Gray and Slapin (2012) show that regional organizations outside of Europe change their institutional structure in line with requirements articulated by the EU. These programme activities are different from the ones provided by the UNCTAD, WTO or the OECD, as the EU is an important trade partner and has – via market access offered – greater leverage over the states that it does business with.

So far, it has been shown that diffusion matters for the design of regional organizations. Moreover, it has been shown how diffusion matters. Through various ‘diffusion channels’ or mechanisms that depend on information, direct ties, legitimacy, or position. The next section provides an empirical illustration based on the spread of European style regional courts.

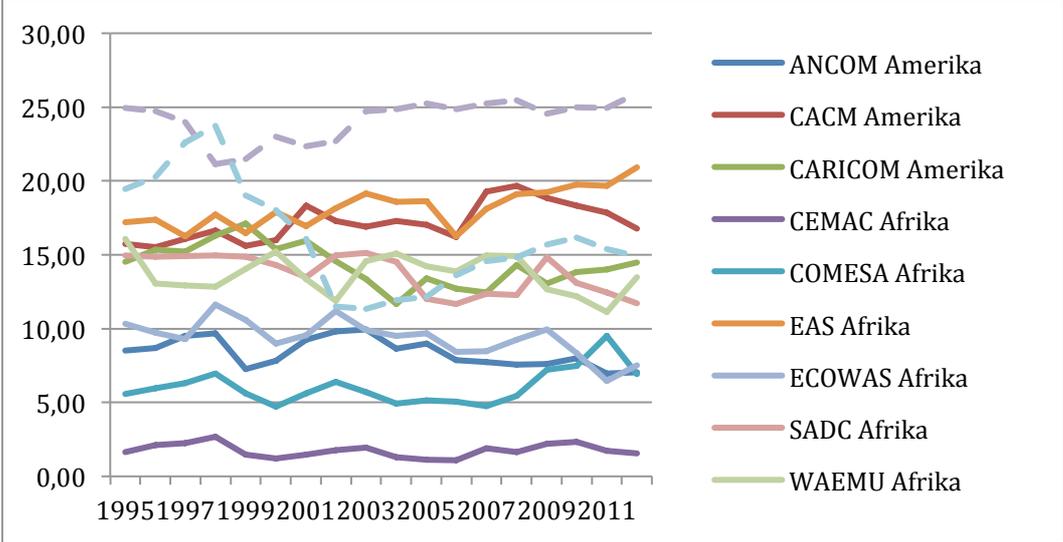
Case studies: Why are there EU-style regional courts in Latin America and Africa, but not in Southeast Asia?

In the past two decades, dispute settlement mechanisms have virtually proliferated. A surprising feature concerns the spread of regional courts among formal regional organizations that emulate the European Court of Justice (ECJ). According to Karen Alter, there are about 11 institutional copies of the ECJ. These are easy to recognize because of their distinct jurisdiction and trigger mechanisms. They are distinguishable from other international courts by their compulsory jurisdiction, the access of individuals to the court and, most importantly, by their embedded approach to making law effective: “European style ICs exist where international legal rules are part of national legal orders, and where national and international judges mutually converse about the application of these rules in concrete cases.” (Alter 2012: 135)

If we look at the regional organizations who have adopted an EU style court in Latin America and Africa, it becomes apparent that an explanation emphasizing the functional demand for a regional court as dispute mechanism fails to explain the adoption pattern. A functional explanation would argue that a court might be associated with higher intra-regional trade. Higher exchange might lead to more disputes and therefore require a more legalized dispute settlement mechanism. Yet, if we look at the levels of intraregional trade, it becomes apparent

that the levels of trade vary widely. It is ASEAN, which is integrating along the lines of the EU but has not adopted a EU style court that has the highest level of intraregional trade. Some regional organizations, trade primarily with members outside their region, such as COMESA or the Andean Community, where intraregional trade accounts for less than 10 percent of overall trade.

Figure 2: Intra-regional trade of 10 economic communities in Latin America, Africa and Asia



Source: IMF Trade Statistics, various years.

On closer inspection, however, an interesting variation becomes apparent that is not an issue of attention in Alter’s (2012) studies of European style courts. The spread of European style courts is actually quite limited, namely to three economic communities in Latin America, and six in Africa. It does not reach beyond these two regions outside of Europe, and in fact, remains absent in Asia. While this might not come to a surprise for area specialists, for other approaches this absence is puzzling: ASEAN members have declared their willingness to establish an ASEAN Economic Community ‘along the lines of the European Community’ (Jetschke and Murray 2012) but they have not established nor even seriously considered an European style court. What explains this variation? When do states wishing to establish an economic community similar to that of the EU decide also to establish a community court? What are the factors influencing this decision? And even more generally: When do members of regional organizations consider adopting institutional designs from other regional organizations and when do they neglect them?

Figure 1: Distribution of EU style regional courts

Regional EU style courts

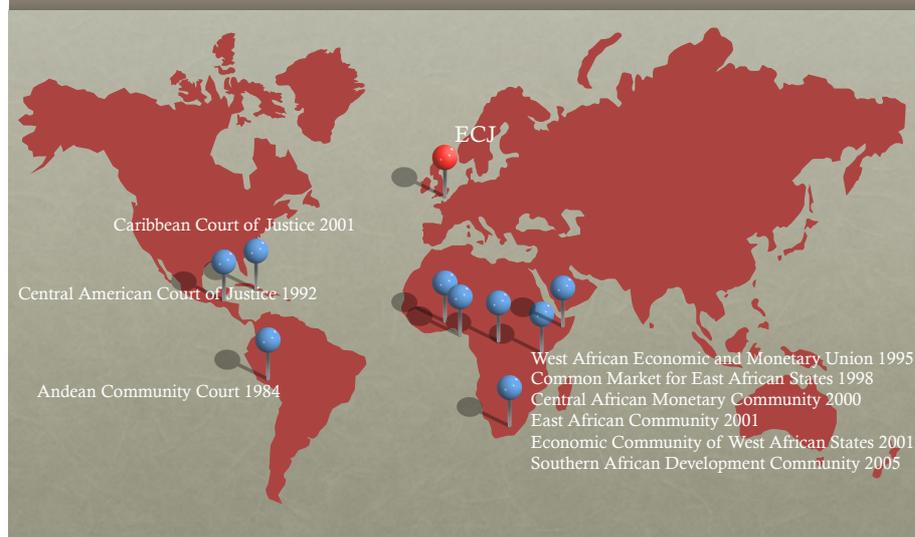


Table 1: EU style international courts (IC) in Africa and Latin America

Economic Community	Court (year of establishment)	
	Yes	No / Other
ECJ	X (1952)	
Andean Community (AC)	X (1984)	
Central American Court of Justice (CACJ)	X (1992)	
West African Economic and Monetary Union (WAEMU)	X (1995)	
Common Market for East African States (COMESA)	X (1998)	
Central African Monetary Community (CEMAC)	X (2000)	
East African Community (EAC)	X (2001)	
Caribbean Community	X (2001)	
Economic Community of West African States (ECOWAS)	X (2001)	
Southern African Development Community	X (2005)	
ASEAN Economic Community		Mixed EU/WTO style dispute settlement (2008)

Source: Modified table, as in Alter (2012: 139)

Karen Alter explains the set-up of courts by what I have referred to above as ‘social learning’:

“The best I can say by way of explanation is that the European model appears to supporters as a way to promote compliance with the law and perhaps spur integration through law. Pro-integration advocates tend to lobby for ECJ style courts, making it fairly easy to find official and unofficial proposals for ECJ style ICs in many if not most regional systems (...) My studies of the Andean and ECOWAS systems suggest that governments may be more easily convinced to create formally binding oversight mechanisms when they want to signal a heightened commitment to market integration.” (Alter 2012: 146)

Learning is triggered according to Alter in a situation in which member states of a potential economic community want to ‘signal’ heightened integration and therefore look for models that provide effective solutions. In another study, Alter et al (Alter *et al.* 2012) explain the adoption of an EU style court by learning from policy failure mediated by direct ties. Member states of the Andean Community adopted a regional tribunal, because their earlier integration efforts were undermined by the judicial activities of domestic interest groups who filed suits against the integration decisions of political leaders of the Andean Community. So initially, there was a functional demand for a legally binding dispute settlement mechanism whose rulings would have direct effects on member states. Ultimately, the decision for an EU style court was facilitated by the expertise of a research center which recommended taking the ECJ as a model (Alter *et al.* 2012: 643-45).

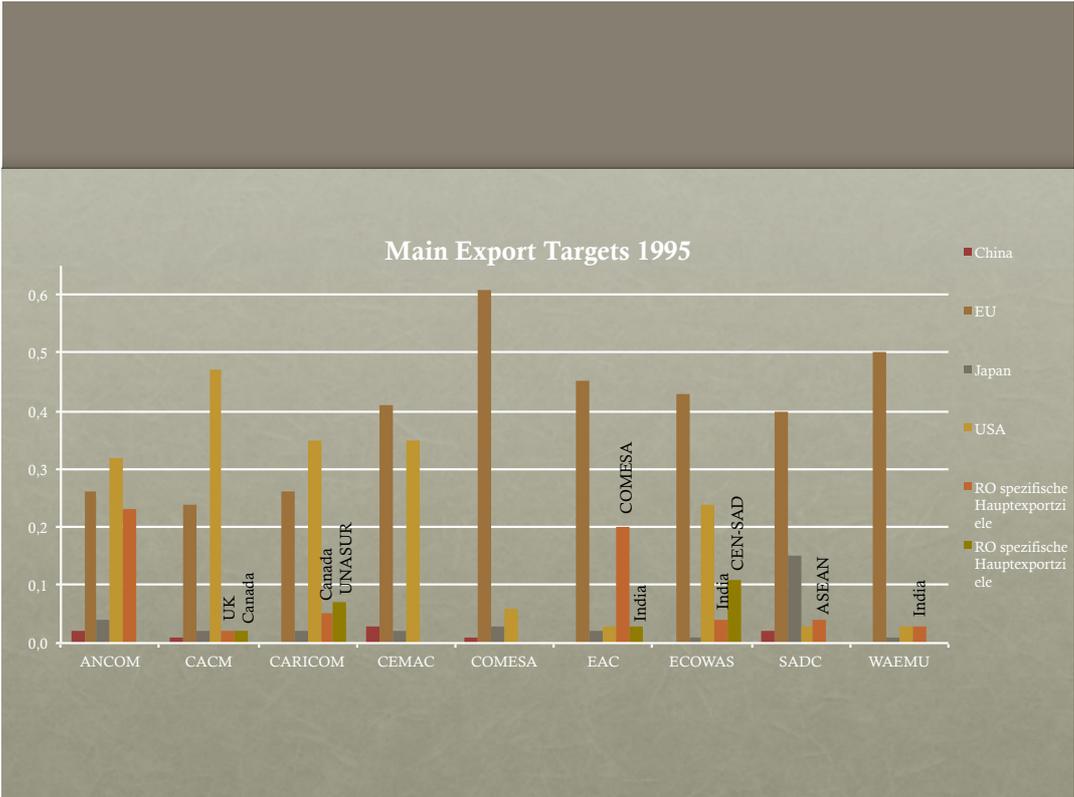
There are numerous statements by policy-makers of African regional organizations who confirm Alter’s proposition that the main motivation to establish a regional court is heightened commitment to regional integration. For example, the establishment of the East African Court of Justice was justified by the Presidents of Tanzania and Kenya, Benjamin Mkapa and Daniel Arap Moi, by the need to push regional integration further. Together with an East African regional assembly the court constituted “important building blocks for the revived community.” The East African Community had ceased to exist in 1977 (‘Tanzania, Kenya push for regional economic integration’, Xinhua General News Service, December 9, 2001). Other justifications link the regional court to the promotion of human rights and democratization.

While process tracing of the causal mechanism behind the establishment of the Andean Community Court is highly instructive, the overall picture of the spread of regional courts raises an important question: Why does the ECJ remain limited to Latin America, more precisely Central America (with the Central American Common Market, the Caribbean Community and the Andean Community) and does not spread to other regions facing similar integration challenges? Thus, the two key questions are: why does the ECJ spread outside of Europe, and why is it concentrated in Africa and Latin America?

In the following, it will be argued that the diffusion of the ECJ is determined not only by earlier policy failure. Learning as a strategy of optimizing policy remains an important diffusion mechanism to explain spread, but it does not explain why the ECJ is considered in the first place, and it does not explain why the learning experience does not spread further. It is argued here that the direct ties constituted partly by the experience of colonial domination and resulting in a high dependence on the EU as export target explains why the ECJ is considered in the first place. The concentration of regional courts is then explained by

competition. It spreads among similarly positioned regional organizations by a competitive emulation effect.

Figure 3 displays the shares of exports of the major external trade partners of each regional organization under consideration. The year 1995 has been chosen because it precedes the establishment of regional courts in Africa. Clearly apparent is the high trade dependence of African regional organizations on the EU as major export target (starting with CEMAC and moving to the right). Export to the EU constituted between 40 and 60 percent of all exports of the African groupings in 1995. The Latin American cases display a lesser trade dependence. Here, the US is the target of most exports. Nevertheless, the EU is still a major export partner.



The graphic also provides some visual evidence of the competitive pressures among regional groupings in Africa as well as Latin America. Not only do they export to similar destinations, but they also export similar goods.

Why no EU style court in Asia?

The preview section emphasized two key factors for the adoption of explanation becomes more plausible against the experience of ASEAN. Like the African economic communities, ASEAN members also decided to revamp their institutional design. The Asian Financial Crisis provided the external shock triggering a search for better models of economic integration. In 2001, members for the first openly indicated that they were considering the European Community as an integration model (Jetschke 2010; Koh 2000; Yeo 2008). In 2003 they decided to establish an ASEAN Economic Community along the lines of the EU, with four economic freedoms at its center (Plummer 2006), and in 2007, the official blueprint was issued (ASEAN 2007).

A series of crises and serious economic competition by China and India ultimately triggered the overhaul of regional institutions, making the EU a model worthy of consideration (Jetschke and Murray 2012; Ravenhill 2008). A report pointing out that ASEAN was losing in competitiveness relative to India and China persuaded hesitators in the group of more fundamental changes. There slowly emerged a consensus that ASEAN had to increase its institutionalization. Malaysia, Singapore, Thailand, a democratic Indonesia and pro-active SGs supported by ASEC became the key drivers behind ASEAN reforms. An EU sponsored technical assistance program (APRIS) provided the methods and institutional capacity to implement these reforms.

Yet, in contrast to the African and Central American economic communities, ASEAN did not adopt an EU style court, even if they reformed their dispute settlement and legalized it. ASEAN members chose a different settlement procedure. The AEC foresees a mechanism to resolve complaints (ASEAN Consultation to Solve Trade and Investment Issues (ACT) modeled after the EU's SOLVIT mechanism) and on AEC-related operational problems and mediation services for resolving disputes (ASEAN Compliance Body (ACB)) modeled after the WTO. The mixed panel system consisting of a professional arbitration panel, a political decision-making body represented by the Senior Economic Officers Meeting (SEOM) and the Council of Ministers of the Economy as appellate body has been modified. The appellate body was replaced by an Organ of Appeal, composed of professional experts and deciding on the basis of law.

Data on ASEAN's main export partners provides a first explanation for why ASEAN members did not consider a court. Compared to Africa and Latin America, ASEAN's portfolio of major trade partners is much more balanced. China, Japan, the US and the EU make up ASEAN's major trade partners, with each accounting for a fairly similar share of trade. Hence, the trade dependence observable in Africa does not exist in Southeast Asia.

Second, unlike in Africa and in Latin America, there do not exist other regional economic communities with which ASEAN needs to compete. While it sees itself in competition with China and India, the nature of these economic competitors is much different from ASEAN. ASEAN also did not need the ECJ to signal a commitment to human rights. It established an alternative human rights mechanism, the ASEAN Intergovernmental Commission on Human Rights to signal this commitment.

Conclusion

This paper has made two key arguments: First, the diffusion of institutional designs among regional organizations is a serious empirical phenomenon that is neglected in existing studies of regional integration and comparative regionalism. This paper has outlined the concept of diffusion and the key mechanisms accounting for similarities among regional organizations. Second, the paper has illustrated the argument by providing an explanation for the spread of EU style courts in Africa and Central America. Here, the interesting phenomenon is that the ECJ has diffused to outside of Europe, but that its spread remains concentrated to two regions. A comparative study of the Latin American and African communities with the ASEAN Economic Community has found that trade dependence triggers diffusion and that competition among similarly positioned actors heighten it, leading to a concentration of economic communities with EU style regional courts.

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