Abstract
This paper will critically assess Ian Manners’ widely discussed concept of ‘Normative Power Europe’, with specific reference to the EU’s promotion of human rights both internally and externally. It will analyse Manners’ three-fold typology of principles, actions and impact with regard to EU-Russia relations, EU-ASEAN relations and internally within the Union. More specifically, it will argue that the EU has double standards in its internal human rights policies, and prioritises strategic interests over human rights externally, to the detriment of its supposed normative identity.

Keywords: Normative power Europe, EU foreign policy, human rights, strategic interests, double standards.
Introduction

Ian Manners coined the phrase ‘Normative Power Europe’ (NPE) in 2002 and since then it has received wide attention and analysis in academic and policy debates with regard to the European Union’s (EU) foreign policy (Forsberg 2011: 1184). A key tenet of NPE is respect for human rights, and therefore this paper will seek to assess the EU’s internal and external policies vis-à-vis the promotion of human rights to establish a comprehensive analysis of this concept. More specifically, this paper will evaluate the promotion of human rights externally towards a large power in Russia, and a smaller power in the Association of South East Asian Nations (ASEAN), since both have had issues surrounding respect for human rights in the recent past, notably in the Chechen conflict and concerning the Myanmar military regime respectively. This paper will also assess the internal policies of the Union with regard to human rights, since an external promotion of human rights is only justified and effective if the EU is seen to be ‘living by example’ (Katsumata 2009: 634). Therefore, this paper will seek to answer the following questions:

• To what extent does the EU pursue strategic interests over human rights in its external policies?

• Does the EU have double standards in terms of its internal human rights policies, and if so, what is the impact on Manners’ normative power thesis?

It is important to recognise that the concept of NPE is ambiguous; there are many different understandings and interpretations creating confusion as to what the term means (Manners 2009a: 1). For example, Forsberg cites how:

for De Zutter (2010), an actor is a normative power if it just diffuses its norms in the international system; [whilst] Sjursen (2006) maintains that the concept of NPE is too indiscriminate if we do not provide a conceptual apparatus that allows us to distinguish acceptable and legitimate norms (2011: 1187).

Moreover, the universality of human rights in a culturally diverse world are, and will remain, contested. Therefore, due to word constraints and to avoid charges of relativism, it is not the aim of this paper to debate the definitions of either normative power or human rights. Instead,
it seeks to assess and investigate the concepts as outlined by Manners (2008a, 2009a, 2009b). Manners argues that “a normative power perspective attempts to understand and judge the ideational aspects of the EU by studying the EU’s principles, actions and impact in world politics” (2009b: 786). Additionally, Manners (2009a: 2) argues that legitimacy is provided to human rights by international conventions or treaties that have global recognition, such as the Universal Declaration of Human Rights (UDHR).

Using such definitions, this paper will argue that Manners’ NPE thesis is deeply problematic with regard to the promotion of human rights. Strategic interests, notably economic and security-based, will be identified as being pursued in the EU’s external policies at the expense of human rights. Moreover, despite the creation of a High Representative of the Union for Foreign Affairs, the EU’s external policies will be recognised as incoherent because they are dominated by member states that each have their own national interests to pursue. Furthermore, it will be argued that the EU suffers from a gap between rhetoric and practice with regard to human rights standards within the Union. Despite the legal force given to the Charter of Fundamental Rights in 2009, there appears to be a human rights crisis within the Union, highlighted by policies towards asylum and migration, the approach to counterterrorism and the treatment of minorities. These internal policies will be argued to be detrimental to the normative power thesis more generally, since double standards can be criticised by external actors and inhibit the EU’s normative ability to convince the international community of the universality of the values they are seeking to promote.

This paper will be structured as follows. Chapter 1 will outline Manners’ concept of normative power using the tripartite framework of principles, actions and impact, providing examples relating to human rights promotion. The ‘actions’ and ‘impact’ sections of the typology will be applied to the EU’s external policies towards Russia and ASEAN in Chapters 2 and 3, whilst the principles section of the typology will be critically assessed with regard to the EU’s internal policies in Chapter 4. Additionally, Chapter 1 will outline the theories of neorealism and liberal intergovernmentalism, as these will be used to assess the impact of strategic interests on the EU’s commitment to human rights in its relationships with Russia and ASEAN.

Chapter 2 will assess the actions and impact of the EU’s human rights promotion in its relationship with Russia, arguing that although the EU has adopted actions that Manners
would consider normative, their impact remains limited as Russia’s human rights standards remain questionable. It will then discuss what has prevented the EU from advocating human rights promotion more strongly in the relationship; using neorealism and liberal intergovernmentalism to argue that energy and security concerns post September-11th have been prioritised over human rights by the Union and its member states.

Chapter 3 will then assess the actions and impact of the EU’s human rights promotion towards ASEAN, arguing that the region still appears committed to values of non-intervention in internal affairs and sovereignty. The chapter will then use neorealism to argue that the EU’s commitment to the importance of human rights conflicts with its economic interests in the region, by examining the EU’s Free Trade Agreement (FTA) negotiations with ASEAN. The use of sanctions towards Myanmar will then be analysed from a liberal intergovernmentalist position to argue that they have been weakened due to member states’ commercial interests, further reflecting the prioritisation of economic interests over human rights. However, this section will conclude by accepting that human rights progress is hampered by the different values within the region, and therefore the EU’s internal policies must be consistent and coherent to convince regions such as ASEAN of their merit.

Therefore, chapter 4 will investigate the commitment to the ‘principles’ section of Manners’ framework with regard to internal policies in the EU. It will not apply any theoretical frameworks per se, as its main aim is to assess the problems with the normative power thesis if the Union itself does not ‘live by example’. It will analyse the EU’s asylum policies, the approach to counterterrorism, the treatment of minorities and the constitutional changes introduced by the Lisbon Treaty to strengthen the EU human rights framework, arguing that the lack of coherence and consistency in member state human rights policies and the lack of a strong mechanism to enforce human standards within the Union leaves them open to criticism of double standards.

1. Normative Power and Human Rights: A Theoretical Overview
The EU’s normative power, with its roots in social constructivism, is represented as the way in which the EU is able to spread its core norms and values beyond its own borders (Manners 2002). Looking beyond notions of ‘Civilian Power Europe’ and ‘Military Power Europe’, Manners argues that the distinctive feature of this normative power is the “ideational impact of the EU’s international identity”, which is able to “shape conceptions of ‘normal’ in
international relations” (2002: 239). Peace, liberty, democracy, the rule of law and respect for human rights are identified as the five core values which are central to the EU’s normative dimension and are argued to be promoted in the rhetoric, discourse and action of the EU internally and externally (Manners 2002: 242-243). The value of respect for human rights will provide the focus for this paper, since it lacks space to analyse all of the core values identified, and will now be outlined in relation to the tripartite analytical framework used by Manners.

The first part of the tripartite analysis seeks to examine the “constitutive principles of the EU and how these become promoted as aims and objectives of the EU in world politics” (Manners 2008a: 55). These principles should be legitimate, coherent and consistent if the EU is to be recognised as “living by example” (Manners 2008a: 56). Manners argues that legitimacy of principles is achieved if the EU draws upon the principles that are acknowledged within the United Nations (UN) system to be universally applicable, including in the UN Charter, the UDHR, and the European Convention on Human Rights (ECHR) (Manners 2009a: 2-3). Coherence is the extent to which differing principles, and the policies that promote them, are non-contradictory (Manners 2009a: 2), whilst consistency means ensuring that the EU does not have double standards in its internal policies and the values it seeks to promote (Manners 2008a: 56). Coherence and consistency in the promotion of principles externally is intended to come through the post-Lisbon position of a High Representative (Manners 2009a: 3).

Manners (2008a: 48) argues that principles of human rights promotion are enshrined in both the discourse used by the EU and its actors, and EU legislation. Similarly, Diez (2005: 635) argues that values have become an important part of the construction of identity within the EU. Article 2 of the Treaty on the European Union (TEU) outlines the EU’s commitment to Manners’ NPE, stating:

> the Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the member states in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail (European Commission 2010: 7).
In addition, Article 6 of the TEU incorporated the ECHR into the EU’s legal framework; whilst the Charter of Fundamental Rights, which gained full legal effect under the Lisbon Treaty, has further enshrined human rights into the legislative framework of the EU (Wiessala 2006: 58-60). In addition to such legislation, respect for human rights has become part of the EU’s discourse. For example, the European Commission President, José Manuel Barroso, having read Manners’ normative power thesis stated “in terms of normative power, I broadly agree: we are one of the most important, if not the most important, normative powers in the world” (Peterson 2007).

In addition to human rights incorporation into its official discourse and legislation, the EU argues that it seeks to promote similar values in its external actions (Crawford 2002: 911). Article 21 of the TEU states that:

> the Union’s action on the international scene shall be guided by the principles which have inspired its own creation, development and enlargement, and which it seeks to advance in the wider world...[including]...the universality and indivisibility of human rights and fundamental freedoms (European Commission 2010: 7).

Therefore it appears that the EU is committed to fulfilling the principles section of Manners’ framework with regard to human rights.

The second part of Manners’ framework looks at the actions taken to promote the aforementioned principles, including “persuasion, argumentation and the conferral of shame or prestige rather than coercion or solely material motivation” (Manners 2009b: 793). Persuasion and argumentation can include “constructive engagement, the institutionalisation of relations, and the encouragement of multi-lateral and pluri-lateral dialogue between participants” (Manners 2009a: 3); implementing prestige may be in the form of public support; whilst shame on participants may include open condemnation or symbolic sanctioning (Manners 2009a: 3).

Manners argues that the promotion of the EU’s principles is most effective through engagement and dialogue, which can be found in regular patterns of communication with third partners, including “through accession procedures, stabilisation and/or association agreements, the European Neighbourhood Policy, African, Caribbean and Pacific relations,
and Generalised System of Preferences ‘Plus’ arrangements” (2009a: 3). For example, the ‘Copenhagen Criteria’ defined the criteria required for accession into the Union and included institutions to preserve human rights (European Council 1993). The EU had the power to delay accession if reforms were not up to standard, and through continued engagement and dialogue the EU was able to help Eastern European countries transform themselves from dictatorships to liberal democracies with better human rights records (Noutcheva 2008: 29).

However, Manners (2009a: 3) does acknowledge that the promotion of principles includes wide-ranging policies to form a comprehensive approach to challenges in world politics. For example, as of 1995 cooperation and association agreements with third countries have been made conditional on respect for human rights, as aid or trade preferences may be suspended or terminated if there are any violations of human rights (Smith 2008: 128-129). Moreover, the promotion of human rights has been the focus of the EU’s autonomous sanctions (Brummer 2009: 194). Therefore, although Manners argues dialogue is the most effective method of diffusing the EU’s norms, it is not the only type of action he acknowledges for promoting human rights.

The third part of Manners’ tripartite analysis is to assess the impact of the EU’s principles and actions; specifically whether “policies change and shape the partners and targets of such actions” (Manners 2008a: 58). Manners argues that impacts are “normatively sustainable if they lead to socialisation, [partnership] and ownership for the involved parties” (2009b: 796). Socialisation is recognised as a process of engagement, debate and understanding; partnership is when institutional relationships are formed from the actions taken; and ownership “involves practices of joint or local ownership as a result of partner involvement and consultation” (Manners 2009a: 3). Local ownership is argued to be crucial in ensuring that relationships are ‘other empowering’, as opposed to self-empowering actions that Manners (2008a: 59) claims are apparent in a lot of foreign, development and humanitarian policy.

Manners’ (2002) study into the EU’s pursuit of the international abolition of the death penalty reflects how the principle of human rights promotion has been actively pursued in EU foreign policy and how it has impacted on third parties. By raising the issue in the international arena on a bilateral and multilateral basis, the EU strongly influenced decisions to abolish the death penalty in a number of states, including Poland, Ukraine and Turkey.
“exercising normative power as it seeks to redefine international norms in its own image” (Manners 2002: 249–53). It is argued that since international powers such as the United States and China do not have the same stance on the death penalty, the EU’s unique normative identity with relation to human rights is reflected in this instance (Smith 2008: 125).

Subsequent chapters of this paper will investigate whether the EU is committed to the principles of the tripartite framework in its external foreign policy, by analysing actions taken by the EU and the impact of such actions in their relations with Russia and ASEAN, before assessing the EU’s commitment to the principles section with regard to internal policies. However, with human rights problems still apparent in Russia and the Asia-Pacific region, it will be argued that the EU’s actions do not always result in policy impact. Therefore, since this paper is assessing the role of the EU’s strategic interests in inhibiting actions towards the promotion of human rights, the theories of neorealism and liberal intergovernmentalism will be applied to the EU-Russia and EU-ASEAN relationships, as both are useful for analysing strategic interests (Smith 2008: 11). This paper will now provide an overview of these theories.

In contrast to Manners’ emphasis on norms and identity affecting the outcome of the EU’s policies, neorealism argues that values are a weak variable that are unable to influence systemic structures, as states coexist in an anarchic international system primarily seeking relative or absolute gains (Jorgensen 2006: 51). Whilst human rights may be considered an important aspect of EU foreign policy, those aims are not alone in foreign policy and normative goals are argued to be constrained by the structural dynamics of the international system (Waltz 2004: 5). Therefore, Hyde-Price argues that the EU’s foreign policy will be primarily focused on rational decisions that pursue “political and strategic security, and...[the] economic well-being of its member states” (2008: 32).

Moreover, Hyde-Price argues that the EU has a great interest in shaping its external environment to ensure stability and security, and therefore the EU’s “external policy cooperation constitutes a collective attempt at milieu-shaping” (2006: 226). Zielonka is more critical, arguing that in spreading its norms and values, the EU acts as an imperial power as it attempts to “impose domestic constraints on other actors through various forms of economic
and political domination”, for example, by convincing others to impose regulatory standards that would favour European businesses (2008: 480-481).

Although Hyde-Price does acknowledge that values and ethics are pursued in foreign policies, these motives are argued to be “‘second-order’ concerns: they rank below national security and other fundamental national interests in importance” (2006: 222-223). From a neorealist perspective, if values conflict with strategic interests or the balance-of-power in the international system, then they are compromised. For example, it is argued that the abolishment of the death penalty was pursued since it had little impact on trade or the balance-of-power (Hyde-Price 2006: 223).

However, neorealism has been criticised for neglecting the complex process of decision-making in the formulation of the EU’s foreign policy, by assuming the EU is a unilateral actor (Smith, 2008, 11). A more comprehensive theoretical account requires both an analysis of domestic pressures and the bargaining that takes place in the decision-making process, in addition to the neorealist framework outlined above (Hyde-Price 2006: 219). Therefore, Moravcsik’s (1993, 1998) theory of liberal intergovernmentalism will also be used as it is regarded as a mainstream approach for assessing domestic policy preference formation and assessing bargaining (Verhoeff and Niemann 2011: 1272).

Liberal Intergovernmentalism, like neo-realism, views states acting as rational actors pursuing strategic interests. However, in contrast, it recognises that decision-making at the EU level must cater for the interaction between state actors. EU policy is argued to be a result of national pressures that influence the member state’s actions, combined with bargaining at intergovernmental negotiations (Moravcsik 1993: 517). National preferences are formed by both geopolitical interests, such as perceived threats to national sovereignty, and economic interests, which often “reflect the imperatives induced by interdependence and the increase in cross-border business opportunities, and mirror primarily the commercial interests of powerful economic producers” (Verhoeff and Niemann 2011: 1273). Since an important objective of governments is to retain office, they require the support of domestic actors including voters, businesses and interest groups, resulting in policy objectives that respond to the different pressures from such actors (Moravcsik 1993: 481).
National preferences are argued for and produce bargaining at the intergovernmental level, with the desire to reach a common stance often producing compromises between member states (Thomas 2009: 250). For Moravcsik, the outcomes of such bargaining often reflect “the relative power of states; those who [gain] the most economically from integration [compromise] the most on the margin to realise it, whereas those who [gain] the least...[impose] conditions” (1998: 3). Moreover, whilst Pollack (2006: 50) states that multilateral institutions affect rational actors at the bargaining stage, liberal intergovernmentalism argues that “institutions are ‘thin’ in the sense that they are granted hardly any explanatory power over state preferences and policy outcomes; instead, they are mainly seen as a platform for pursuing member states’ national interests” (Verhoeff and Niemann 2011: 1282).

Having outlined the theoretical frameworks that will inform the discussion in subsequent sections, this paper will now assess the EU’s promotion of human rights vis-à-vis Russia.

2. EU-Russia Relations
This chapter will analyse the relationship between the EU and Russia, since examinations of the relationship “are absent in most renditions of the normative power thesis” (Wood 2011: 249). This chapter will initially assess the ‘actions’ and ‘impact’ sections of Manners’ three-fold typology; providing an overview of the engagement and dialogue of the relationship and argues that the EU has not changed Russia’s actions towards human rights. Secondly, it will apply the theory of neorealism to assess the relationship, arguing that the EU’s dependency on Russian energy and the security dilemmas in the post September-11th environment have inhibited the extent to which the EU can pursue its normative agenda towards Russia. Thirdly, this chapter will apply a liberal intergovernmentalist method of analysis to the relationship, arguing that the dominance of the large member states and their bilateral relationships with Russia prevent a coherent EU policy towards human rights promotion with Russia.

The importance of upholding human rights standards in the EU-Russia relationship is referred to in most documents concerning the relationship (Panebianco 2006: 135). For example, the Partnership and Co-operation Agreement (PCA) signed in 1994 by the EU and Russia established political dialogue in the relationship and emphasised respect for
democracy and human rights, containing a conditionality clause that meant “a breach of...human rights can prompt a unilateral response from one partner” (Francis 2008: 321).

Moreover, biannual EU-Russia human rights consultations have been in place since 2005, encouraging dialogue on human rights issues by bringing together government officials from both parties; whilst documents such as the 2003 Wider Europe Initiative and European Security Strategy also “repeatedly stated [the EU’s] intention to promote...respect for human rights, including minority rights” towards Russia (Fernandes 2007: 37). Therefore, it is apparent that the EU has attempted to engage and persuade Russia with regard to the principle of respect for human rights, reflecting the ‘action’ section of Manners’ framework. However, human rights standards in Russia are still questionable.

Russia has assumed some compliance with international human rights norms, for example, it ratified the ECHR (Wood 2009: 125). However, as of January 2012, Russia had over 40,000 pending applications before a judicial formation to the European Court of Human Rights (ECtHR) (ECtHR 2012: 5). Moreover, non-government organisations, including Amnesty International and Human Rights Watch (HRW) continued to highlight human rights violations within Russia as the state has moved into a more authoritarian regime than the previous decade (Wood 2011: 249-250). HRW have argued that the:

harassment of human rights defenders continues and the working climate for civil society organisations and activists remains hostile. Impunity for past abuses and murders of activists in the North Caucasus is rampant. Russia’s cooperation with international institutions on human rights appears perfunctory (2012a: 479).

As the HRW Report alludes to, human rights abuses continue in Chechnya, despite a supposed end to the Russia-Chechen conflict in 2009. Fernandes argues that the EU’s stance on the Chechen conflict represents a ‘normative neglect’ since they have “accepted Moscow’s view, treating Russia as a partner... [and] even during times of crisis, Putin has been received by EU leaders as a special guest” (2007: 38). Moreover, with regard to the EU’s human rights consultations with Russia, HRW argue that they continue “to be an ineffective tool for advancing human rights” (2012a: 486), whilst Francis argues that they have “been a remedial tool incapable of improving the general human rights situation or helping in the fight against impunity in the Chechen Republic” (2008: 329).
Therefore, despite normative actions, the EU has not been able to change or shape domestic human rights policies in Russia. This chapter will now analyse this limited impact by applying neorealism to the relationship, particularly its focus on security and economic interests.

Russia is the third largest trading partner of the EU (Europa 2012), and economic factors, notably in the field of energy dependency, have played a dominant role in determining the EU’s human rights policies vis-à-vis Russia. In absolute terms, Russia appears extremely dependent on the EU, since the EU-27 represents 43.1% of Russia imports, 49.4% of exports and 47.1% of major trading partners (DG Trade 2012: 3-4). In contrast, Russia consists of only 10.6% of the Union’s imports, 6.4% of its exports and 8.6% of the EU’s major trade partners (DG Trade 2012: 3-4). However, Russia’s dependence on the EU’s markets is balanced by the content of its exports, with fuel and mining products representing 79.7% of Russia’s exports to the EU (DG Trade 2012: 5). Thus, Russia has been able to use energy security as a geopolitical tool, since ensuring a stable energy producer:

became the key goal of EU policy towards Russia in the late 1990s, and has dominated the agenda as oil prices rocketed after 2001 and other main external sources for the EU such as the Middle East and Algeria have become more unstable (Hughes 2007: 86).

The EU has attempted to diversify its energy supply by improving relations with the Central Asian republics, however, such nations are argued to have worse records on human rights than Russia (Romanova 2009: 60), further undermining the EU’s normative agenda.

The EU’s reliance on Russian energy has inhibited the progress of its human rights promotion; Roth argues that “Russia’s energy reserves only reinforces their ability to resist what meagre pressure is directed their way while discouraging other governments from even exerting such pressure” (2007: 3). Moreover, during the Second Chechen War in 1999-2000, Haukkala argues that the EU chose to enforce only modest sanctions on Russia because of its dependency on Russia’s oil and gas exports, despite having stronger options available including “selective trade and financial embargoes that would have hampered Russia’s ability to wage a war in Chechnya” (2009: 1767).
Similarly, Fernandes (2007: 37) identifies how after Putin’s re-election in 2004 normative goals remained secondary, as the EU was focussed on pushing for Russia’s World Trade Organisation (WTO) accession in order to make Russia a more economically attractive partner. The EU recognises how they have supported the Russia's WTO membership application since the start of the process in 1993 to its approval in December 2011, arguing “the value of Russia’s WTO membership for both sides cannot be overstated” (Europa 2012). However, in the negotiations, Seppo and Forsberg have argued that the EU’s normative framework has not been effective since the “Russians understood that its WTO membership was more in the interests of the EU than in its own” (2009: 1820).

However, normative concerns were not completely neglected at the expense of economic factors during the negotiations. Zimmerman (2007: 826) recognises how the EU signed a deal with Russia in May 2004 to support Russian accession to the WTO, despite not achieving their preferred policy positions in terms of energy prices, and not reducing Gazprom’s, the state-controlled gas company, export monopoly. Zimmerman (2007: 826) argues that Russia agreed to sign the Kyoto protocol because of EU concessions in the negotiations, reflective of the Union’s normative concern for environmental issues. However, Zimmerman accepts that “nobody pronounced the word ‘Chechnya’ during the talks [and] human rights concerns were unimportant” (2007: 827).

In addition to economic interests, since September-11th international security concerns have become an important feature of cooperation in EU-Russia relations (Panebianco 2006: 137). Even before the attacks, the discourse of fighting international terrorism was used with regard to the 1999-2000 Chechen conflict, as Prime Minister Putin made a connection between ‘Chechen warlord’ Shamil Basayev and Chechens, and bin Laden and the threat of Islamic terrorism (Putin 1999). Since September-11th, Francis recognises how the attacks “made it easier to justify the use of force in the so-called struggles against terrorism all over the world” (2008: 326).

Therefore, the terrorism discourse has had a major impact on the EU’s approach towards Russian human rights violations, as Russia continued to argue that the Chechen conflict was “no different from internal separatist problems the EU faced... [and therefore] Russian measures were justified as an anti-terrorist campaign” (Forsberg and Herd 2005: 467). Consequently, Francis (2008: 326) argues that since September-11th, the EU Council has
avoided mentioning human rights in its direct encounters with Russia, reflecting how values have been sacrificed for security concerns. Moreover, security concerns in the relationship can be identified by the neorealist concept of milieu-shaping, as since the 2004 and 2007 EU enlargements, Russia now borders the Union. Therefore, with regard to human rights violations in Chechnya, neorealism would argue that due to its proximity to Russia, the EU did not want to provoke further instability on its external milieu by taking too critical a position.

Furthermore, with regard to the international system, Hughes (2007: 77) argues that a strong EU-Russia relationship can counter US hegemony, reflecting the neorealist idea of external balancing through alliances with other powerful states (Waltz 1979: 128). However, neorealism can be criticised in this regard for assuming that the EU prefers a multi-polar world, as the EU is argued to be committed to a multilateral world order, distinct from the unilateral methods deployed by the USA (Bretherton and Vogler 2006: 185). For example, the 2003 European Security Strategy specified the EU’s desire for the “development of a stronger international society, well functioning international institutions and a rule-based international order” (European Council 2003). Moreover, the EU’s major role in the WTO, the promotion of the Kyoto Protocol and the efforts to establish the International Criminal Court all reflect the EU’s preference for a multilateral international society (Bretherton and Vogler 2006: 185).

Additionally, neorealism is criticised for neglecting the complexities involved in decision-making at the EU level. Therefore, liberal intergovernmentalism will now be applied to consider the actions of member states with regard to Russia, assessing the domestic pressures on member states, the relative power of large member states and the effect of EU institutions. Fernandes argues that the EU’s *sui generis* nature inhibits the pursuit of normative goals towards Russia, since there “is no straightforward process whereby a bilateral member state problem with Moscow can be translated and tackled at EU level” (2007: 40). Despite the introduction of qualified majority voting into the Council, foreign policy decision-making remains subject to unanimity if member states feel that their national interests are threatened (Groenleer and Van Schaik 2007: 991). As a result of this decision-making process, Roth (2007: 17) has argued that obtaining consensus between member states results in lowest-
common-denominator policies, since if there is just one state that has “deeply felt parochial interests”, then an effective EU position can be blocked.

For example, large member states including Germany, France and Italy, have been labelled strategic partners of Russia (Leonard and Popescu 2007: 2), who maintain a “tradition of having their own Ostpolitik towards Russia” (Aalto 2006: 102). This position contrasts with other member states such as the three Baltic states, who are more likely to operate at the EU level on the Russian relationship (Fernandes 2007: 40) and support harsh EU statements about the human rights standards in Russia (Romanova 2009: 63).

These divergences are related to the national and domestic pressures member states are under. For example, although there is an EU demand to place common economic rules relating to energy policy vis-à-vis Russia, highlighted by the acceptance of a common energy policy proposed by the Commission (Wood 2009: 123), there are still divergences in practice. National energy situations within member states vary and subsequently so does the dependency on imports from states like Russia. Smith Stegen highlights this variety, citing how “Germany...receives over 40% of its gas from Russia, [and] Italy, France, and Greece...receive gas from Russia at 26%, 22%, and 70%, respectively” (2011: 6506).

Therefore, differing pressures within member states can affect the EU’s ability to obtain a common energy policy. Verhoeff and Niemann argue that in Germany, “the preferences of the domestic energy industry constitute one of the most important determinants of German energy policy...vis-à-vis Russia” (2011: 1278). It is argued that companies inform the government of their preferred policy positions who in turn often accommodate policy positions favourable to them, highlighted in the construction of the Nord Stream pipeline where “companies are said to have used their contacts in the Chancellery and the relevant ministries to gain support for their plans” (Verhoeff and Niemann 2011: 1279). These commercial interests may have an impact on human rights promotion, for example Roth argues that “as Russia’s most important and respected interlocutor, the German government squanders its influence by seeming to assume that achieving energy security...is incompatible with challenging Russia’s disturbing human rights record” (2007: 23).

Moreover, Russia has preferred operating bilaterally with member states including Germany, Italy, and France, as it feels that is quicker and more beneficial than the multilateral approach (Francis 2008: 334), since the EU is arguably incapable of adopting positions that contradict
the preferences of large member states such as France and Germany (Wood 2011: 252). Wood acknowledges how dominant member states can apply pressure on weaker members to ensure their policy objectives are pursued, citing “if Poland, Lithuania or Estonia protest about Russian coercion, Germany, France or the Commission remind them that this prevents a unified position” (2011: 252). Fawn argues that post-communist member states have been:

advocates of Chechen rights and of showing Russian abuses in dealing with the Chechen question...[stemming] in part from a genuine feel for the Chechen cause in its own right and almost certainly because they see the Chechens as similar victims of Soviet/Russian rule (2009: 1793-4).

However, their reduced influence as smaller member states has ensured that policies towards the Russia-Chechen conflict have remained pragmatic and on the terms of larger member states. The coherence of the EU’s human rights criticism of Russia is therefore deeply affected by the intergovernmental nature of foreign policy decision-making, recognisable as where there has been breaches of EU policy, “disavowals at Council-level remained to a large extent the exception rather than the rule” (Francis 2008: 334). Similarly, Haukkala argues that although collective disapproval of the Russian actions were made during the Second Chechen War, member states maintained “business as usual in their bilateral dealings with Moscow” (2009: 1767-68).

In addition to the disparity between large and small member states, institutions appear to be merely a platform for member states’ interests in the EU’s relationship with Russia. The European Parliament has criticised the prioritisation of terrorism over human rights, arguing that the mistakes of the Cold War era should be avoided, where dictatorships were supported providing they were against communism (Panebianco 2006: 138). Moreover, in 2003 both the European Parliament and European Commission echoed concerns about Russia’s policies towards Chechnya; the Parliament “asked the EU Council of Ministers to analyse the various existing peace plans in order to find an alternative to Moscow’s policy”, whilst the Commission argued that “the events in Chechnya raised ‘questions about Russia’s commitment and ability to uphold core universal and European values and pursue democratic reforms’” (Francis 2008: 328-329). Despite this pressure, under Italian Presidency at the November 2003 EU-Russia Summit, Prime Minister Berlusconi asserted that “in Chechnya, there has been terrorist activity that has produced many attacks against Russian citizens and
there has never been an equivalent response from the Russian Federation” (Francis 2008: 328), giving unrivalled support to the Russian regime. Whilst the Parliament pushes the normative agenda, it has the least ability to impact on relations with Russia (Romanova 2009: 62), as member states undermine policies and statements, instead prioritising their own preferred position.

In contrast, Pollack (2006: 50) has argued that “institutional constraints” within the EU can affect strategic decision-making. Verhoeff and Niemann (2011: 1271) argue that Germany, under the EU Presidency, did not adapt its behaviour to pursue national interests over the EU’s values. Instead, the German Presidency concentrated on building a common EU stance as a result of “its own expectations in terms of holding a successful Presidency and important norms attached to the office of the Presidency” (Verhoeff and Niemann 2011: 1281). Such a downplaying of domestic preferences reflects how the informal institution of the Presidency can affect policy positions on occasions and compete with domestic factors.

Moreover, the Lisbon Treaty has attempted to overcome intergovernmental bargaining and improve the coordination and coherence of EU foreign policy, by the appointment of Catherine Ashton to the position of High Representative of the Union for Foreign Affairs (Groenleer and Van Schaik 2007: 970). However, it is doubtful that a High Representative will be able to have much impact on policy decisions; the appointment of a relatively low profile, inexperienced person such as Ashton reflects the minimal power and gravitas that member states are willing to give up to her (Donnelly 2010: 19). Moreover, Timmins argues that despite the appointment, “as a paradoxical response to the post-Lisbon structures, Germany has continued to utilise the bilateral policy mechanism” (2011: 197). Therefore whilst liberal intergovernmentalism would accept that institutions at the EU level can have some influence on member states occasionally, Moravcsik’s assessment that institutions are ‘thin’ appears accurate in relation to the EU’s policies towards Russia.

In summary, it appears that the strategic interests of the EU have been prioritised over human rights concerns in the relationship. Neorealism reflected how the asymmetric interdependency regarding energy security and the fight against international terrorism have been prioritised over the EU’s commitment to human rights, and subsequently how the EU’s values in the relationship with Russia will concede to a “pragmatic partnership of interests” (Wood 2009: 125). Moreover, liberal intergovernmentalism recognised the differences between member
states and the problems of convergence on EU policy position towards Russia. As Youngs recognises, “the overall dynamics of EU energy strategy have been dominated by the propensity of member states to ‘break ranks’ and conclude bilateral deals that undermine both values-based foreign policy and European unity” (cited in Wood 2011: 253).

Having evaluated the EU’s relationship with a large nation in the form of Russia, the next section will assess the EU’s normative reach with regard to a smaller power in ASEAN, to establish a comprehensive analysis of the EU’s external actions.

3. EU-ASEAN Relations

This chapter will initially outline the EU’s actions and the impact of such actions towards ASEAN, arguing that whilst ASEAN has developed its own regional human rights frameworks, they remain committed to principles of sovereignty and non-interference in internal affairs. This chapter will then assess the reasons for such limited impact of actions, using neorealism to argue that the creation of an FTA between the regions has been prioritised by the EU, and that Myanmar represents a second-order concern for the EU, hence they are prepared to use sanctions on the regime. This chapter will then explore why sanctions towards Myanmar have been restricted, using liberal intergovernmentalism to assess the affect of member states commercial interests in the region, before recognising how the different values within the region hamper human rights progress, and the consequences for the EU.

Since its formation, ASEAN has developed its own identity, which includes core principles of “mutual respect for independence, sovereignty, equality, a unique national identity [and] non-interference in the internal affairs of other nations” (Manea 2008: 389). However, normative actions have been implemented; biennial ASEAN-EU Ministerial meetings (AEMM) between member state foreign ministers agreed to include human rights dialogue in the 1990s (Manea 2008: 375). In the eighteenth and latest AEMM, ministers continued to highlight human rights promotion, in accordance with the spirit of the Charter of the UN, as a key aim of the dialogue and relationship (ASEAN 2010). Moreover, within the broader Asia-Europe Meetings (ASEM), Informal Seminars on Human Rights are held where “both state and non-state actors from the EU and East Asia meet to discuss human rights” before providing ASEM governments with the final reports of the seminars (Manea 2008: 382).
In addition to such engagement and dialogue, the EU has been prepared to use sanctions, that are not solely material and target the military elite, in attempting to improve human rights standards in Myanmar. Sanctions have included “a ban on non-humanitarian aid;...a visa ban for senior regime officials and their families; a freezing of assets; and a limited investment ban” (Cook 2010: 442), although the EU announced in February 2012 the lifting of admission restrictions on 87 peoples, including the President, and a review of all sanctions due in April 2012 as a result of developments in the country (Council of the European Union 2012).

In terms of the impact of those actions, ASEAN has gradually become more open and accommodating to ideas of human rights norms and policies, establishing a more “regional normative and institutional framework for the promotion and protection of human rights” (Manea 2008: 392). The ASEAN Charter includes a commitment “to promote and protect human rights and fundamental freedoms” (ASEAN 2008: 4), whilst the creation of the ASEAN Intergovernmental Commission on Human Rights (AICHR) aims to enhance dialogue and improve the human rights situation in the region. By developing a framework of regional community on human rights, ASEAN appear to be embracing the local ownership principle that Manners’ sees as key for the assessing the impact of the EU’s normative goals.

However, progress has had its limitations. The ASEAN Charter underlines “consensus, regional cooperation and national sovereignty [and has]...been criticised as being not coherent” (Le Thu 2010: 59), whilst the AICHR has been described as toothless by critics (Hapsari 2010). Similarly, HRW continue to cite human rights concerns across the whole region, recognising that although:

Singapore continued to play a leading role [in ASEAN], it did little to ensure that the human rights principles contained in the ASEAN Charter were applied to member countries like Burma, Cambodia, Laos, and Vietnam, where human rights abuses are systemic (2012a: 387).

Although Myanmar has witnessed the election of former political prisoner Aung San Suu Kyi to the national parliament, commentators warn that development appears symbolic rather than practical (Phan 2012). In March 2012 HRW cited that in the ongoing fighting in the Kachin State, soldiers of the Burmese army have forced children onto the frontline, “threatened and tortured civilians during interrogations...and raped women” (2012b: 10). These actions violate international agreements which Myanmar is signed to, for example, the

As a result of such limited impact, this chapter will now use neorealism to assess the role of the EU’s strategic interests over advocacy of human rights, which may have contributed to the limited impact of human rights.

The promotion of human rights was identified as a strategic priority by the EU towards Southeast Asia in 2003, however, it ranked alongside five other priorities including “injecting a new dynamism into regional trade and investment relations” (European Commission 2003). Strengthening the EU’s economic presence in Asia was identified in 1994 as integral for maintaining a leading role in world affairs, and this economic dimension of the relationship is argued to “overshadow the political dimension” (Camroux 2008: 25). These priorities reflect the neorealist argument of the importance of economic issues in international relations, which Robles (2008: 533) argues displaced human rights considerations during the negotiations of an FTA between the EU and ASEAN in 2007.

The EU were wary of a ballooning trade deficit if an FTA was in place, and therefore set two conditions before negotiations could take place; the convergence between EU and ASEAN regulations, as well as the completion of the WTO negotiations (Robles 2008: 541). A Trans-Regional EU-ASEAN Trade Initiative (TREATI) was proposed by the EU, and would have involved an “adoption by ASEAN members of EU-style regulations” (Robles 2008: 545). This policy proposal is reflective of Zielonka’s neorealist argument, that by advocating regulatory standards favourable to EU companies the EU acts as an imperial power, as “imposing constraints on the domestic conditions and operations of sovereign states... protects and promotes EU interests” (2008: 480-481).

However, the TREATI proposals were not implemented by ASEAN states, and the EU failed to secure beneficial agreements at the WTO level. Instead, four ASEAN member states signed bilateral FTA’s with Japan to go alongside those already in place with the United
States, China and others (Robles 2008: 550). As Moller recognises, the EU’s absence from ASEAN’s network of FTA’s would have been “detrimental to the interests of EU business, as competitors would enjoy better market conditions helping to build a stronger long-term position” (2007: 469). From a neorealist perspective, it is argued that “at the very least, states must seek to preserve their power relative to their potential enemies and competitors” (Hyde-Price 2006: 221). Therefore, the structural dynamics of the international economy and the desire to maintain parity with their competitors meant that the EU decided to embrace negotiating an FTA with ASEAN, a decision that would then affect importance of human rights issues within the discussions.

The Commission claims that human rights records are taken into account before selecting FTA partners, reflective of the EU’s normative identity (Kettunen 2004: 15). However, Robles (2008: 553) argues that the EU’s norms were severely undermined since they made no attempt to evaluate human rights mechanisms that were in place in ASEAN. Although the AICHR was established in 2009, at the time of the negotiations there were no regional human rights mechanisms such as a treaty, commission, or court, whilst half of the members did not have a national commission on human rights (Robles 2008: 553).

Moreover the negotiations for the agreement included Myanmar, despite their being mass human rights violations that preluded the talks (Robles 2008: 553). During the 2007 ‘Saffron Revolution’ more than thirty people were killed, as anti-government protests between August and October provoked a violent response from the government, including the use of rubber bullets, live rounds and severe beatings (Arendshorst 2009: 104). The EU did not exclude Myanmar from the talks however, because had they done so ASEAN would not have proceeded with the FTA negotiations (Robles 2008: 554). Robles cites how Phillipe Meyer, head of the Commission vis-à-vis Southeast Asia at the time, stated that “we will not try to fix all the problems in the negotiations because that could lead to a failure of the process” (2008: 558), reflecting the priority of economic gains over human rights.

The EU’s decision to proceed with the talks, despite the lack of human rights mechanisms and the inclusion of Myanmar at a time of mass violation of human rights, reflects how the relative strength of the EU’s bargaining position impacts on their commitment to normative values. After the failure to secure the TREATI proposals and concessions during WTO negotiations, the EU were desperate to achieve an FTA to maintain their relative economic
power compared to their competitors, regardless of human rights violations in the region. Similar events can be shown during the mid-1990s, where the EU’s concerns for economic growth meant that they played down the importance of human rights, despite Indonesia’s annexation of East Timor and violations in Myanmar (Ruland 2001: 19). Therefore it appears that it is “the relative power of Europe vis-à-vis a country or region, rather than ethical and human rights concerns per se, that determines the extent to which the EU emphasises [human rights] clauses” (Mayer 2008: 70).

However, whilst it is apparent that economic interests dominate EU-ASEAN relations, the role of the EU’s normative identity should not be neglected completely. The European Community, determined to ensure the inclusion of human rights into EU-ASEAN dialogue in the early 1990s, argued “that the European public expected human rights to be respected and democratic practices upheld” (Robles 2004: 144). Moreover, as Laidi recognises, “Europe prides itself in having sanctioned Myanmar for their non-respect of basic social clauses” (2008: 7). This rhetoric and action is reflective of Diez’s (2005: 627) argument that the EU’s norms are used by European elites to create a European identity that contrasts with the ‘outside world’.

However, a neorealist response to these value-driven policies towards Myanmar would suggest that such an example represents the promotion of ‘second-order concerns’ (Hyde-Price 2006: 222). The benefits of maintaining a strong value-based approach towards Myanmar outweigh the economic costs, since it is argued to be an isolated and “largely disqualified [regime] that [does] not constitute a threat to European interests” (Laidi 2008: 7). Brummer argues that the EU has only imposed sanctions on “weak, authoritarian and politically isolated states” (2009: 205) including Myanmar as well as Belarus, Moldova and Zimbabwe. This argument is even more persuasive when it is considered that the EU “is very indulgent with fairly unsavoury regimes in economically highlight attractive countries, such as Algeria or Libya” (Laidi 2008: 6). Moreover, whilst securing a stable neighbourhood and milieu-shaping was important with regard to Russian human rights violations in Chechnya, in contrast, Myanmar’s geographical location does not represent a threat of instability on Europe’s neighbourhood, allowing it to pursue its values more vigorously.

However, whilst Inooka (2011: 74) claims that economic interests are minimal with regard to Myanmar, Cook (2010: 435) has argued that the sanctions enforced have been limited,
allowing human rights violations to continue on a wide-scale. It is argued that the intergovernmental nature of decision-making in the EU’s foreign policy inhibits sanctions, as the “unanimous decisions are required to adopt sanctions [mean that] conflicting interests among member states could easily paralyse the EU’s sanctions policy” (Brummer 2009: 204). Therefore the next section will use liberal intergovernmentalism to assess how EU commercial interests have impeded on the strength of the sanctions on Myanmar.

The EU have been divided over sanctions on Myanmar, with the UK, Czech Republic, Netherlands, Ireland and Denmark having favoured increased sanctions, whilst some, including France and Germany, have opposed increasing pressure and even advocated reducing measures (Burma Campaign UK 2011). Whilst the European Community stated that the public expected a moral based foreign policy (Robles 2004: 144), the public is not the only domestic political actor that governments adhere to (Moravcsik 1993: 481). It can be argued that certain member states have had pressure from commercial interests within their countries to impose limited sanctions, since the “most notable limitation is the investment ban which has many loopholes allowing continued European investment” (Cook 2010: 442).

The investment ban was introduced in 2004 in response to the Depayin Massacre in 2003, when at least 70 people were murdered by the regime, and is supposed “to stop revenue going to the dictatorship, which controls new investment through government and military owned companies, and their business [allies]” (Burma Campaign UK 2011: 2). However, instead of targeting the regimes’ key industries, in oil, gas, logging and mining, the EU only enforced a limited investment ban on businesses such as a “pineapple juice factory and a tailor shop” (Burma Campaign UK 2011: 2). In response to the regime’s violence during the Saffron Revolutions in 2007, sanctions were extended to include the logging, mining and gemstone industries; however, they still excluded the oil and gas sectors (Cook 2010: 442).

Robles has argued that the EU’s restricted sanctions were a consequence of policy being “held hostage to the commercial interests of a French oil company” (2008: 555-556). Total Oil, France’s largest gas company, is a big investor in Myanmar and the largest single source of export revenue for the regime is a gas project run by Total Oil in conjunction with Chevron, an American company (Burma Campaign UK 2011: 3). The impact of the oil industry on the EU’s policies is further evidenced by French support for stronger pressure that “does not involve economic sanctions which could impact Total Oil, such as a United
Nations Security Council resolution and a global arms embargo” (Burma Campaign UK 2011: 1). Therefore the sanctions towards Myanmar are reflective of Moravcsik’s (1998: 3) argument that national pressures are informed by powerful economic producers and that the most powerful states in the EU impose conditions, inhibiting a unified position.

Moreover, as in the case of Russia, Moravcsik’s notion that institutions are ‘thin’ and do not have any great power over policy outcomes, was apparent in sanctions on Myanmar. In September 2007, the European Parliament argued for increased sanctions prohibiting investment in oil and gas, however, these calls were ignored as France maintained their opposition (Katsumata 2009: 624). Although the European Parliament has had a keen interest in promoting human rights since the mid-1980s, its limited power in the formation of the EU’s external policy has meant that it has not been able to pursue its agenda effectively (Smith 2008: 119).

Moller argues that the problems towards sanctions represents the EU’s difficulties in policies towards ASEAN more generally, arguing that there is incoherence highlighted by policymakers in Southeast Asia who feel that “Europe is still synonymous with one of the three major European powers - Germany, France, and Britain” (2007: 473). Moreover, ASEAN members have been critical of some EU foreign ministers, for their low attendance at AEMM meetings and leaving junior ministers or civil servants to attend instead (Moller 2007: 470), whilst Regilme cites how at the 2009 ASEM Ministerial Meeting, “representatives of the foreign ministries of Germany, Britain, Italy and Spain were entirely absent and two-thirds of the other EU members only sent junior officials” (2011: 81). Moller (2007: 470) argues that the low prioritisation of such events by large member states reflects the narrow outlook of the EU’s actions, which invariably affects the EU’s ability to persuade ASEAN on issues of human rights, providing China, Japan and South Korea with “political capital” in their relations with ASEAN.

In summary, neorealism and liberal intergovernmentalism have been useful for assessing the role of the EU’s strategic interests towards human rights. Neorealism was useful for identifying that the EU was desperate for an FTA for economic gain to preserve their power relative to their competitors, which inhibited the promotion of human rights. Moreover, it was apparent that divisions towards Myanmar left the EU without an effective strategy for dealing with the situation in Myanmar, as sanctions avoided oil and gas because of a French
oil company. As De Vries and Hazelzet have argued, “the requirement of unanimity gives each Member State tremendous influence over whether or not sanctions are imposed, and if so, what type and against whom” (2005: 98).

However, the different values in ASEAN, notably the principles of non-interference in internal affairs and sovereignty, must be acknowledged as important barriers to human rights progress (Portela 2010: 154). As Fitriani recognises, “what is considered as a ‘universal’ practice of human rights is not common in most Asian countries and even the European countries took centuries to establish their current democratic politics and human rights standard” (2011: 52). Therefore, it can be argued that to push the EU’s agenda it is important that their internal standards match the standards expected in external policies, as a 1997 report by a Committee of Experts, commissioned by the EU Heads of State, argued:

A Union which is not prepared to embrace a strong human rights policy for itself is highly unlikely to develop a credible external policy...As long as human rights in Europe are considered to be an area in which the Union has only a very limited role, their status in the Union’s external policy will remain tenuous (Agenda of the Comité des Sages and Final Project Report 1998 cited in Jurado 2006: 119).

Therefore the next section will look at the internal policies of the Union, assessing whether they are detrimental to the NPE thesis.

4. The EU’s Internal Commitment to Human Rights

Manners argues the “most important element of normative power [is] the question of the EU’s normative principles or what the EU is, rather than does” (2008b: 36). Principles should be legitimate, coherent and consistent so that the EU is “living by example” (2008a: 56). However, Dennison and Dowkin (2010: 5) cite three specific areas where member states have undermined commitments to human rights: policies in the field of asylum and migration; the EU’s approach to counterterrorism and renditions during the Iraq War; and the treatment of minorities within member states. This chapter will consider each of these in turn, arguing that there is a gap between rhetoric and practice as the principle of respect for human rights is not adhered to; instead member states prioritise strategic factors such as security, securing borders and electoral success. This chapter will then assess the impact of the Charter of
Fundamental Rights, arguing that the EU still lacks a strong human rights enforcement mechanism, before concluding that such actions leaves the Union open to criticism of double standards which undermines the EU’s advocacy of a western-liberal model of human rights promotion and Manners’ thesis more generally.

As part of the UN Refugee Convention, member states should be committed to helping and protecting asylum seekers and migrants who have escaped human rights violations, however, they have initiated policies and strategies that seem contradict such commitments (Pirjola 2009: 350). Restrictive policies have prioritised securing borders and managing migration rather than human rights protection (Jurado 2006: 127), reflecting Bretherton and Vogler’s (2006: 58) analysis that the EU is a hybrid polity, where human rights competing with other policy objectives of the Union.

For example, the 2011 ‘Arab Spring’ was celebrated within the EU, with member states highlighting the importance of human rights within the promotion of democracy in the region. However, such a position is contradictory, not only because member states had previously embraced many of the authoritarian rulers in region to help curb migration (Roth 2012: 6), but also because they were reluctant to help the displaced migrants. By September 2011, fewer than 700 UN-recognised refugees from North Africa had been resettled in just eight member states, whilst Tunisia and Egypt accommodated the hundreds of thousands displaced from Libya (HRW 2012a: 442). The discussions about whether to re-impose internal border controls within the Schengen area, one of the fundamental pillars of the EU, reflects the unwillingness to help accommodate migrants from the uprisings (McIntyre 2012). Guild (2006: 637) argues that both the Schengen Agreement and the Dublin Convention were based around the logic of controlling, restricting and excluding refugees and asylum seekers rather than protecting them, creating an antipathy towards refugees that has continued throughout the development of European asylum policies.

In addition, a report published by the Council of Europe in 2012 found that human and institutional failings left a migrant vessel, carrying 72 African migrants from Libya, stranded in the Mediterranean Sea for two weeks in 2011 with no rescue efforts attempted (Shenker 2012b). Consequently, 63 people died before the boat washed back up onto Libyan shores. The report argued that NATO failed to react to distress calls sent out by the Maritime Rescue Co-ordination Centre in Rome, despite there being Spanish and Italian ships in the region that
would have completed a rescue that would have been “piece of cake” according to one NATO official (Shenker 2012b). The report contrasts the absence of a rescue mission to find the migrant vessel with the speed of the search and rescue efforts that were made in the Costa Concordia disaster, which seemingly highlights a prioritisation of the lives on board the latter (McIntyre 2012). The report’s author argues that it reflects double standards in Europe’s attitudes towards human life, stating:

we can talk as much as we want about human rights and the importance of complying with international obligations, but if at the same time we just leave people to die – perhaps because we don’t know their identity or because they come from Africa – it exposes how meaningless those words are (Strik cited in Shenker 2012b).

The UN estimated death toll for migrant boat tragedies across the Mediterranean reached 1,500 in 2011 and it has been warned that the number of deaths may increase in 2012 (McIntyre 2012). Ambiguity of responsibility for search and rescue zones in the sea still exists, highlighted by “recent disputes between Italy and Malta over who should assume responsibility for incoming migrants [which] have led to people being left at sea while the legal process is thrashed out” (Shenker 2012a). Therefore, the costs of migration to member states contradict the EU’s commitment to the UN Refugee Convention, highlighting incoherence between policy aims and undermining the EU’s human rights standards.

Moreover, there is also concern about the treatment of migrants upon arrival in Europe. A 2011 HRW report on the conditions in Greek asylum and detention centres accused the EU’s external border agency ‘Frontex’, deployed because the EU felt the Greek authorities had lost control of their borders, “of turning a blind eye to the torture, beating, and systematic degradation of illegal migrants detained after crossing the border from Turkey” (Traynor 2011). The Commission confirmed that Frontex facilitated the transfer of migrants to the centres, despite a ECtHR ruling that suggested transfers would expose migrants to abuse (Traynor 2011). Although the Commission denied any responsibility for the mistreatment, arguing national authorities were solely in charge of the treatment of refugees and migrants in the EU, HRW argued that “not having the mandate to intervene in abusive detention centres does not absolve Frontex from responsibility and liability where it co-operates in activities that contribute to exposing detainees to the abuses that occur in them” (2011b: 47). This
example highlights not only failure of a member state to conform to human rights standards, but also the failure of an EU body to enforce human rights protection.

In addition to detrimental refugee and asylum policies, terrorist attacks, including September 11th and the London and Madrid bombings, have contributed to issues of security being prioritised over civil liberties and human rights within member states (Smith 2010: 235). Ward has argued that member states launched a three-part attack on human rights as part of the counterterrorism paradigm:

that terrorism suspects deserve fewer rights than others...that Europe could have security or human rights, but not both....[and] that human rights are a zero sum game, so that rights for the majority can only be secured by sacrificing the rights of the minority suspected of terrorism (2012: 43).

Consequently, instances of torture are apparent, highlighted by UN special rapporteurs on torture and on human rights while countering terrorism, who concluded in 2010 “that Germany (one case, 2002) and the UK (several cases, from 2002 onward) had been complicit in secret detentions of terrorism suspects” (HRW 2011a: 424). Moreover, documents published in 2010 following a High Court order in the case against the UK government by former Guantanamo Bay detainees provided evidence that “the government was aware as early as January 2002 of allegations that UK citizens and residents were being tortured in US custody but failed to object to transferring UK nationals to Guantanamo Bay” (HRW 2011a: 434). Additionally, documents discovered in Libya in September 2011 “indicated British involvement in rendition to Libya” (HRW 2012a: 457), whilst member states including Poland, Romania, and Sweden have been criticised by the Council of Europe commissioner for human rights for not obtaining accountability for complicity in United States human rights abuses (HRW 2011a: 424). Moreover, Western governments were prepared to work with Arab autocrats who had promised to help fight terrorism, despite such autocrats repressing their own people (Roth 2012: 5).

These allegations contradict Manners’ (2002: 251) study of the campaign against death penalty, in which he suggested that the EU had normative rather than instrumental interests, as EU leaders had been unwilling to extradite terrorist suspects for trial in the US where they may have faced execution. Moreover, such human rights abuses also violate numerous
international and regional human rights treaties to which the EU is signed, including article 5 of the UDHR which states that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment” (UN 2012), further highlighting that the EU does not live by example.

The counterterrorism doctrine has also had implications for Muslim minorities within member states, with a report by Pew Research Centre (2011: 3) highlighting that 62% of French, 61% German, 58% Spanish and 52% of British populations feel that their relationship with Muslims are poor. Intolerance towards Muslims within European states is high, stemming from fears of terrorism and about a loss of culture. These anxieties contributed to the decision in 2010 in France, where a law passed banning the wearing of the burka in public, despite only 1,900 women in France being thought to wear one (Associated Press 2010). Sarkozy argued that France’s cultural was at threat, stating that “behind a mesh...is not the French republic’s idea of women’s dignity” (Coleman 2010), whilst security reasons were also cited (Leane 2011: 1034). However, it has also been suggested that Sarkozy implemented the policy for electoral gain, under pressure to secure the far-right electorate in the 2012 elections (Chrisafis 2011), reflecting how domestic pressures in member states can undermine normative goals at the Union level. Similar isolation and demonisation of the Muslim population in France for electoral gain was also apparent in a row about halal meat in March 2012 (Haski 2012).

Image one: The picture that shames Italy (Popham 2008)
In addition to intolerance towards Muslims, the Roma are argued to be “the most impoverished and marginalised ethnic minority group [in Europe]” (Goldston 2010: 314). Their experience has some resemblance with the problems face by Muslims, with fears of crime and damage to the economy replacing fears of terrorism and cultural concerns (Ward 2012: 46).

The picture shows two drowned Roma children in 2008, whose bodies were left on an Italian beach whilst people continued to sunbathe. Popham (2008) argues that the picture is “shocking proof that many Italians no longer have human feelings for the Roma, even though the communities have lived side by side for generations”. In Italy, they are often blamed for crimes in sensationalised news stories and at the time it was reported that 68% of Italians wanted Roma expelled (Kington 2008). Forced evictions and deportations have occurred in France and Italy, whilst violent attacks and little progress to end housing and school segregation persist in Hungary, Romania, Bulgaria, the Czech Republic, and Slovakia (Ward 2012: 46). In Italy, 154 targeted evictions took place in Rome between March and May 2011, affecting 1,800 Roma (Phillips and Chrisafis 2011), whilst the French policies, in a similar vein to the detrimental policies towards Muslims, have been subject to accusations of vote-maximisation tactics (BBC 2010).

Moreover, double standards are apparent in the protection of minority rights, as it was made an explicit political condition for candidate member states to ratify the Framework Convention on National Minorities; however as shown above, member states have adopted negative policies towards minority rights whilst states including “Belgium, France, and Luxembourg have not signed or ratified the Convention” (de Burca 2011: 681).

It is apparent therefore that in terms of asylum and migration, counterterrorism methods, and the treatment of minorities that member states are hypocritical of the values that they self-proclaim to adhere to under Article 2 of the TEU, especially towards the rights of persons belonging to minorities. As Smith argues, “the EU is trapped by its own rhetoric on human rights: its perceived and actual failings in this regard make it hard to claim the moral high ground” (2010: 235-236). The next section will analyse the impact of changes of the Lisbon Treaty, most notably the move to give legality to the Charter of Fundamental Rights, which aims to address the rhetoric-practice gap, before assessing the problems of such detrimental internal policies.
Williams (2004: 195) writing before the legal side of the Charter came into force, argued that there was a “bifurcation” between external and internal policies of the EU. Williams (2004: 195) argued that although the EU has been inconsistent in promoting human rights externally, they at least have the mechanisms of enforcement; in contrast, internal human rights are contingent and often abuses go unquestioned, as there has been no systematic approach to the monitoring or enforcement of human rights conditions within member states. Since Williams’ claim, the Lisbon Treaty inaugurated the legally binding character of the Charter of Fundamental Rights, giving the EU “new architecture to protect human rights” (HRW 2011a: 420). The EU must act and legislate within the Charter, otherwise the EU’s courts will hold member states to account and scrutinise members internally (de Burca 2011: 672).

However, de Burca (2011: 681) argues that the bifurcated approach has survived enactment of the Lisbon Treaty, as member states have continued to limit the role that the EU has in monitoring their human rights activities. de Burca cites how “Article 51 of the Charter limits its scope of application by providing that it is addressed primarily to the institutions of the EU and to the member states only when they are implementing EU law” (2011: 674). Additionally, although Article 7 of TEU was revised in the Nice Treaty to allow intervention in instances of a serious threats to human rights, de Burca argues that this “monitoring mechanism for human rights compliance by EU member states has been dampened” (2011: 674).

In order to monitor member states compliance with human rights, the Network of Experts on Fundamental Rights was established after the Nice Treaty and “produced excellent annual reports on human rights protection in the member states, as well as a variety of thematic reports and opinions” (de Burca 2011: 675). As Bueno De Mesquita et.al have argued, “accountability appears to be the critical feature that makes...democracies respect human rights” (2005: 439). However, the Network of Experts on Fundamental Rights was replaced in 2007 by the Fundamental Rights Agency (FRALEX), which “was explicitly prohibited from doing what the earlier network had been established to do...[and] has no role in relation to Article 7 and hence no formal role in monitoring member states in relation to human rights issues” (de Burca 2011: 675).

Member states therefore appear to place restrictions on the ability of the EU actors and institutions to scrutinise and enforce the Charter on Fundamental Rights. These restrictions
were apparent in the case of France’s expulsion of Roma. The charter includes the creation of an EU commissioner for fundamental rights, Viviane Reding, “who promised a ‘zero tolerance’ policy for EU states violating the charter” (HRW 2011a: 420). With regard to their expulsion of Roma, France ignored criticism from various bodies including the UN, Council of Europe, and European Parliament, before the European Commission criticised the move with relative success (Ward 2012: 49). Following pressure applied on member states to protects the right of Roma EU citizens to move freely within the Union, Reding stated in August 2011 she was “satisfied that a majority of member states have fully implemented the EU free movement rules”, adding that “France had now changed its laws to safeguard against arbitrary expulsions and discriminatory treatment” (Phillips and Chrisafis 2011). However, Wood has been critical of the Commission, arguing that the accepted legislative changes in August 2011 “did not address the fundamental discrimination motivating the expulsions” (2012: 49), and has subsequently not prevented expulsions from occurring in France (Wood 2012: 49).

The poor standard of human rights protection within the EU leaves the Union vulnerable to criticism that can inhibit the effectiveness of its advocacy of human rights in external policies. For example, the treatment of the Muslim populations within the Union has meant that the EU is negatively perceived in Southeast Asia (Regime 2011: 77), and concerns have been raised by Muslim states at the Human Rights Council (Smith 2010: 235). Moreover, Russia has been prepared to criticise member states human rights records, notably in a 90-page report published in December 2011 (Associated Press 2011). Specifically, Russian authorities have identified human rights abuses in Europe by the “non-citizenship status of the Russian-speaking population in the Baltic countries and [the ongoing] violations of their rights” (Romanova 2009: 56).

In addition, despite strong EU involvement and presence in Macedonia since 2001, it is argued that the EU has not been able to improve Macedonia’s domestic human rights record (Koinova 2011: 825). Koinova claims that the Macedonian elite have been able to play their own two-level game on the back of the EU’s own minority-rights policies, citing how the “Macedonian electronic media...have paid considerable attention to inter-ethnic problems in Belgium” (2011: 826). Additionally, with regard to the debate with Greece about Macedonia’s name and the recognition of Macedonian minorities in Greece and Bulgaria, it is argued that since “neither country was able to change its narrow historical vision with
regard to the Macedonian nationality, then Macedonians should not be obliged to further support ethnic diversity in their own country” (Koinova 2011: 826). Manners recognises that “a norms-based international system will only be achieved through normative power that persuades others of the universality of such norms” (2008b: 37), however, such detrimental policies towards human rights internally limits the EU’s ability to do so.

Therefore it is apparent that the internal behaviour of member states towards human rights needs serious evaluation if the EU is to be considered a normative power by ‘living by example’ under Manners’ typology. If they expect international actors such as Russia and ASEAN to emulate the standards of human rights that the EU proclaims, then they must improve on their own practice. However, member states continue to prioritise strategic factors such as secure borders and electoral gain, whilst resisting any kind of monitoring. With ongoing economic difficulties within the Union, public and elite antipathy towards immigration and the continued prioritisation of security over human rights, it is unlikely that member states will be prepared to extend the developments of policies protecting human rights within the Union, and hence, the EU is likely to continue to not ‘live by example’ to the detriment of Manners’ thesis.

Conclusion

This paper has critically analysed Manners’ NPE thesis and the tripartite framework used to inform it, by assessing the EU’s commitment to human rights in its external and internal policies. The prioritisation of strategic interests externally and double standards internally have been highlighted, reflecting how “the EU’s mission civilisatrice is susceptible to a relatively straightforward if unpleasant realpolitik that can expose a rhetoric–behaviour gap” (Wood 2009: 128).

Firstly, by exploring the EU’s external actions towards Russia and ASEAN, it was identified that in both instances the EU adopted what Manners considers normative actions, attempting to persuade and engage with Russia and ASEAN as well as implementing symbolic sanctions towards Myanmar. However, the impact has remained limited, and it is apparent that in both relationships strategic factors, notably economic and security-based, are dominant, undermining the EU’s commitment to human rights. The asymmetric interdependency of the EU on Russia energy exports has contributed to the downplaying of importance of human
rights issues. Moreover, as a consequence of the EU’s response to September-11th, it became easier for Russia to justify human rights abuses in Chechnya as measures to combat terrorism. Similarly, during negotiations for an FTA with ASEAN, failures to obtain the EU’s desired position meant that the EU prioritised economic gain over human rights, fearful of losing economic power to states such as China, Japan and the United States. Furthermore, it was apparent that sanctions have been used towards the Myanmar regime because Myanmar represents a politically weak and isolated country which is only a ‘second-order’ concern for the EU. In contrast, states such as Libya and Algeria have not been subject to sanctions despite similar human rights abuses, because of the EU’s strategic interests in such states. Therefore Laidi’s analysis that “normative power rarely resists profitable economic arrangements” (2008: 7) seems applicable to the EU’s external actions.

Moreover, the chapters on Russia and ASEAN also applied liberal intergovernmentalism to understand the complexities involved in the formulation of EU foreign policy. It was argued that policy is often dominated by the commercial interests of powerful economic producers, and by large member states, who have the least to gain from a common EU position. It was apparent that bilateral relationships of member states with Russia have inhibited the EU’s ability to develop a common stance on human rights criticisms. Whilst the Baltic states are prepared to criticise Russian actions, the commercial interests in Russia for states such as France and Germany has affected the EU’s position and contributed to lowest common denominator decisions being taken. With regard to ASEAN, it was noticeable that the strength of sanctions towards Myanmar have been restricted because of the interests of a French oil company, which would have been affected if an investment ban was in place. Furthermore, although the European Parliament have been prepared to criticise the EU’s human rights policies in both instances, Moravesik’s analysis that institutions are ‘thin’ in foreign policy is apparent; whilst the appointment of a High Representative was also argued to have had little impact on improving such inconsistencies and incoherence. As Gordon (1997: 81) recognises, member states will only give up their individual bilateral policies if the gains of doing so are worth loses of decision-making sovereignty. Therefore the intergovernmental nature of the EU’s foreign policy means that it is unable to obtain a common stance on human rights abuses in many instances.
However, a focus solely on the strategic interests of the EU would ignore the different values that other powers hold, such as ASEAN’s commitment to sovereignty and non-intervention. These traditions are also important factors for the limited impact of the EU’s human rights promotion, and consequently it was argued that the EU must have a firm commitment to its values internally if they are to be successful in exporting them externally. Moreover, Manners has argued that the most important aspect of normative power is how the EU “lives by example” (2008b: 36), and therefore chapter 4 investigated the internal policies of the Union.

It is evident that the EU has double standards towards human rights, highlighting a gap between rhetoric and practice in the principles that the EU supposedly adheres to. Policies appear neither coherent nor consistent and hence, the EU is not “living by example”. Policies towards migrants, minorities, and counterterrorism undermine human rights as strategic interests such as electoral gain and secure borders take precedent. Moreover the lack of a strong mechanism for the enforcement of human rights within the EU allows such detrimental policies to continue as member states are not held to account. Consequently the Union has been criticised by third parties for having double standards, inhibiting their ability to be a human rights advocate externally, hence the promotion of western-liberal values to states and regions such as Russia and ASEAN are further compromised.

Therefore, if the Union wants to be considered a normative power as defined by Manners, it must first address its detrimental internal human rights policies before it can attempt to export its values globally. However, as member states are preoccupied with the Eurozone crises and the continued security concerns as part of the counterterrorism paradigm, it appears that issues of human rights will remain a secondary concern for the foreseeable future.

References:


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