
REGIONAL INTEGRATION IN SHAPING CUSTOMARY INTERNATIONAL LAW: A COMPARATIVE STUDY OF ASEAN AND EUROPEAN UNION

G Uma Maheswari, Assistant Professor, School of Law, VISTAS

ABSTRACT

In the international arena, state actors play vital role in keeping the world in order. The state actors when they propose things through regional organisation, it will be more powerful and the role played by the regional organisation in maintaining world peace and order is in fact more significant. Being the primary source of international law, the customary international law is primarily developed by the regional organisation. The uniform and constant behaviour of the state actors across the globe will be understood as customary international law. Even the customary international law, now-a-days is becoming jus cogens through constant state practices. The regional organisations become more influential in shaping in customary international law in this multipolar and pluralistic world. The regional organisations play very prominent role in developing the customary international law through treaties, institutional behaviour, judicia, decisions. *Opinio Juris* is one of the driving features where the states are under legal obligation to oblige, somehow customary international law is being consciously maintained and followed by states in spite of the regionalisation and multicultural international legal order, the part of the regional organisations become more noticeable. Regional Organisations such as European Union (EU), African Union (AU), Association of Southeast Asian Nations (ASEAN) and Organisation of American States (OAS) are more distinguished creating regional consensus in many of the key issues such as human rights, environment, migration etc., This paper analyses the emerging role of regional organisations in the construction and development of Customary International Law with a focus on comparative analysis of the role played by European Union (EU) and Association of South east Asian Nations (ASEAN).

Keywords: Regional Integration, Customary International law, European Union, Association of South east Asian Nations, Regional organisation and customary international law, Development of customary norms.

Introduction

During the twentieth century, aftermath of the two drastic world wars, diplomacy emerged in full fledge. Many new nations formed because of the geopolitical changes. The concept of state responsibility originated. The advent of new states and the formation of United Nations influence the customary international law. The accepted state practices are termed as the concept of customary international law. The states themselves formed the regional organisations and the role of these organisations in shaping the customary international law is significant. This multipolar system in the international arena with variety of legal traditions are integrated through the regional organisations. The European Union and the association of South East Asian Nations (ASEAN) as two regional organisations having a varied institutional structure played a significant role in the development of customary international law, through regional integration. Amidst various differences persisting the organisations shapes the customary international law through the regional consensus. The regional organisation along with the opinion juris contribute to the growth of customary international law.

Research Methodology

The researcher adopts qualitative doctrinal research methodology, that is analysing the treaty obligations, case laws justifying as to what extent the customary international law is developed by regional organisations, and comparative analysis of the binding and non-binding regional instruments and the role of adjudicatory bodies in promoting customary international law.

Research Questions

1. What are the contributions of regional organisations such as EU and ASEAN in formation and evolution of customary international law?
2. What is the difference between EU and ASEAN in shaping customary international law?
3. What is the role of regional treaties and agreements within the EU and ASEAN in codification of customary norms?
4. What is the extent of EU and ASEAN in influencing global customary international law beyond their regions?

Arguments

The arguments are the EU has a strong legal character which is a hard law such as directives and regulations obligates the member states to follow and this influence the development of customary international law and it also has a significant impact in municipal legal system as well. particularly ASEAN with its non-binding nature often termed as a soft law which always rely on the regional cooperation also plays a major role in developing customary international law. Amidst the regional disparity, based on the consensus on certain point the regional organisations played a dominant role in fostering customary international laws through treaties. The regional organisations are the one who can act as the protectors of customary international law which are emerged from the constant state behaviour.

Findings

The researcher finds that the Court of Justice (CJEU) in recent days gave a clarity on application of the General Data Protection Regulation (GDPR), a basis EU data privacy law which had been enumerated to protect the personal data protection of individuals. This shows the compulsory practise and the prominence of opinion juris which is shaping the customary international law. ASEAN with its regional arrangements such as ASEAN Agreement on Disaster Management and Emergency Response (AADMER) plays a consistent role in shaping customary international law. The principle of non-interference and operating with consensus and regional cooperation are the guiding force of ASEAN which is constantly recognised and practised by the member states and it is obvious that the consistent state practise is considered as the customary international law.

Customary International law

In the Context of interactions between nations, customary international law is essential since it regulates the conduct of states in compliance with recognised customs and standards. The core of constitutional plurality can be seen in this body of law, which in contradiction to formal treaties, arises from sustained state behaviour acknowledged as law. the concept that the state practise which requires to be prevalent and accountable and also the opinion juris and a determination that such practise is legally binding are the bedrock of customary law. When there are no formal treaties, these principles form customary international law as an important element in regulating relationship and diplomacy between states, guaranteeing legal obedience.

Traditionally the customary international law was shaped by the states in their relationship with each other which in turn plays a major role in developing the core principles which legalizes the behaviour of states in various domains. The League of nations and the United Nations played a major role in developing the customary international law. Contemporary problems like human rights protection, climate change, cyber warfare and environmental regulations are also addressed by customary law and it influences the state behaviour and legal frameworks.

Role of European union

EU is considered as an International Organisation and according to the year book of International Organisations, it's a body established by formal constitutive act or agreement between government or nation states which consists of three or more parties to the agreement and possess permanent structures which perform ongoing task¹. The EU has arisen as the most successful regional organisation as it integrates between the regions efficiently. EU has grown as an individual and exceptional actor in the world. EU playing a prominent role in the multilateral order in determining customary international law which is the primary source of international law².

The member states of European union consistently follow and practising the concept of customary international law. By consistently engaging in state practices and expressing their belief that the practise is legally necessitated, states facilitate the creation of customary international standards. Extensive cooperation of the states and sportive sharing of abilities makes European Union to a successful regional organisation in spite of states being sovereign they have an obligation to safeguard its subject. In this multilateral arena the participation of European union is outstanding by creating a consensus among its member states and contributing to customary international law. World diplomacy has become widened because of the acts of such regional organisation. In economic and financial matters also as a biggest economy in the world EU played a prominent role. European union having legal personality³ is not a state but a supranatural organisation.

¹ Ani Papyan, *The European Union is more than an International Organisation and less than a Federation: do you agree?* (2018)

https://www.academia.edu/37521378/The_European_Union_is_more_than_an_International_Organisation_and_less_than_a_Federation_do_you_agree (last visited April 2025)

² Statute of International Court of Justice art 38(1)(b), June 26, 1945, 59 Stat. 1055, 33 U.N.T.S. 993.

³ Consolidated version of Treaty of European Union art 47, 2012 O.J. (C326) 47.

In order to maintain peaceful relationship and diplomacy among the subjects of Europe the European parliament, the council and the commission have announced European charter of fundamental rights, the source of which is customary international law. At the end of the World War II, multilateral diplomacy becomes popular political strategy of the world. All the international organisation including EU followed the diplomatic practices in their daily life. And they have raised as a permanent context of cooperation. EU is an example of successful multilateral integration between its 27 member states in its limited supranational capacity and by promoting diplomatic activities which is the core concept of developing relationship in the multilateral regime EU promotes the development of customary international law. the EU's contribution over promotion and protection of human rights is significant. EU policy includes, defending civil. Political. Economic, social, cultural rights and freedoms, promoting non-discrimination and equal treatment on the basis of sex, race or ethnic origin, religion or belief, disability, age and sexual orientation, empowering EU citizens, workers, employers and consumers, promoting and protecting gender equality and the rights of persons with disabilities, minorities, children and the elderly, promoting freedom of expression, religion and belief etc,⁴ Based on the strong commitment towards the promotion and protection of human rights by embarrassing the Universal Declaration of Human Rights and setting the standard to the member countries the EU strongly in the way of developing customary international law. Also, the obligation towards the human rights the implication of the same is echoed in the external policy of EU, wherein insisted the member states to follow the same. EU charter of fundamental rights lays down the fundamental rights where the member states are under obligation to follow.

In particular the recent regulation of General data protection regulation⁵ is an important component of human rights law; it governs the transfer of personal data outside the European Union and European Economic Area. The fundamental right of data protection is enshrined in Article 8 of the EU charter of Fundamental rights. The adoption of the GDPR was an important step to support individual's fundamental rights and to help them in business to clear the rules for companies and public bodies and also this regulation promotes the integration between nations and reduce needless administrative burdens. The GDPR which is incorporated in the EEA agreement ensures the free flow of data. This also ensures the data protection, the

⁴ European Union, *Promoting and Protecting Human Rights* (2025), https://european-union.europa.eu/priorities-and-actions/actions-topic/human-rights-and-democracy_en (last visited April 30, 2025).

⁵ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), 2016 OJ (L 119) 1 https://commission.europa.eu/law/law-topic/data-protection/legal-framework-eu-data-protection_en (last visited April 30 2025)

principles also adopted by many countries which are not the member of European Union. This shows the widespread customary practice accepted by state actors constitutes the legal obligation.

The court of Justice being autonomous having sui generis nature, impose limitations on the competence of union and member states to conclude international agreements. Customary international law being the source of international law being accepted by the nation countries in their practise. The customary international law forms of the basis to decide cases by the European Court. The court analyse the provisions of international agreements whether customary rules are reflecting in the same. The national courts of EU will contribute more to the development of customary international law rather the international court. Though in its jurisprudence some of the facets are more significant which promotes the customary international law. European union also has a legal order which is autonomous. The court is having the exclusive jurisdiction to adjudicate upon disputes arising from EU law. The decision of the court will have an impact in the member states internal legal order. Court of European Union has addressed a broad range of cases which deals with the customary international law⁶. European Union's green deal and carbon border adjustment mechanism broadly known as it influences the global environmental policy also pressures the trading partners to adopt similar standards by a way of insisting the customary practise. In this way the European Union plays a significant role in developing customary international law.

Role of ASEAN

ASEAN Association of South east Asian Nations helps to develop customary international law by initializing constant regional practices. Because of the globalisation ASEAN has faced so many challenges, though it played significant role in promoting customary international law. ASEAN respects and promotes regional norms and practices and develops customary international law. ASEAN's foundational document that is ASEAN charter 2007 emphasize non-interference principle and mutual respect to state sovereignty. Significant principles like non-interference, peaceful settlement of dispute which needs the regional cooperation shows the promotion of customary international law by ASEAN. Soft law which is encapsulated by

⁶ Christina Binder and Philipp Janig, The European Union's participation in the creation of customary international law and its impact on member states sovereignty (2023) 8(3) Eur. Papers 1645 (2003)

the ASEAN is also a remarkable tool which facilitates the development of customary international law.

The principle of non-intervention originated long back in which state should not interfere in each other's domestic affairs. Even the Treaty of Westphalia in 1648, where this new global order established was constructed on this theory. The principle of non-intervention has its roots in many bilateral, multilateral and regional arrangements. The 1933 Montevideo convention on the Rights and Duties of states is usually found as a starting point of the principle. Article 2(7) of UN Charter provides that the United Nations generally prohibits itself from restraining into the affairs of other states domestic affairs. The scope of the principle of non-intervention widened further when the International Court of Justice clarified the concept in *Nicaragua -Vs- State of United States of America* "in view of the generally accepted formulation, the principle forbids all states or groups of states to intervene directly or indirectly in internal or external affairs of other states...." where this laid down the foundation of further development of customary international law and the ASEAN countries abide by the international law followed the same and contributed to the development of customary international law by formulation of treaties and *opinio juris*.

ASEAN doctrine of non-interference imposes the following conduct on its members "Refraining from criticizing the actions of member government towards its own people, including violations of human rights..., criticising the action of states which were deemed to have breached the non-interference principle, denying recognition, sanctuary or other forms of support to any rebel group seeking to destabilize or overthrow the government of a neighbouring state, providing political support and material assistance to member states in their campaign against subversive and destabilising activities"⁷.

The commitment towards the environment by the ASEAN is commendable that it contributes to the crystallisation of customary standards on environment responsibilities. ASEAN adopted an agreement called ASEAN Agreement on Transboundary Pollution on Transboundary Pollution to prevent and monitor transboundary haze pollution caused by land/forest fires. This agreement serves as a roadmap on ASEAN countries towards Transboundary haze pollution control and it also defines the mandate and accountability arrangement. The sustainable

⁷ Eric Corthay, *The ASEAN Doctrine of Non-interference in light of the fundamental principle of Non-Intervention*, 17(2) *Asian-Pac. Law & Pol'y J.*1 (2016).

management of agricultural land, forest land, peatland and implementation of the agreement is focussed. Strengthening of policies, laws, regulations and their implementations according to the agreement is given importance. Enhancing public awareness, reducing health and environmental risks and protection of global environment are predominantly concentrated. These steps which are encompassed in the agreement being followed by the member nations shows us the positive commitment of the states in developing customary international law.

ASEAN affirms its adherence to the purpose and principles of Human Right through the adoption of ASEAN human rights declaration to promote and protect human rights and fundamental freedoms and the principles of democracy, the rule of law and governance⁸. So many instruments have been adopted by ASEAN such as The Declaration on the Elimination of violence against women in the ASEAN region 2004, ASEAN Declaration on the protection and promotion of the Rights of Migrant Workers etc., By enshrining the principles of human rights into their domestic laws the ASEAN countries reaffirm their part in developing the customary international law. ASEAN cooperation in adopting and following the United Nations Convention on Law of Sea 1982 UNCLOS for maritime issues and settlements shows the ASEAN constantly encouraging the adoption of customary international law. Though ASEAN countries having different regional practices and non-binding approach the extensive use of treaties the customary international law is constantly supported and developed.

Comparison of EU and ASEAN in developing customary international law

EU and ASEAN both contributing to the growth of the customary international law in its ways differently in spite of contrasting legal and institutional backgrounds. ASEAN operates on diplomatic and consensus-based decisions, based on the treaties and agreements which are non-binding and termed as soft law. The principle of non-interference and settling disputes peacefully are the important concern of ASEAN. The regional practices and declarations made often have a greater impact on global norms primarily in the areas of environment, human right and also the maritime conduct of the states based on UNCLOS contributing to the significant growth of customary international law. EU in contrast has an extraordinary legal order with binding nature on its instruments and having court of Justice to enforce the things. EU has designed its legislation and external policies in a more structured manner combining the

⁸ ASEAN human rights declaration, Nov 18, 2012, ASEAN Doc., reprinted in ASEAN Human Rights Declaration (AHRD) and the Phnom Penh statement on the adoption of the AHRD and its translations (ASEAN Secretariat 2013)

customary law principles. International law is being shaped by the EU's robust institutional mechanisms and regulating agenda by creating binding human rights instruments, climate change directives and global trade agreements. Both as the regional organisation playing a better role in promoting, shaping and developing customary international law, ASEAN gradually with its regional practices primarily based on consensus and EU through active, enforceable practices influence the customary international law.

ASEAN in its charter affirmed the principles like non-intervention emphasizing state sovereignty and resolving conflicts peacefully that supports to set these ideas in the international legal system. Treaty of Lisbon 2009, and through other treaties EU harmonizes the laws and supports values like environmental preservation and human rights which become the strong basis of establishing international norms.

In South China Sea Arbitration case⁹ The case was presented for arbitration based on the disputes regarding the legal basis of maritime rights and entitlements and the status of certain geographic features and the lawfulness of certain actions taken by China in South China Sea and the issues arose in the case are

1. To resolve a dispute between the parties regarding the source of maritime rights and entitlements in the South China Sea.
2. To resolve a dispute between the parties concerning the entitlements to maritime zones that would be generated under the convention by Scarborough shoal and certain maritime features in the Spratly islands that are claimed by both the parties.
3. To resolve a series of disputes concerning the lawfulness of China's actions in the South China Sea vis-à-vis interfering with Philippines' rights, failing to protect and preserve the marine environment, and inflicting harm on the marine environment (through land reclamation and construction of artificial islands)
4. To find that China has aggravated and extended the disputes between the parties by restricting access to a detachment of Philippines Marines stationed at Second Thomas Shoal.

⁹ In re South China Sea Arbitration (Phil. v. China), PCA Case No. 2013-19, Award (Perm. Ct. Arb. July 12, 2016).

The Tribunal established that the UNCLOS supersedes any treaties in force before its coming into force. China's state practice does not show that China had been enjoying any historic rights in the South China Sea, rather it is enjoying freedom of high seas. Any historic rights or other sovereign rights or jurisdiction in excess of the limits imposed was superseded by the convention. Historic rights are limited to maritime region and not in the landmasses of South China Sea. The tribunal also concluded that China failed to respect the sovereign rights of the Philippines over its fisheries in its exclusive economic zone. China through the actions of its law enforcement vessels endangered Philippines vessel created a serious risk of collision. The states are already parties to convention and are already obliged to comply with that¹⁰. This affirmed that ASEAN consistently supporting customary international law as most of the UN In re South China Sea Arbitration (Phil. v. China), PCA Case No. 2013-19, Award (Perm. Ct. Arb. July 12, 2016). CLOS principles reached customary status.

Kadi -Vs- Council and Commission¹¹

The United Nations Security Council recognised Saudi national Abdullah Kadi as having connections with the terrorist group Al-Qaeda. Immediately the EU has adopted a regulation that froze the assets of individuals who were identified by the UN Sanctions Committee in compliance with UN Security Council Resolution 1267 (1999) and other resolutions. The freezing of Kadi's assets in the EU happened without warning or hearing. In the General Court Kadi challenged the EU rule, claiming that it violated his fundamental rights under EU Law including his rights to effective judicial protection and defence.

Issues involved in this case

1. To examine be the EU courts that the EU regulation enforcing UN sanctions is in compatible with fundamental rights.
2. To analyse whether the fundamental rights are superseded by the execution of UN Security Council resolutions
3. To examine whether the regulation violates the right to property, right to be heard, and

¹⁰ Research Society of International Law, Case Brief on the South China Sea Arbitration Between the Republic of the Philippines and the People's Republic of China by the Permanent Court of Arbitration (2017)

¹¹Joined Cases C-402/05 P & C-415/05 P, Yassin Abdullah Kadi & Al Barakaat Int'l Found. v. Council of the Eur. Union & Comm'n of the Eur. Cmtys., 2008 E.C.R. I-6351.

right to effective judicial review.

The EU court reversed the earlier decision of general court or the Cour of first instance's previous ruling and revoked the legislation of EU which is related to Kadi. The court further ruled that even when enforcing UN security council's resolutions. The legislation of EU adhering to the fundamental rights guaranteeing by the EU legal order. Kadi was denied the opportunity of explaining himself for the asset freeze and no opportunity was given to him to defend himself or no legal actions undertaken which is a clear violation of fundamental rights. Being a regional organisation EU is bound by the commitments under international law and it does not absolve its institutions from obeying the fundamental rights guaranteed under its jurisdiction¹². The supremacy of EU fundamental rights human rights is highlighted.

Regional courts through judicial interpretation elevate the constant practises within the region into legally recognised norms with binding authority. These case laws play a vital role in shaping, interpreting and creating laws and act as a norm setting mechanism. On the whole, these decisions highlight how judicial bodies, whether it is arbitral tribunal or regional court facilitate clarification, interpretation and dissemination of legal ideals which are more possible to become broadly recognised customary international law.

Human Rights

ASEAN'S Human Rights Declaration 2012 contributed to the development of customary international law. The general principles laid down in the declaration are

“All persons are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of humanity.

Every person is entitled to the rights and freedoms set forth herein, without distinction of any kind, such as race, gender, age, language, religion, political or other opinion, national or social origin, economic status, birth, disability or other status¹³.”

¹² Paul James Cardwell, Duncan French & Nigel White, European Court of Justice, Yassin Abdullah Kadi and Al Barakaat International Foundation v. Council and Commission (Joined Cases C-402/05 P and C-415/05 P) Judgment of 3 September 2008, 58(1) Int'l & Comp. L.Q. 229 (2009), <https://doi.org/10.1017/S0020589308000912> (last visited May 8, 2025).

¹³ ASEAN Human Rights Declaration, Nov. 18, 2012, <https://www.aichr.org/wp-content/uploads/2018/10/ASEAN-Human-Rights-Decl> (last visited May 9, 2025).

Even though ASEAN's instruments are non-binding, the values and principles are constantly invoked in municipal laws and they have been used as a precedent in diplomatic discourses and regional discussions. The constant confirmation of its principles viz., right to liberty, life and security in ASEAN's declarations and national human rights frameworks represents a developing consensus. The consistent and general practice, integrated with opinion juris helps the changeover of this soft law obligations into binding customary norms.

The charter of Fundamental Rights of the European Union protects the fundamental rights people enjoy in the European Union. It is a modern comprehensive instrument of EU law, protecting people's rights and freedoms in view of changes in society, social progress and scientific and technological developments. The charter contains 54 articles and preamble and it is grouped into seven chapters such as dignity, freedoms, equality, solidarity, citizen's rights, justice¹⁴. The charter plays a broader role in reaffirming and determining international standards with respect to civil and political rights. The charter consists of derivative rights from the constitutional backgrounds of EU member states, treaties such as European Convention on Human Rights and the European court of Justice's law and the European Court of Human rights.

The charter shows an integrated dedication to fundamental human rights that crosses beyond geographical boundaries, even though its specific enforcement has been limited to the activities of EU institutions and the application of EU law by member states. It promotes basic civil and political rights that are reflected in international human rights instruments such as the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights which includes the right to life, liberty, security, privacy, freedom of expression equality before the law and protection from torture and inhuman treatment. The EU supports to strengthen customary international law by codifying these rights in municipal law framework and providing effective legal remedies through the European Court of Justice. The general and consistent practices of states give rise to customary international law. The connected international standards are shaped by EU and its member states by constantly protecting civil and political rights. The charter has an impact on non-EU states and international organisations and it serves as a model for regional rights instruments in other regions of the world. Hence the EU charter and its observance to them have a standardizing influence on the global level and

¹⁴ *Charter of Fundamental Rights of the European Union*, 2012 O.J. (C 326) 391, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=> (last visited May 9, 2025).

advanced crystallisation of civil and political rights as customary international law irrespective of regional application.

Trade aspects

Protection of Human Rights, Labour regulations and safeguarding the environment are commonly found in EU trade agreements which establish the precedent for the future international economic deals. These provisions which are often included to promote the trading partners that they should align with EU norms. These actions help the establishment of customary standards for sustainable development and ethical trade.

Regional Comprehensive Economic Partnership Agreement (RCEP) negotiations were launched in November 2012 between the Association of Southeast Asian Nations (ASEAN includes Brunei, Darussalam, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand and Vietnam) and ASEAN's free trade agreement partners (Australia, China, India, Japan, New Zealand and the Republic of Korea) India withdrew from RCEP negotiations in November 2019 and there is a declaration that India might become member at any time once the agreement enter into force. New access and updated rules for growing trade and investment in the rapidly developing Indo-Pacific region in Australian business are provided through RCEP¹⁵. This indicates regional trend setting in trade that play a major role in developing customary international law in particular in the area of digital trade and dispute resolution. Though its less enforceable comparably with EU it shows a rational evolution of trade governance in ASEAN practice which will become customary standard.

Environment

The ASEAN agreement on Transboundary Haze Pollution was signed by ASEAN member countries in Kuala Lumpur, Malaysia, on June 2002. This agreement was the first regional proposal ever made with the goal of reducing and preventing haze pollution through improved regional and global collaboration as well as focussed national efforts. Because of the nonaggressive approach and non-interference policy nations depart from following the agreement and there is no permanent solution. Later on, during November 25, 2003, ASEAN member countries agreed to work together to overcome forest and land fires along with the

¹⁵ Australian Gov't, Dep't of Foreign Affs. & Trade, Regional Comprehensive Economic Partnership (RCEP) (2025), <https://www.dfat.gov.au/trade/agreements/in-force/rcep> (last visited May 9, 2025).

effects of smoke together through the signing of Haze Pollution agreement¹⁶. By this ASEAN's practice act as a precedent for international environmental cooperation, addressing the transboundary environmental responsibility and found the base for the customary practices with respect to the environmental issues.

EU based on its internal legislations, being a international leader in climate change, institutionalizes principles like precaution and polluter-pays, that have an implication on international environmental discussions and treaties viz., Paris agreement.

Judicial

Beyond the jurisdiction of EU, the Court of Justice has established its wings out of the boundaries of EU. The Court of Justice has played a significant role in interpreting and upholding EU law and its rulings frequently have persuasive power in other regional and global legal arenas.

The interpretations of the court of general principles of law sometimes cited by Human Rights court and organisations shaping the legal expectations in regional and world forum.

Though ASEAN is not having court the consensus and diplomatic practise which helps to the evolution of customary standards are respected. Though ASEAN's law based on soft law it helps in promoting different legal norms which influences international legal expectations.

Conclusion

The EU has a more stipulated and legally substantial impact than ASEAN, which primarily influences customary international law through regional practices grounded in unanimity and soft law. ASEAN's approach, which prioritises non-interference and incorporates its varied membership in the organisation, leads to gradual but contextually rooted norm establishment. In contrary, through enforceable legislation, judicial rulings and procedural conditionality in international relations, the EU may actively influence and supports customary norms in overall globe, credit to its institutional and legal cooperation.

The creation of international standards is significantly impacted by regional practices,

¹⁶Rahayu Subekti, Effectiveness of Transboundary Haze Pollution in Handling of Smoke Haze Cases in Southeast Asia, 23(1) Int'l J. Bus., Econ. & L. 43 (2020),

primarily when they are identical in relation with opinion juris and backed up by institutional practices. In this regard, even though both the regional organisation adopts quite distinct strategies, ASEAN and EU both played commendable role in evolution of new legal standards, their observance and gradual acceptance by global community which in turn accepted and practised uniformly all over the world as customary practise and even they might be edified as Jus Cogens.

REFERENCES

1. Zeyad Jaffal, The Role of International Organisations in Shaping Customary International Law: An Analytical Study of the 2018 ILC's Draft Conclusions, 3(1) Am. J. Soc'y & L. 19 (2025).
2. Katarina Perocevic, European Union Legal Nature: EU as Sui Generis – A Platypus-Like Society, 4(2) Inter E.U. L. East 101 (2017).
3. European Parliament, The European and the Multilateral System: Lessons from Past Experience and Future Challenges (Briefing, 2021).
4. Anna Michalski, Diplomatic Practices beyond Brussels: The EU Delegations and the Coordination of EU Foreign and Security Policy, in The Everyday Making of EU Foreign and Security Policy 113 (2022).
5. Elsa Hedling, Diplomatic Representation and Online/Offline Interactions: EU Coordination and Digital Sociability, Int'l Stud. Q. (2024).
6. Takis Tridimas & Mark Konstantinidis, Customary International Law in the Case of the CJEU: In Search of Consistency (2024).
7. European Commission, 'Carbon border Adjustment Mechanism, (Taxation and Customs Union, 28 March 2025)
7. European Commission, Carbon Border Adjustment Mechanism (Tax'n & Customs Union, Mar. 28, 2025).
8. Edicts Editorial Staff, Understanding Customary International Law: Key Principles and Impact (Edicts Blog, May 17, 2024).
9. ASEAN Secretariat, Executive Summary of the Final Review of the Roadmap on ASEAN Cooperation towards Transboundary Haze Pollution Control with Means of Implementation (June 2022).