In a milieu of globalization, much attention has been given to the emerging trends and probable developments concerning regionalism in Southeast Asia, particularly the Association of Southeast Asian Nations (ASEAN) and its 10 Member States. With the adoption of the ASEAN Charter in November 2007, what was formerly a mere political association of countries was bestowed legal personality. Consequently, scholarly discussion has once again focused, not only to comparisons between ASEAN and the European Union (EU), but also to the legal implications thereof. In promoting greater cooperation and interdependence, the ASEAN Charter has likewise brought forth significant challenges and opportunities to the practice of law in the region and accordingly, to legal education.

With the steady rise of transnational and cross-border transactions and interactions, a symbiotic evolution in the fields of legal practice and legal education is essential to address and enhance regional progress and solidarity.

Delimiting the Bounds of ASEAN Law

While the ASEAN Charter espouses “the need to strengthen existing bonds of regional solidarity to realise an ASEAN community that is politically cohesive, economically integrated and socially responsible,” it would seem that it does not intend to construct a Southeast Asian variety of the EU. Parallel with the promotion of an ASEAN identity, the Charter in no unclear terms emphasizes respect for “the principles of sovereignty, equality, territorial integrity, non-interference, consensus and unity in diversity.” The legal personality of the ASEAN does not equate to the creation of a supra-national body similar to the EU which has the power to adopt and promulgate its own laws binding on its member States.

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1 Preamble, ASEAN Charter
2 Id.
The concept of an EU Law was born when member States of the EU ceded part of their sovereignty to empower EU institutions to adopt laws in the forms of regulations, directives, and decisions, under the Treaty on the Functioning of the European Union (TFEU). These regulations, directives and decisions are collectively referred to as “EU Law.” While governments of member States may be given discretion on the manner of implementing EU directives, these “laws” passed by the European Union take precedence over State laws and are binding on State authorities.

The ASEAN structure created by the Charter made no such innovation. Clearly, the concept of “ASEAN Law” in the Southeast Asian region similar to what is known to be “EU Law” in the EU region has not yet materialized. The closest characterization of what “ASEAN Law” would comprise involves the various political commitments by member States to the ASEAN community. In addition, the creation of ASEAN specialized bodies as well as the provisions for Dispute Resolution could also form part of what may be considered as ASEAN Law.

**ASEAN Law and its Implications to Legal Education**

Despite the fact that regionalism in Southeast Asia cannot be equated point by point with its European counterpart, significant developments may be inferred from the adoption of the ASEAN Charter as part of ASEAN Law.

Greater economic and social cooperation and integration towards a more interdependent ASEAN community would undoubtedly be affected and even dependent on how ASEAN Law as a concept develops. As Professor Tan Cheng Han suggests, the Charter is arguably the first step towards a greater role for law in a grouping that has relied significantly on consensus and informal consultation. Concomitant with the key

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role of law in achieving the aspirations and purposes enshrined in the Charter is the necessity to reorient and reform legal education in the Member States, so as to take into account the regional community and the trans-border legal context in their respective law curricula.

The Philippine Context and its Challenges

As simple as it sounds, the diversity in the legal traditions of the different Member States stemming from different histories and cultures poses a challenge to the integration of ASEAN Law into a local law curriculum. Such is true in the case of the Philippine legal education.

Unlike the other Member States, the Philippine legal system is a unique fusion of civil and common law traditions, arising from the successive colonial regimes of Spain and the United States of America\(^5\). While the civil law tradition predominates, neither Spanish nor American legal principles are conclusive upon the legal system in the Philippines.

Legal education in the Philippines remains predominantly American–influenced, characterized by the Socratic method and case-method devised at the Harvard Law School\(^6\). Notwithstanding such influence, however, the civil tradition based on codified statutes inherited from the Spanish regime still largely governs the content of the Philippine legal system.

Despite statements to the contrary, the culture that predominates legal instruction in Philippine law schools emphasizes the objective of passing the annual BAR examinations. With more than 100 law schools in the country producing approximately more than 6,000 law graduates annually, the nation-wide passing rate has been on a

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consistent low of less than 40%, with the lowest being at 16.59% in the year 1999\textsuperscript{7}. Understandably, such focus is not misplaced considering the necessity of passing the BAR in order to practise law in the Philippines.

However, emphasis on passing the Bar Examinations is not without significant drawbacks. First, legal instruction has been limited to the theoretical and academic as against its broader role as a part of and moving factor of society and as a profession. Emphasis on passing an examination gives premium to those with the ability to memorize voluminous statutory provisions and judicial decisions or jurisprudence.

Nevertheless, a few law schools, particularly the University of the Philippines (UP) College of Law, strives to remain true to the dictum of Justice Holmes etched on the wall of Malcolm Hall: \textit{The business of a law school is not sufficiently described when you merely say it is to teach law or to make lawyers, it is to teach law in a grand manner and to make great lawyers.}

The UP College of Law likewise pioneered in the inclusion of a mandatory course in its law curriculum referred to as Clinical Legal Education. The course exposes law students to the actual practice of law through apprenticeship with the U.P. Office of Legal Aid. Student apprentices called “law interns” are exposed to social reality and to public service.

Another drawback of a BAR-oriented approach in legal instruction is the undue importance given by law curricula to courses which are included in the coverage of the Bar Examinations. These courses are referred to as BAR subjects. These BAR subjects often comprise the core subjects taught in law schools because Bar candidates will be examined in those subjects. And since admission to the BAR is a condition for law practice in the Philippines, domestic law comprises the main content of the Bar subjects.

\textsuperscript{7} Bautista, supra note 5.
with a very small percentage allotted to international law, much less to “regional” law, and the practice thereof beyond Philippine borders.

To provide a more diverse field of practice for the law students, the UP College of Law offers various “electives” involving other fields of law or more specialized practice areas. ASEAN Law as a branch of legal education may be offered as one of the said electives. Unfortunately, there are also difficulties which such proposal may face. First, the incentive to take electives which are allied to Bar subjects is great. Second, an elective being optional, an elective course on ASEAN Law or any particular field of practice in the region will compete with electives on specialized domestic practice areas.

Without being exhaustive, the two shortcomings of the current culture in Philippine legal education presented above pose significant challenges to the possible integration of ASEAN Law into the Philippine law curriculum. Being a non-BAR subject or field of law, law students may not give much attention to the emerging field of trans-regional law practice.

*Opportunities and Possibilities*

While the challenges presented are not miniscule, the advent of the ASEAN Charter has created opportunities and possibilities in law practice both domestically and regionally. In line with the emerging regional trends, there exists a progressive inertia for legal education not to lag behind but to evolve in order to meet the requirements of legal developments in the ASEAN community.

As earlier stated, the adoption of the ASEAN Charter took place in November 2007 and consequently has been effective for only four (4) years. Considering that it took four decades for a political declaration of the association to be converted into a significant legal instrument, four years may be considered part of the initial phase which the Charter must face in its formation of a more interdependent ASEAN community.
The same principle applies with regard to the integration of ASEAN Law into domestic legal education, particularly in the Philippines.

Regardless of the stage however, serious considerations and strategies have to be adopted if integration is to take root and develop properly. While not much could be done to address the BAR-oriented approach of law schools, sight must not be lost on the fact that the BAR is a mere stepping stone, or an obstacle which must be hurdled. Without delving deeper into the benefits of preparing future law practitioners as against BAR-passers, law schools in the Philippines have the responsibility to promote regional integration. This proposed shift in culture in turn could provide the opportunity to advance the benefits of studying ASEAN Law or even economically viable opportunities for law practice therein.

A shift away from a stringent BAR-focused approach could create possibilities for the integration of ASEAN Law principles into the core subjects even, with domestic law serving as a focal point for legal comparison. One particular branch of law where law practice in the ASEAN region could be introduced or highlighted is commercial law, particularly in the subjects of trade, intellectual property, tax, and maritime commerce.

In the same vein, electives could be developed either as a separate course on ASEAN Law or to incorporate the study of ASEAN Law in the various courses which are already being offered and taught. Currently, the UP College of Law is offering a wide variety of electives including Human Rights, International Economic Law, International Commercial Arbitration, International Environmental Law, and other specialized fields involving International Law. While the focus of these international law electives is currently on the global scale, such as the respective United Nations instruments and other multi-lateral declarations or treaties, the emergence of the ASEAN Charter making the ASEAN into a legal person could very well create or call forth an adjustment of the discussion into the regional context of the ASEAN Community of which the Philippines is part.
On top of addressing the negative aspects mentioned earlier, legal education in the Philippines could also benefit from the creation of Post Graduate Programs designed for specialization in ASEAN Law practice. As a proposal, an Erasmus program for exchange of law students among Member States could be created to facilitate the harmonization and even standardization of law education in the member countries\(^8\). On the flip side, Member States could also facilitate a system of “visiting faculties or lecturers” on the topic of law practice in the region. In the initial stages of developing an ASEAN Law program into domestic curricula, there will certainly be a need for law instructors to develop expertise in the fields of law practice in the region.

Indeed, the time might not be far off considering the legal personality of the ASEAN community, when a breed of practitioners referred to as ASEAN lawyers will practice in all the Member States in cross border cases.

**Impact on the ASEAN Law Student**

While the 1987 Philippine Constitution retains its somewhat jealous hold over the legal profession being limited to Filipino citizens\(^9\), opportunities for law practice beyond the domestic border have been on the rise in recent years. In fact, some of the professorial lecturers in the UP College of Law have made a name for themselves in the Southeast Asian region in their respective fields of law practice.

Without necessarily having to be admitted into the BAR of neighbouring countries in the ASEAN community, a lawyer’s practice may include transactions involving different member States having different legal frameworks. However, there is still much room for progress towards what could be considered an ASEAN practice of law where regional transactions, particularly on trade and investment, require lawyers from different States to coordinate. If the objective of the Charter in creating an ASEAN

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\(^9\) Article XII, Section 14 of the 1987 Philippine Constitution.
Community is to become a reality, the necessity of understanding each Member State’s legal system will be essential.

The steady rise in regional transactions and interactions in Southeast Asia brought about by the renewed and strengthened commitment toward a resilient regional bloc in a globalized world should be considered as a positive advancement for the ASEAN law student of today.

Particular fields of pedagogical development either as separate subjects or expansion of existing offered courses could involve trade and investment, good governance, access to justice, and environmental justice\(^\text{10}\). The field of trade and investment requires little elaboration as the ASEAN Charter seeks to facilitate the creation of a single market and production base in the region. In the UP College of Law, the implications of the ASEAN Charter could well be discussed in the elective course on International Economic Law, among others. Meanwhile, difference in government models is precisely a reason for the exchange of ideas on good governance and academic discourses on comparative government. This particular field could be a welcome supplement to Political Law subjects involving governance. Important concerns for legal study dealing with access to justice involve issues on migration, overseas labor and human trafficking. Lastly, environmental law has been a steadily rising concern not only in the region but on a global scale. Electives such as International Environmental Law and Environmental Justice offered in the UP College of Law have been a pioneer in the Philippines, taught by experts in that field. Integration of specific regional concerns into these subjects is essential in light of the ASEAN vision to create a single ASEAN identity and community.

The recent progress of law practice in the ASEAN region should not be limited to the confines of academic discussion in law schools. Equally important, there is a growing need for actual practitioners to implement and apply legal knowledge to take on

the challenge of a regional community and achieve the purposes and solidify the principles for which the ASEAN Charter was created.

While the four years of legal education in the Philippines might be a brief period, it is not too early to be exposed on the impact and development in the ASEAN region as a law student, considering the necessity of choice in viable career opportunities when graduation comes. It becomes the joint responsibility of the legal instructor and law school to introduce the law student to the existence of these fields of practice.

**Conclusion**

The prevailing Philippine culture on legal education may prove to be a challenge in the promotion of a meaningful discourse on the academic life of law students. Regardless, this obstacle does not prove to be insurmountable considering the steady evolution of the regional political, economic, and social context to which law practice and principles serve both as foundation and catalyst for progress. A consequent change in legal education systems to integrate ASEAN Law would then have to follow if only to prevent a failure of maintaining the resilient regional bloc envisioned by the adoption of the ASEAN Charter.

In order to facilitate this improvement and re-orientation in legal education, concrete proposals and discussions among legal educators in the different Member States would be indispensable. Before any meaningful change can be introduced in the curricula, the boundaries and frameworks must be laid down. Before the ASEAN law student may be given an opportunity to develop an understanding of the opportunities and possibilities that are opening up for him or her in the region, there must also be a shift in the culture of the academe brought about by a considerable appreciation of the impact of the ASEAN Charter in giving shape to the “common desire to live in a region
of lasting peace, security and stability, sustained economic growth, shared prosperity and social progress.\textsuperscript{11}