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**TREATY COMMITMENT PREFERENCES:
THE CASE OF THE PHILIPPINES ON THE PROPOSED ASEAN EXTRADITION**

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31 August 2020

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ACCEPTANCE PAGE

This thesis entitled “Treaty Commitment Preferences: The Case of the Philippines on ASEAN Extradition” is hereby accepted by the Faculty of Management and Development Studies, U.P. Open University, in partial fulfillment of the requirements for the degree Master of ASEAN Studies.

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ABSTRACT

Treaty commitment preferences of each State vary from one another. Wagner (2003), Lupu (2014), Simmons (2002) and Parillo (2009) recommended the general treaty commitment preferences in the European context, notably the form of government, incumbent administration's priority plans, capacity to comply and foreseen benefits. Thus, this study was conducted to validate the applicability of the suggested preferences in the Philippine context through the lens of the proposed Association of Southeast Asian Nations (ASEAN) Extradition Treaty.

Interview with the prominent negotiators of extradition law and ASEAN instruments were conducted in order to validate the preferences and/or identify other relevant preferences that may be deemed applicable for the Philippines. The results of the study presented that, unlike the theoretical propositions, the form of government and incumbent administration's priority plans are not considered as treaty commitment preferences of the country. On the other hand, the capacity to comply, foreseen benefits, challenges, status/situation of transnational crimes in the region, as well as the legal framework of the Contracting Parties, are proven to be the significant preferences in the Philippine context.

The above implies that the abovementioned preferences may serve as the foundation of the possible general framework of the Philippines' treaty commitment preferences on various treaties and international agreements in different areas of cooperation. This, in turn, may likewise serve as the basis of negotiators when drafting and negotiating international agreements.

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CHAPTER 1

INTRODUCTION

1. Background of the Study

Treaty commitment preference and treaty compliance are both significant in understanding the States' policy directions, notably in terms of binding themselves with the obligations set forth in a certain international agreement. Treaty commitment preference provides for the general framework and/or guidelines being observed by a certain State before the latter concludes an agreement being negotiated. On the other hand, treaty compliance covers a State's level of commitment in the implementation of a certain treaty.

It can be observed that a number of existing studies involving international agreements are mostly focused on the State Parties' compliance of certain treaties that are considered highly topical and/or controversial. Said researches focus on the determination of problems and issues being encountered by the Parties in the implementation of agreements, the possible instances of the failure of one Party to comply with the obligations of an agreement, and the prospective initiatives strategically being planned by both Parties to comply with the agreement, among others.

In this regard, this research has found its basis on the study of Stein (2006) who stated that a review on treaty compliance per se, somehow, does not completely enable one to comprehend the totality of a State's behavior. It should be noted that

treaty commitment preferences fill the gap in understanding a State's foreign policy directions. Stein (2006, pp. 2) emphasizes that *"one must also understand why States originally assume these international legal obligations"*.

This study explored the treaty commitment preferences of the Philippines in the context of the proposed ASEAN Extradition Treaty. It may be implied that the Philippines is committed to its obligations as a member of ASEAN; however, it should be emphasized that entering into negotiations and signing the said treaty do not automatically bind the Contracting Party without its ratification thereof. Hence, this research contributed to the existing preferences recommended by scholars in terms of the variables being considered by the Philippines, in particular, when dealing with treaty ratification specifically on the proposed ASEAN extradition treaty.

This study sought to answer the question *"what are the variables comprising the Philippines' treaty commitment preferences before its ratification of the proposed ASEAN Extradition Treaty?"* In order to answer the said problem, I reviewed a number of related studies on the topic, and found out the general treaty commitment preferences of certain countries. Wagner (2003), Lupu (2014), Simmons (2002) and Parillo (2009) provided the general treaty commitment preferences, and contend their arguments on whether such variables are deemed significant or vice versa.

On the other hand, according to Lupu (2014), many individuals may consider state's decision to commit to certain international agreement as a purely random act. However, I am of the opinion that states' decision to commit to a certain treaty is based on the guidelines or norms that the latter observe, which likewise serve as the common

basis of the policymakers in strengthening the latter's course of action toward its national issues and concerns.

In this connection, I conducted this study focusing on the Philippines' treaty commitment preferences specifically in terms of the proposed ASEAN extradition in order to comprehend the State' policy directions to contribute to the enhancement of the region's security.

The study likewise researched for the evidences on the applicability of the general treaty commitment preferences with that of the Philippines in terms of binding itself to the proposed ASEAN Extradition Treaty. This, therefore, tested the theoretical propositions related to the arguments provided by Wagner (2003), Lupu (2014), Simmons (2002) and Parillo (2009), and the possibility of determining the preparatory work to be undertaken by the Philippines in case of ratification thereof. The results of the study can serve as a basis in developing a possible framework that could best describe the State's treaty commitment preferences in extradition and other areas of cooperation.

In view of the aforementioned gap in studying the States' foreign policy behavior due to the lack of enough studies involving the State's treaty commitment preferences, I examined the general treaty commitment preferences in the case of the Philippines before it enters into the proposed ASEAN Extradition Treaty on the basis of its past encounters in treaty-making and/or negotiations, and determined the necessary preparatory work that needs to be undertaken by the country in this regard. The research likewise focused on the cooperation concerning extradition as the latter is

considered to be a challenge for ASEAN as it requires the harmonization of the legal systems and policies between and among the Member States (Nakano, 2018).

2. Definition of Terms

Treaty: *“international agreements entered into by the Philippines which require legislative concurrence after executive ratification. This term may include compacts like conventions, declarations, covenants and acts”* (E.O. No. 459, s. 1997)

Executive Agreements: *“similar to treaties except that they do not require legislative concurrence”* (E.O. No. 459, s. 1997)

International Legal

Cooperation: cooperation amongst states governed by the principles of equality, fairness and constitutionality

Extradition: process of formally requesting the approval of the Requested State to enforce return of an offender who committed a crime under the jurisdiction of the Requesting State, in order for the latter to appear for trial and investigation thereat (United Nations Office on Drugs and Crime, 2012)

Requesting State: state which formally requests the return of an offender who committed a crime in its jurisdiction (United Nations Office on Drugs and Crime, 2012)

Requested State: state which is being requested to enforce return of an offender who committed a crime under the jurisdiction of the Requesting State (United Nations Office on Drugs and Crime, 2012)

Treaty Commitment

Preferences: The variables being considered by a State before negotiating and binding itself to a certain international agreement

3. Statement of the Problem

Following the study of Lupu (2014), states commitment preferences largely serve as the basis of a certain state in creating institutions, as well as in the level of compliance the latter usually observed when implementing the treaties/executive agreements it entered into with an institution. Lupu (2014) likewise added that, according to international relations theory, each state's preferences vary systematically from one another; hence, this implied that the existing studies on states' preferences in Europe or Western countries would not be applicable in the Philippine context.

In order to determine the Philippines' treaty commitment preferences, the researcher focused its study on the proposed ASEAN Extradition Treaty. The said international agreement is one of the few multilateral agreements being proposed by ASEAN, which is believed by experts to encounter difficulties in negotiations in view of the differences in ASEAN Member States' legal systems.

The studies of Wagner (2003), Lupu (2014), Simmons (2002) and Parillo (2009) provided the general treaty commitment preferences, notably the form of government of the other Contracting Party, incumbent administration's priority plans, capacity to comply, and foreseen benefits from extradition. The arguments of the said scholars were discussed in detail in Chapter II.

The above variables are also generally reflected in Prof. Moravscik's theory, as cited by Simmons (2002). Generally, Moravscik conducted a research on the relationship between the internal politics of a certain state and its external commitments to other bilateral and/or multilateral partners. Moravscik's study, however, focuses on the European/Western context. Simmons (2002) mentioned that debates are still persistent on whether Moravscik's theory can likewise be applied "*to broader range of countries, years and treaty arrangements*" (Simmons, 2002, pp. 5).

4. Objectives of the Study

Generally, this study aimed to determine the Philippines' treaty commitment preferences before entering into the proposed ASEAN Extradition Treaty in order to further contribute to the enhancement of legal cooperation in the region.

Specifically, this study was conducted to:

1. examine the applicability of the following general treaty commitment preferences (form of government of the other Contracting Party, incumbent administration's priority plans, capacity to comply, and foreseen benefits from extradition) in the Philippine context before it enters into the proposed ASEAN Extradition Treaty.
2. determine the preparatory work to be undertaken by the Philippines in the event of ratification to the proposed ASEAN extradition treaty.

5. Scope and Limitations of the Study

The research is limited to the examination of the applicability of the general treaty commitment preferences in the Philippine context in terms of its roadmap toward the regional extradition treaty within ASEAN, and the determination of the preparatory work of the Philippine Government in the case of eventual ratification thereof. The participation of the prominent negotiators on legal and judicial cooperation relative to the proposed ASEAN Extradition Treaty and other ASEAN legal instruments significantly contributed to the success of the conduct of the study.

The preferences that were examined, which were obtained from the studies of Wagner (2003), Lupu (2014), Simmons (2002) and Parillo (2009), are limited to the following: (1) form of government of the other Contracting Party/ies; (2) incumbent

administration's priority plans; (3) capacity to comply; and (4) foreseen benefits from extradition treaties. Other preferences that may be provided by the participants, if any, in the course of the gathering of data were included in the possible framework of treaty commitment preferences of the Philippines on extradition.

It should likewise be noted that this study only covered the above-mentioned matters, and did not cover, however, the implementation of the existing treaties on the matter, and the related issues thereon.

6. Significance of the Study

In the context of international relations and diplomacy, this study highlighted the importance of taking into consideration not just how a certain State, the Philippines for instance, comply on the obligations set forth in the provisions of a certain agreement, but also the guidelines and/or framework being considered by a State to strategically plan its actions and behavior toward the need to engage itself with a regional extradition treaty with ASEAN Member States, or any other agreements with other Contracting Party/ies.

This study likewise emphasized the Philippines' substantial means of balancing its national interests and the ASEAN's move toward the further enhancement of the international legal cooperation in the region. It provided more researches on ASEAN's roadmap toward the enhancement of legal cooperation and strengthening of regional security considering the differences in the Member States' legal system and policies,

and how the Philippines crafts its policy direction toward the possibility of having a regional extradition treaty within ASEAN.

Furthermore, the result of this study helped the following individuals to further understand the Philippines' treaty commitment preferences and roadmap in its regional legal cooperation on the basis of its past and current encounters in negotiating and concluding bilateral and multilateral extradition treaties among the ASEAN Member States:

Master of ASEAN Studies Students. The study provided significant information to the graduate students on how the Philippine Government, through the Department of Foreign Affairs and other concerned agencies, notably the Department of Justice, enhances legal cooperation within the ASEAN region through the conduct of negotiations with respect to extradition.

Foreign Service. The results of the study contributed to the further strengthening of diplomatic relations between the Philippines and other ASEAN Member States in consideration of the encountered issues and challenges from the past and current negotiations, and the crafting of recommendations for the Philippine Government in terms of its cooperation on matters pertaining to extradition with ASEAN on the basis of the results of the study.

Negotiators. The findings of the study provided for the foundation of a possible framework/guidelines on the Philippines' policy considerations before engaging itself into negotiations to finalize and conclude a certain agreement.

Researchers. The study improved the comprehension and understanding of the researchers on the Philippines' and ASEAN's treaty-making practices and its importance in the integration of the region, particularly on international legal and judicial cooperation.

7. CONCEPTUAL FRAMEWORK

Miles and Huberman (1994), as mentioned by Adom, et. al. (2018) defined conceptual framework as a *“graphical or...a narrative form showing the key variables and constructs to be studied and the presumed relationships between them.”* Adom, et. al. (2018) also stated that a conceptual framework provides for the integrated way of presenting the research problem of the study. The framework likewise clearly presents the relationships of the variables of the research topic, and describes the dynamics of the research process.

Furthermore, according to Yin (2009), the conceptual framework presents the elements of the research study – the variables and their interrelationships with one another. Conceptual framework is considered to be the first significant step in the conduct of deductive qualitative case study (Yin, 2009).

Studies focusing on treaty commitment preferences resulted to arguments and debates on whether a certain preference affects a State's decision to commit to certain treaties on a positive or negative approach. Thus, this study constructed a conceptual framework on the basis of the general treaty commitment preferences recommended

in previous related studies, which are discussed further in the next chapter, in determining the treaty commitment preferences of the Philippines in terms of the proposed ASEAN extradition.

The figure below presents the conceptual framework highlighting the relationships of the variables of the study.

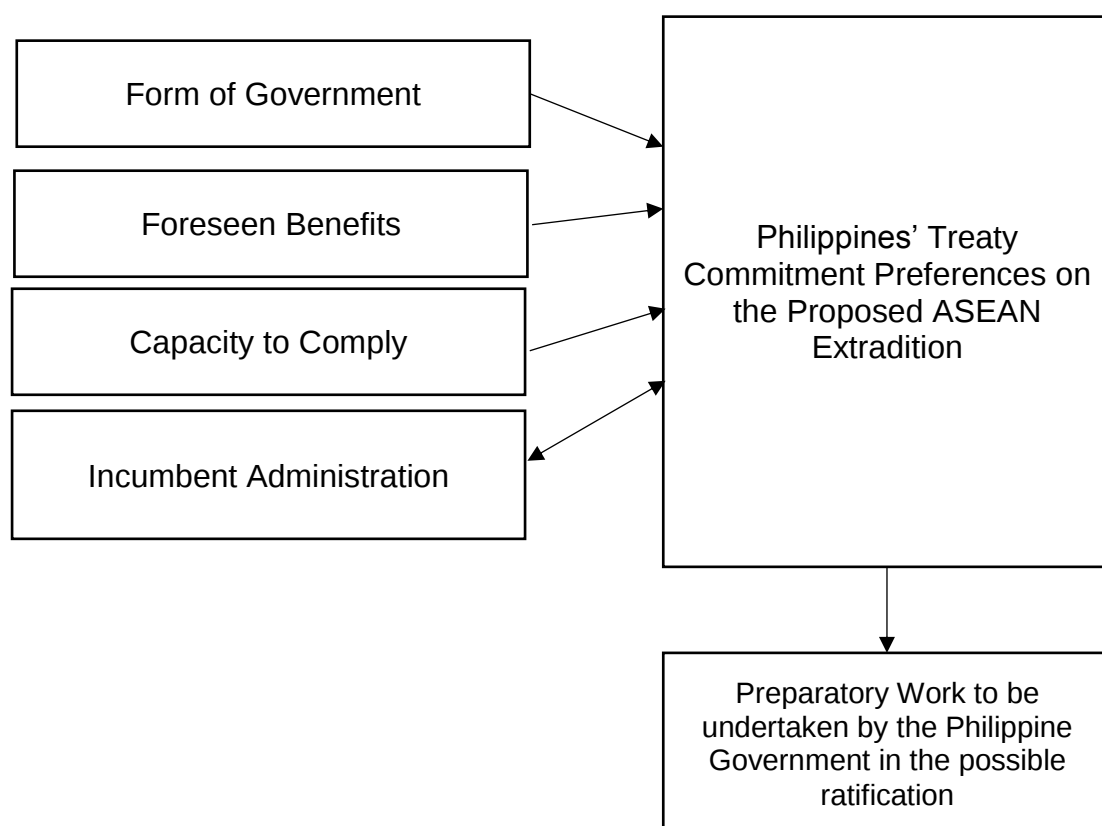


Figure 1. Conceptual Framework

The independent variables of the study include the form of government of the other Contracting Party/ies, capacity to comply to extradition, and foreseen benefits from extradition.

The dependent variable, which is the Philippines' treaty commitment preferences toward extradition, and the control variable – incumbent administration's priority plans, which is dependent on the focus of the projects and programs being implemented by the current administration of the Philippines -- are likewise included.

In understanding the conceptual framework, it should be noted that the single-headed arrow indicates that a change in independent variables would result to a change in the dependent variable; on the other hand, a change in the dependent variable would not cause any change on the independent variable.

It may likewise be observed that a double-headed arrow was used to describe the relationship between the control variable and the dependent variable. This means that a change in the control variable would cause a change in the dependent variable, and vice versa. This is in view of the assumption that priority plans of the Philippines change depending on the strategic objectives of the incumbent President and his administration. Thus, it should be noted that the outcome of the study, specifically the treaty commitment preferences of the country in terms of extradition, reflects the current policy directions of the current administration, and may be subjected for change once the new Head of State has been elected.

The above assumptions are on the basis of the results of study conducted by Wagner (2003), Lupu (2014), Simmons (2002) and Parillo (2009). Despite the conflicting arguments of the said scholars, it may be deduced that "form of government" seems to be a significant variable in understanding the treaty commitment preferences of a certain State. Second, the importance of taking into

consideration the “capacity to comply” of a certain state has been supported by the studies of Parillo (2009), Tseng (2013), among others.

Moreover, as part of the Opportunity/Willingness Model developed by Parillo (2009), “benefits of the agreement” is one of the first considerations of a certain state before it enters an agreement. It may be recalled that the highlights and benefits of the agreement is a crucial requirement for Presidential ratification and Senate concurrence thereof. “Administration priority plans” are likewise substantial to state’s treaty commitment as a result of the studies of Simmons (2002), and as supported by Neumayer (2007), Western (2008) and Magnuson (2012).

In view of the foregoing, the conceptual framework proposed that the form of government of the other Contracting Party/ies, capacity to comply, foreseen benefits, and administrative policy directions are deemed to have positive influences (Wagner, 2003; Lupu, 2014; Simmons, 2002 and Parillo, 2009), and thus, constitute the treaty commitment preferences of the Philippines with regard to extradition.

The preparatory work to be undertaken by the Philippine Government was likewise determined in the event of the ratification of the proposed ASEAN extradition treaty.

8. Organization of the Thesis

The first chapter of the study focused on the research problem, specifically on the existing gaps in related literature and studies, the objectives or what I envision to achieve in this research, the scope and limitations, significance of the study, and the

conceptual framework, which presents the overview of the study including its variables and their relationships.

Chapter II provided for the review of related literature which discussed thoroughly the arguments of scholars pertaining to the general treaty commitment preferences of States. The section is divided into four (4) parts which examine the variables of the study, the context of negotiations, the advantages/disadvantages of multilateral and bilateral agreements, and extradition.

Chapter III, on the other hand, explained the research methodology and the use of interview and library methods in gathering relevant information to answer the research problem. This section likewise provided for the use of Miles and Huberman's (1994) data reduction, data display and drawing verification/conclusion in analyzing the gathered data, similar with the "content/thematic analysis", which complements the pattern matching procedure, a process of logical linking of case data to the theoretical propositions.

Chapter IV presents the results of the study through the use of Miles and Huberman's (1994) model in discussing the outcome of the interview and library research. Matrices on coding and generating of themes, as well as the presentation of Word Cloud and tables on the Coding Frequency, are included to ensure transparency and credibility of the results.

Chapter V provided for the summary, conclusions and recommendations of the study. The summary outlined the objectives, methodology and results of the study.

Conclusion, on the other hand, presents the researcher's inferences and interpretations gained from the outcome of the study. Recommendations are then crafted by the researcher which can then be explored by other researchers for further study.

CHAPTER II

REVIEW OF RELATED LITERATURE

Enhancement of international legal cooperation is one of the forefronts of each sovereign State's foreign policy in view of the increase in number of criminal activities involving human trafficking, terrorism, transnational organized crimes, and transmission of narcotic drugs, among others, due to the rise of globalization and connectivity amongst nations. Thus, to further limit and avoid the occurrence of such criminal acts, states commit themselves to international agreements that binds the latter to conform to its responsibilities and obligations in good faith or the so-called "*pacta sunt servanda*."

Several studies have been undertaken focusing on the extent of obligations and compliance undertaken by the State Parties with respect to an agreed international legal instrument. Such research studies focus more on the complexities of execution and/or implementation of certain treaties and/or international agreements. However, according to Parillo (2009), a research study on the States' reason for entering into an agreement is likewise important to consider in understanding the States' compliance.

In relation with the study of Quilop (2000), the question on "why States cooperate with one another" is one of the aspects that need to be studied in the area of international relations. The "dilemma of the common interest" and the "dilemma of the common aversion" provides for the assumption that some states could not attain its objectives without the coordination of its bilateral and multilateral partners.

Thus, this study will focus on the determination of the treaty commitment preferences of the Philippines before entering into a regional extradition treaty.

I. The Purpose of Entering into an International Agreement

According to Lupu (2014), most of the States who are engaged on negotiations tend to model the provisions of the agreement based on their preferences; thus, it can be concluded that the final text of the agreement are basically based on the Contracting Parties' preferences. Lupu (2014, pp. 4) defined state preferences as the *"way it orders the possible outcomes of an interaction."* States with similar characteristics and preferences coordinate more often to avoid possible conflict in the future. The question on which states do have similar preferences or what characteristics of states should be reviewed to better assess the said assumption should be taken into consideration (Lupu, 2014).

Parillo's (2009) study, on the other hand, focuses on the States' commitment on extradition treaties, and the latter likewise provides for the question "why do States do not have extradition treaties with every other State?" Parillo (2009, pp. 2) stated that extradition is defined as the *"formal surrender, based upon reciprocating arrangements, by one nation to another of an individual accused or convicted of an offense outside its own territory and within the jurisdiction of the other which, being competent to try and punish, demands the surrender."*

1. Form of Government of the other Contracting Party/ies

The study of Parillo (2009) found its basis on the study of Wagner (2003) which implies that extradition is one way of extending diplomatic peace research to include in the scope of international security cooperation. Wagner (2003) provides for theoretical explanations in answering the question of why State commits to an extradition treaty. Wagner (2003) also posited that, since democratic states puts in its highest priority the concern on national security and have larger win sets on the matter, the said states shall likely to enter extradition treaties to promote and protect such foreign policy. Wagner (2003) also added that democratic states would probably enter into an extradition treaty with another democratic state since, on Wagner's (2003) view, non-democratic states might probably have different or conflicting safeguards mechanisms compared to the democratic ones. Furthermore, Wagner (2003) posits that democracies have similar cultures and values; thus, leading to mutual respect for states' sovereignty and domestic law.

Wagner's argument has been supported by Lupu (2014) who states that the democratic states would possibly join institutions with Contracting Parties with same form of government as the former may consider the latter as more reliable partners.

Parillo (2009), on the other hand, criticizes the arguments provided by Wagner (2003) and Lupu (2014) which states that a small winning coalition is more likely to enter into an extradition agreement than a large winning coalition. Thus, according to Parillo (2009), non-democracies might enter into extradition treaties more than democracies disproving Wagner's (2003) winning coalition theory. Furthermore,

Parillo (2009) believes that the study of State's commitments is more dependent on its interests, rather than its norms and values as argued by Wagner (2003).

Simmons (2002) stated that, among the existing international relations theory, none of which covers the subject of state's treaty commitment preferences. However, it may be noted that, in the realist perspective, however, democratic states tend to use force in order to encourage others to engage themselves on certain agreements. Ideational theory, on the other hand, posited that weak democracies find it difficult to make other states commit to certain obligations (Simmons, 2002).

According to the theory of Professor Moravscik as cited by Simmons (2002, pp. 10), states that are *"recently established and potentially unstable democracies are most likely to support binding human rights regimes."* Furthermore, states that are proactive in terms of dealing with international law are much more willing to commit to certain international agreements (Simmons, 2002). Lupu (2014) further added that, based on the outcome of his research, states that are observed to be human rights violators are more open to bind themselves to human rights-related international agreements.

2. Administration's Priority Plans

Lupu (2014) likewise highlighted the importance of the role of the domestic veto players, who are the key persons in charge of the government's policies, notably the officials from the executive branch, legislative and judiciary, among others. Neumayer (2007) as cited by Lupu (2014) mentioned that officials who have veto powers tend to

declare more reservations when dealing with human rights agreements which, somehow, depend on whether his decision would gain support from the public or not. Western (2008) added that states bind themselves with international agreements to end internal factions, specifically those that are rooted for political reforms.

Furthermore, key officials within government encounter difficulties in negotiating the text of certain agreements in view of the so-called domestic politics and compliance uncertainty. According to Magnuson (2012), a country's decision to enter to an extradition treaty with another state is somehow being influenced likewise by parochial motives whether such act would entail electoral support from the public, or whether the decision would bring warm approval of the Head of State or vice versa.

Magnuson (2012 pp. 844) further argued that “the structure of domestic politics affects the demand of extradition treaties,” and somehow would create confusion as to what will be the extent of compliance being required by an extradition treaty specifically in times of “compliance uncertainty.”

Furthermore, Quilop (2000) stated that, in a multilateral sense, ASEAN remains to be driven by the Heads of States, wherein the decisions and initiatives are products of what have been taken negotiated by the highest levels of the governments of the ASEAN. He further emphasized that the changes in the political leadership of the Member States affect the roadmap of ASEAN as it depends heavily on its political leaders.

3. State's Capacity to Comply

Dionis (2013) stated that “state capacity”, in its resource-based definition, is divided into three aspects, notably the fiscal capacity, coercive capacity or military capabilities, and administrative capacity. Brinks and O'Donnel as cited by Dionis (2013) emphasized that “successfully upholding the rule of law” is a highly significant aspect of state capacity. Hence, the ability of the state to effectively maintain and enforce its legal system signifies its strong state capacity (Dionis, 2013).

Parillo (2009), on the other hand, created the “Opportunity/Willingness Model” that shows the factors being considered by States to commit to an extradition treaty with another State. First, Parillo (2009) argued that the States enter into extradition treaties in view of its interest to enhance its national security strategies. Second, Parillo (2009) stated that States consider shared institutions, particularly on political, economic and cultural aspects, before entering an extradition treaty with another State. Lastly, States likewise consider the benefits that it will receive from concluding an extradition treaty with another State. Moreover, Parillo (2009) emphasized that major powers are more likely to enter into extradition treaties in view of their assured capacity to comply with the requirements of the said treaty, as well as in view of their standing in the international community.

Parillo's arguments are supported by Western (2008) who stated that states' treaty commitment preferences depend on the cost of compliance and the benefits a state will obtain from binding itself with a certain agreement. Furthermore, Tseng

(2013) added that the states likewise consider entering agreements with countries which have existing diplomatic relations with the former.

Baird (n.d.). stated that states should review the obligations being required with a contracting party before committing itself to a certain treaty. This is in view of the need of the state to comply with provisions expressed therein as soon as the treaty took effect. It should be noted that, in any case that the international agreement is in conflict with the domestic law of a certain state, a state cannot make the latter an excuse for its negligence in complying a certain international agreement. A state should be able to peruse a certain agreement, and be able to make reservations, if needed, before it notifies the other party of its ratification to the agreement to avoid any conflict in law (Baird, n.d.).

Lupu (2014), on the other hand, emphasized that the State's treaty commitment preferences can be assessed through the approach of reviewing the treaties entered into by the latter. By simply counting the existing treaties the State implements, one may assume that states may have *"either a preference for or against ratifying treaties in general, whereas it may be the case that states instead prefer certain types of treaties versus others"* (Lupu, 2014, pp. 11). However, it may be deduced that a simple counting of treaties per se could not serve as basis for determining a certain State's treaty commitment preferences.

Western (2008) agreed to Lupu's (2014) view that states which are already compliant with the provisions set forth in a certain agreement prior to negotiations and/or signing/ratification usually do not bind themselves thereon in view of the

existing domestic policies in their jurisdiction. On the other hand, non-compliant states tend to ratify agreements in view of the benefits it will gain from the latter (Western, 2008).

4. State's Foreseen Benefits from Extradition

Baird (n.d.) added that the most important benefit of ratifying human rights-related treaties include the promotion and protection of a state's constituents through a strong, consistent and committed cooperation between and among states. However, Baird (n.d.) also mentioned that some existing studies argued that some treaties pertaining to the strengthening and uplifting of human rights tend to worsen the situation in view of a strong and powerful civil society, among others.

On the other hand, economic interdependence encourages states to enter into extradition treaties, considering also the intent of the states to maintain good relations with the other state. Furthermore, states tend to commit itself to a certain treaty as such act symbolizes the latter's support to promote and protect rights of individuals, and to fight criminalities and transnational crimes in the region (Regent University Law Review, 1993).

Furthermore, according to Wong (2018), the primary benefit of a state upon entering into an extradition treaty is the concerted action of states to lessen and avoid the threats to regional security by allowing the return of an offender to a state where the crime was committed. Parillo (2009) added that the assurance of reciprocating the extradition of criminals from one jurisdiction to another enable the states to effectively

prohibit the fear of proliferating terrorism and other transnational criminal acts in a certain region.

II. The Challenges of Negotiations in Treaty-Making

Western (2008) stated that treaty commitment preferences of states can be best observed at the pre-bargaining and bargaining stages of treaty-making. Pre-bargaining stage involves formal and informal consultations between the concerned agencies of each State. Such stage is substantially important for a State to craft its policy and decision toward binding itself to a certain treaty or not. The bargaining stage commences when the Contracting Parties are negotiating on the final text of the agreement which shall be both beneficial for them (Western, 2008).

Hubson (2010) posited that states' differences often lead to disparities in view of conflicting interests and policies. Such inconsistencies could only be resolved with the assistance of an independent legal body that would serve as a legal advisory entity for a developing country (Hubson, 2010). This can also be considered as another possible challenge that can be encountered by a developing state when negotiating a multilateral treaty participated by developed states as contracting parties. The same is true when a developing country is negotiating an agreement with a developed country.

Hubson (2010) added that the developed states – powerful and more capable – tend to take much control in the drafting of the text of the treaty being negotiated; thus developing countries are not able to pursue its own interests, and “...*left with the*

option of accepting or rejecting the treaty packages presented by developed countries. Rejecting an important multilateral treaty [however] can be devastating to a developing country, and therefore, in many instances, not a realistic option” (Hubson, 2010, pp. 5).

Furthermore, Lacombe (1998) argued that Parties which has conflicting views on a certain issue negotiates with one another in order to come up with mutually agreed solution on the matter. Negotiations are likewise considered as the venue in finalizing the text of the agreement which will reflect the shared interests of both Parties despite of its initial different positions. Lacombe (1998) added that negotiations can be a competitive positional bargaining which deliberately focuses on the advantages and disadvantages the Party may gain on a certain agreement. Furthermore, Lacombe (1998) argued that such type of negotiation strategy can serve as the basis of the flow of agenda on the negotiation process, but may cause a conflict in terms of the relations between two Parties.

Furthermore, Lacombe (1998) stated that Parties may use another type of negotiation known as interest-based negotiation wherein the latter will determine items of mutual benefit, and will come up with objective criteria. The outcome of the said negotiation ensures that each Party will receive the gain so long as the latter cooperates with another Party and vice versa.

The study of Lacombe (1998) further provides the principles of interest-based negotiations which Parties may employ to resolve conflicts: (1) separate the people and personalities from the substantive problem; (2) focus on interests rather than

positions; (3) generate a variety of options for mutual gain before trying to reach an agreement; and (4) insist that the result be based on objective criteria.

On the other hand, it should be noted that, institutionalist theories provide that state's decision to enter a certain agreement is considered as unitary, self-interested and rational, which stipulates that the latter could not be influenced by the country's internal actors. Institutional theory likewise believed that state's strategic actions are based on its mandate to protect its national security and the well-being of its people (Magnuson, 2012).

III. Multilateral and Bilateral Extradition Treaties

Extradition, together with mutual legal assistance, and cooperation in the transfer of sentenced persons, is one of the formal modes of international legal cooperation which emanated in 1276 B.C., at the time of the signing of the "Eternal Treaty" between Rameses II and Hattusilus II. The said treaty mandated the return of fugitives to their respective countries of residence, as a result of war between Egypt and Hittites (Malaya, et. al., 2019).

Today, in the Philippine context, extradition could not be undertaken in the absence of an extradition treaty between the Requesting and Requested State. Tseng (2013) stated that in case of the lack of extradition treaty, the Requested State may grant the request on the basis of reciprocity and comity, through the mode of mutual legal assistance, or through informal modes of international legal cooperation, e.g. deportation or expulsion. In this light, states can further strengthen its contributions to

international legal cooperation through committing themselves into multilateral conventions (Tseng, 2013).

It may likewise be noted that, to date, ASEAN has yet to conclude a regional extradition treaty unlike in other international legal cooperation, i.e., mutual legal assistance. Gopalan (n.d.) stated that legal cooperation in ASEAN, specifically on extradition, is being enhanced through bilateral arrangement rather than a multilateral one in view of the differences on the basis of legal systems among the AMS, the nature of political offence, and the issues of red tape, long governmental procedures involving various stakeholders causing much delay on the action needed. During the ASEAN Law Ministers' Meeting in 2018, a model extradition treaty for the ASEAN Member States has been endorsed and continuously being explored by the region.

In the study of Song (1984), however, the latter stated that there are different opinions and views on the characteristics and viability of bilateral treaties against multilateral treaties, and vice versa. Bilateral and multilateral treaties have the same characteristics of having been concluded with unequivocal and detailed agreements.

However, it should be emphasized that, multilateral treaties are more powerful in such a way that the final text of the agreement took effect with the consent of the organization's Member States. Bilateral treaties, on the other hand, allow the contracting States to ensure control and monitoring in the performance of their commitments and obligations (Song, 1984). There are some experts, however, who contend that sovereign equality is the most relevant factor in negotiating and

concluding treaties; thus international bodies and regional organizations do not share the same sovereignty as compared to a state (Song, 1984).

According to Mr. Daniel Russel, Vice President of the Asia Society Policy Institute, during his speech at the World Peace Forum in Beijing in 9 July 2019, he emphasized that the State's foreign policy is certainly a combination of various approaches – unilateral, multilateral or even bilateral (ASPI, 2019).

Blum (2008) stated that multilateral agreements tend to capture the attention of most scholars and experts in view of its association with higher politics with a number of key actors in the international arena. On the other hand, bilateral treaties are considered to be the bridge in case of the absence of a universal norms and guidelines (Blum, 2008).

Moreover, Blum (2008, pp. 327) emphasized the importance of both multilateral and bilateral treaties, which serve as the *“structures in a complex architecture of legal instruments that make up international law. Neglecting the role of bilateral treaties in this complex architecture impairs our descriptive acumen – in that it leaves us with only a partial account of international law-making.”*

Limited multilateral treaties (LMLT), which is defined by Blum (2008) as treaties at the middle of the bilateral and multilateral treaties, generally intend to cover limited number of States; thus such could not be considered as universal ones. However, not much study has been undertaken pertaining to the relationship of LMLT and bilateral treaties as opposed to that of the LMLT and multilateral treaties (Blum, 2008).

Blum (2008) mentioned that multilateral treaties are geared toward the promotion of uniformity and equality, however the success in the implementation of such treaties would not be certain unlike in bilateral treaties. Bilateral treaties likewise impose uniformity, and the latter has the capacity to negotiate and balance the competing norms, rules and regulations, if any, between two Contracting States (Blum, 2008).

However, it should be emphasized that, despite the existence of a multilateral commitment, states should still consider reviewing the obligations set forth in the said agreement through the lens of bilateralism in order to peruse various important aspects that need to be looked upon before entering into a multilateral one (Blum, 2008).

Quilop (2000) stated that one of the most important characteristic of ASEAN multilateralism is the significance of bilateral relationships. He stated multilateralism does not aim to abandon the bilateral cooperation of the ASEAN Member States, as well as the self-sufficiency of each State. Furthermore, he emphasized that multilateralism enhances bilateralism by providing more opportunities for each State to negotiate and build relationships with other Contracting Parties; hence, leading to regional peace and stability.

Quilop (2000) posited that some transnational issues are best to address bilaterally, notably on matters pertaining to defense and security, considering the *“absence of a commonly perceived threat among ASEAN states.”*

Moreover, according to Frost (2008), it should be recalled that, in describing or discussing the different facets of ASEAN, one should be mindful not to generalize the organization in view of the fact that each ASEAN Member States largely differ from one another, notably in terms of each government's priorities. For instance, some Member States, e.g. Cambodia, Laos and Myanmar, are not yet fully prepared to implement policies as an outcome of the ASEAN's goal of integrating the region toward community building.

Frost (2008, pp. 151) added that ASEAN enters into bilateral and multilateral agreements which is envisioned *"to advance the foreign policy interests of each signatory, and enhance regional security."* It should likewise be noted that in order to facilitate regionalization, regionalism or integration, a State should still consider the preservation and protection of its national sovereignty. In so doing, ASEAN Member States believe that local decision-makers, even persons from the private and civil society organizations, should participate in the organization's decision-making (Frost, 2008).

Frost (2008), however, viewed that Asia's goal of having a "whole and free" community is still a work in progress, and "nation-building and political stability should be consolidated first."

IV. Extradition Treaty and its Constitutionality

According to Guzman's rational choice institutionalist theory, as cited by Magnuson (2012), states consider the benefits it will gain from entering into a certain agreement rather than contemplating on what effect it would bring to the latter once it failed to comply faithfully to the commitments set forth therein. Guzman likewise highlighted the importance of reputation for certain states as basis for the latter's compliance to certain treaties, which was found by Magnuson (2012) to be inappropriate and misplaced. Such conclusion made by Magnuson (2012) was in view of a certain case wherein the breach of the treaty would not necessarily mean a bad reputation for the country, and oftentimes said reputation is intertwined with how an incumbent president leads a certain state (Magnuson, 2012).

Furthermore, Kapferer (2003) argued that one of the key issues that need to be considered by a State in crafting the text of an extradition treaty with another State involves the conflicting obligations created by extradition treaties against other conventions to which the States are Parties, as well as on the state's own domestic law. States may likewise encounter conflicts between extradition obligations and agreements involving human rights and refugees, and/or obligations under the customary international law (Kapferer, 2003).

It should be noted that the Philippines commits itself to a multitude of obligations as a sovereign State, as mandated by its Constitution and other domestic laws, as well as by the existing international agreements to which the said country is a party. The Philippines “...adopts the generally accepted principles of international law as part of

the law of the land and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations” (1987 Constitution, Art. II, Sec.7).

In order to protect and strengthen the country’s foreign policy, and to further promote regional and international bodies’ aspirations of having a more secured and enhanced bilateral and multilateral relations between and among states, treaties are being concluded by the states to create legal obligations and/or mutual understanding between them, which shall be performed by each State in good faith.

International legal cooperation is consistently being enhanced by ASEAN through various treaties being negotiated and concluded bilaterally and multilaterally within the region. This is in view of the ASEAN’s vision to “*promote regional peace and stability through abiding respect for justice and the rule of law in the relationship among countries in the region and adherence to the principles of the U.N. Charter*” (Nuclear Threat Initiative, n.d.).

One of the legal means to further enhance international legal cooperation is through the enactment of an extradition treaty. Extradition is the process of formally requesting the approval of the Requested State to enforce return of an offender who committed a crime under the jurisdiction of the Requesting State in order for the latter to appear for trial and investigation thereat (United Nations Office on Drugs and Crime, 2012).

The Philippines passed into law the Presidential Decree No. 1069 “Prescribing the Procedure for the Extradition of Persons who have Committed Crimes in a Foreign

Country” on 13 January 1977. However, the said law provides that the country could only enforce return of an offender when there is an existing extradition treaty between the latter and the requesting State.

It should be noted, however, that in terms of the Philippines’ bilateral cooperation on extradition with individual ASEAN Member States, the said country entered into an extradition treaty with only two ASEAN Member States -- Indonesia in 1976, and is considered as the first bilateral extradition treaty concluded by the Philippines, and with Thailand (1981).

In terms of multilateral extradition treaty in the ASEAN context, the Philippines has become a Party to the ASEAN Convention on Counter-Terrorism (ACCT) and the ASEAN Convention Against Trafficking in Persons (ACTIP), which have “mini-extradition” provisions. Such conventions thus granted the requested State the free will to approve the request for extradition or not on the basis of the latter (Malaya, et. al., 2019).

Based on the reports during the ASEAN Summit in 2018, Singaporean Prime Minister Lee Hsien Long announced that the ASEAN Extradition treaty, *“a seemingly forgotten legal necessity for ASEAN...was nearing completion.”* The said pronouncement came as a huge surprise for the Member States as discussions are still ongoing in view of the foreseeable issues alongside with the effectivity of the regional extradition treaty, e.g. legal rights of the accused, dual criminality, among others (Bangkok Post, 2018). The efforts being undertaken by ASEAN to negotiate and finalize the text of a model regional extradition treaty connotes that the mini-

extradition provisions of ACCT and ACTIP do not suffice as legal basis in the approval and filing of requests for extradition of the involved Parties.

According to Gana (n.d.), a number of issues have been considered as grounds for extradition treaties to be unconstitutional on the part of the Philippines, as follows: (1) violation of human rights; (2) ex post facto; (3) denial of due process; (4) does not supersede domestic law, and somehow allows extraterritorial application of foreign laws. Moreover, the conflicts between the text of the provisions of an extradition treaty and the Philippine domestic law concerning the provisional arrest on extradition pose a large issue on what to observe and to implement by the Philippines' concerned agencies in terms of its implementation. Moreover, the Philippine domestic practice of the right of the offender to bail is in conflict with extradition treaties, which is silent thereof (Gana, n.d.).

Indeed, as mentioned in Chapter I, the most common gap in understanding the policy directions of a certain State is the insufficiency of existing studies dealing with treaty commitment preferences, which is likewise true to the available literatures covering the Philippines' treaty-making. Most of the researches undertaken focus on treaty compliance with the aim to determine the variables that affect the weak compliance capacity of certain states.

From the existing related literatures presented, it can be deduced that a number of scholars share the view that treaty commitment preferences are, indeed, significant in understanding a state's behavior in terms of external commitments. The existing studies likewise emphasize that the variables, notably the form of government, state

capacity to comply, administration's priority plans and foreseen benefits, are relevant to treaty commitment preferences despite the conflicting views of the authors on certain aspects.

It should be noted that the studies presented in this Chapter covered the experiences of other countries, mostly the United States and the European States. Among the observable gaps in the existing knowledge include the stereotyping/generalization of the authors in discussing their views and perceptions on the effect of each variable to a certain State's treaty commitment preferences. Since states are different in many aspects, e.g. legal systems, cultures, values, interests, among others, I am of the opinion that it is unfitting to conclude that, for instance, democratic states tend to enter into international agreements more in view of its stronger capacity to comply, as argued by Parillo (2009). This is in view of the fact that some states tend to enter into agreements to heighten their capacity to achieve its goals through the assistance and cooperation with an external partner.

Furthermore, no related literature has been obtained which focuses on the Philippine's treaty commitment preferences; thus, this study is the first of its kind in this area of study. Hence, this research has been crafted substantially to evaluate and assess the applicability of the theoretical propositions with the current policy directions of the Philippines in terms of ASEAN extradition.

This study will provide framework and/or guidelines on the Philippines' treaty commitment preferences on ASEAN extradition which may serve as basis of other researchers in undertaking their own studies focusing on other areas of cooperation,

notably health, education, science and technology, economic, trade, among others. This is in view of the fact that the Philippines' treaty commitment varies depending on the subject of the agreement, the Contracting Party/ies involved, and the State administration, based on the observations and experience I undergone relating to treaty-making.

CHAPTER III

RESEARCH METHODOLOGY

This chapter discussed the research method, sampling technique, population, data collection method, ethics of research and instrument that were used by the researcher in the conduct of this study.

1. Research Method

This study is a qualitative case study design which focused on the Philippines' treaty commitment preferences before entering into the proposed ASEAN extradition treaty in order to further contribute to the enhancement of legal cooperation within the region in terms of extradition.

Qualitative case study research is designed to study social and cultural phenomena of a certain group of people, community or mass public. This type of research method seeks to examine and investigate a certain situation by studying the actual and contextual phenomenon. Such methodology focuses on the feelings, thoughts, perceptions, opinions, and belief, among others, of the targeted units of analysis, i.e. the participants of the study. Among the sources of data in this methodology include participation and observation, focus group discussion, individual interviews and/or questionnaires, library research, documents and other relevant materials.

Furthermore, according to Bryman (2008), qualitative research highlights the views and perceptions of pertinent individuals on his social world relative to the focus of the research. Qualitative research likewise undertakes inductive approach wherein the gathered data are being used to generate or test a theory (Bryman, 2008).

According to Yin (2009), the case study research design is composed of five components, notably the study questions, theoretical propositions, unit(s) of analysis, logic linking the data to propositions and the criteria for interpreting the findings. The thesis questions of the study were as follows:

- a. How applicable are the general treaty commitment preferences to the Philippines' forthcoming negotiations with ASEAN on the proposed regional extradition treaty?
- b. How does the Philippines prepare itself on the possible ratification to the proposed ASEAN extradition treaty?

On the other hand, theoretical propositions, as defined by Yin (2009), is “a *[hypothetical] story about why acts, events, structure, and thoughts occur.*” Below are the theoretical propositions relative to the above study questions:

- a. The Philippines considers the form of government of the other Contracting Party/ies as a treaty commitment preference.
- b. The Philippines depends on the incumbent administration's priority plans before it decides to enter into the proposed ASEAN extradition treaty.
- c. The Philippine Government examines its capacity to comply with the commitments and obligations set forth in the proposed ASEAN extradition treaty.

- d. The Philippine Government ensures that the country will gain much benefit from the proposed ASEAN extradition treaty.

The other components of the case study research design were discussed in the next sections.

2. Data Collection Method

In order to ensure that adequate and significant information were gathered to successfully attain the objectives of the study, the following data collection methods under the qualitative research methodology were utilized by the researcher:

2.1. Interview Method

A semi-structured face-to-face interview method was conducted by the researcher to gather the knowledge, views, perception, experience and opinion of the key informants.

The researcher utilized the said method of data collection considering the latter's desire to gain direct information from the participants, who are experts on the focus of the study, to form rational and intellectual conclusions and recommendations for the study. The participants can freely and indefinitely convey and discuss the latter's views and perceptions in response to the research problems of the study based on their experiences, knowledge, among others.

Semi-structured interview questions that are relevant to the objectives of the study were prepared by the researcher. Formulated questions are “open-ended, free of judgments, inoffensive, comprehensible, justifiable and not rhetorical” (Eeuwijk and Angehrn, n.d.). Bryman (2008) stated that semi-structured interview questions are usually being undertaken wherein the researcher may ask further necessary questions on the basis of the response of the participants on a particular issue. The set of questions served as the interview guide of the researcher in conducting the interview. A sample invitation letter is attached as Appendix I.

Furthermore, the researcher provided an Informed Consent letter signed by the participants citing the purpose of the research, confidentiality of information and results of the study, as well as the authorization/consent of the participants on the provisions set forth therein. Attached is a sample Informed Consent Letter (Appendix II).

2.2. Email Interview

Email interview was conducted by the researcher as an alternative method of data gathering procedure in view of the current Covid-19 pandemic in the country. According to Hunt and McHale (2007), email interview is advisable to research studies with targeted foreign respondents and/or any individual based in a foreign country and/or distant locations from the researcher’s area of residence.

Considering the physical distancing regulations imposed by the national government, the email interview can be best explored to enable the researcher to

conduct the data gathering more efficiently and effectively through remote means rather than the face-to-face interview.

In contrast with the interview method, I prepared a list of structured interview questions to be answered by the participants at the time of their convenience. The overview of the study and the Informed Consent Letter were likewise sent to the participants for their reference on the background of the study.

The participants sent their responses to the interview questions through electronic mail.

2.3. Library Research

Secondary data are likewise useful in gathering relevant information with regard to the focus of the study. Library research refers to the data collection method wherein the researcher shall use journal articles, theses and dissertation, books, conference proceedings, among others, to gather sufficient and significant data relative to the study.

I sent a letter seeking permission from the Heads of Office concerned to allow the latter to conduct research of documents, manuscripts and other related papers on the subject matter, for inclusion to the results of the study. A copy of the approved letter is attached as Appendix III.

This study likewise conducted e-library research using e-Libraries, e.g. ProQuest, GALE Virtual Reference Library, ScienceDirect, among others, in order to gather relevant information available online.

3. Demographic Profile of the Participants of the Study

Considering that the focus of the study is the Philippines' treaty commitment preferences before entering into an ASEAN extradition treaty, I conducted interview with the experts on negotiations of treaties being entered into by the Philippines on extradition, as well as the officials involved in the conduct of extradition in the country. These officials also served as the primary unit of analysis of the study considering their first-hand experience in dealing with the crafting of the final text of some international agreements and their actual negotiations.

Six (6) participants were interviewed for the study. The table below shows the demographics of the participants:

Class	Number	Male	Female
Class A	3	0	3
Class B	1	1	0
Class C	1	0	1
Class D	1	0	1
Total	6	1	5

Table 1. Demographics of Participants

The Class refers to the key offices where the participants are currently assigned. These classes/offices are considered to be the key offices that handle the negotiations of the proposed ASEAN extradition treaty, as well as the other related international agreements concerning the ASEAN organization.

The participants who provided the views in the study are considered to be the experts in the negotiation of a legally-binding instrument, notably extradition treaties.

Key Informant 1 was a member of the Philippine Delegation who negotiated one of the Philippine extradition treaties with another bilateral partner.

Key Informant 2 was a member of the Philippine Delegation at the 2018 7th ASEAN Senior Law Officials Meeting (ASLOM) Working Group on the proposed Model Extradition Treaty.

Key Informant 3 is a Philippine diplomat and lawyer who works on the Philippine political and economic agreements.

Key Informant 4 and 5 are Philippine diplomats and lawyers, and experts of international law and Philippine treaty-making practice.

Key Informant 6 was a member of the Philippine Delegation at the ASEAN Senior Official's Meeting on the Remaining Instruments under the ASEAN Charter.

The researcher likewise submitted requests for interview to the officials from the Senate of the Philippines, House of Representatives and Office of the President; however, the said agencies deferred to the DFA and the DOJ – the agencies which specifically worked on the negotiations relating to the proposed ASEAN extradition treaty.

4. Ethics of Research

This study recognized the importance of intellectual ownership of work and avoidance of plagiarism or the direct copying of one's work without proper citation and acknowledgment to the author. The researcher likewise ensured the correct discussion and analysis of gathered information, research methodology, and data collection method, among others.

The results of the study were free from any form of bias. Rejection and selection of the data to be discussed were likewise avoided in the study (Walliman, 2011). In terms of dealing with the respondents, I requested consent before the conduct of face-to-face and/or email interview. The confidentiality of the documents and anonymity of the respondents were likewise secured. The researcher consulted the respondents to confirm whether the provided information is sensitive or can be disclosed as part of the results of the study (Walliman, 2011) as the findings shall be published and presented in a University Colloquium. Some confidential information was removed to observe the research ethics on confidentiality.

Furthermore, in observance of the Data Privacy Act of 2012, personal information of the respondents is secured and protected.

5. Data Analysis

Gathered information were processed and analyzed through the model/process recommended by Miles and Huberman (1994), as cited by Yin (2009). The said data analysis method involves the following processes, notably (1) data reduction, (2) data display, and (3) conclusion drawing/verification. The process is complemented with the pattern-matching process of linking logic of case data to the theoretical propositions (Yin, 2009). This process likewise provided for the criteria in interpreting the findings of the study.

Data reduction is the process wherein I documented all information gathered from the face-to-face interview, email interview, as well as in the library research. This involves the familiarization of all gathered information from the said data gathering procedure.

Moreover, typologies and taxonomies were formulated as part of the so-called coding system. Coding system involves the coding of the interview transcript, e.g. initial codes, through the software “QDA Miner Lite.” Developing the codes helped the researcher in organizing the overwhelming information gathered during the interview and library research. Once initial codes were finalized, I generated the categories that described the relationships between the initial codes formulated in the process called data display (Noble & Smith, n.d.).

Data display is the process which involves the determination of all possible relationships that may be correlated from the information gathered. Pattern-coding is the method wherein the data are further grouped to a more compact sub-group (Walliman, 2011). The said compact groups helped the researcher in the formulation of the broad themes of the gathered information (Noble & Smith, n.d.).

To ensure that transparency in data analysis has been undertaken, this study formulated partially-ordered displays and figures. First, initial codes were presented in a form of matrix with the following headings: (1) category; (2) code description; (3) count; and (4) percentage of codes. The chart of distribution of codes and its frequency were likewise presented. The code retrieval matrices for each variable were likewise attached in the Appendices.

The Mind Mup application was utilized in order to present the axial codes generated from the initial codes through data display process. “Word Cloud”, on the other hand, was used to analyze the gathered information and to determine the common words and/or frequency of words provided by the participants in their responses which served as guide for the researcher in developing the selective codes/final themes/conclusion per variable.

According to Atenstaedt (n.d.), Word Cloud is being used by the researchers “to identify the focus of written material.” It presents the frequently used words in bigger fonts which easily helped the researcher in determining the most important words and the general pattern of the responses provided during the gathering of data.

The final themes/conclusions of the variables discussed were supported by the graphical presentation of the percentage of codes generated from each preferences.

As part of the conclusion drawing/verification, I drew and discussed the conclusions based on the result of the coding and pattern-coding procedures. Furthermore, the determination of the preparatory work to be undertaken by the Philippines in view of its possible ratification thereof was likewise drawn through the coding system.

I presented the developments of data analysis in various coding process in order for the audience to comprehend the developments and results of the study. Noble & Smith (n.d.) provides for the said procedure in order to maintain “robustness” and secure “transparency” of data analysis.

6. Research Instrument

The following questions served as the interview guide of the researcher in the conduct of face-to-face and email interview with pertinent officials to answer the research problems of the study:

- What are the advantages of having similarities in cultures and values, and form of government in negotiating the proposed ASEAN Extradition Treaty?
- What are the experiences of the Philippine Government when negotiating a treaty considering the differences in legal systems and forms of government of each AMS?

- What are the benefits and challenges that the Philippines may encounter when it enters into the ASEAN Extradition Treaty?
- How does the Philippine Government ensure the protection of its nationals who committed a crime under the jurisdiction of another ASEAN Member State considering the differences in the legal systems and policies on penalties in the region?
- How prepared is the Philippines for the proposed ASEAN Extradition Treaty in terms of financial and administrative accountabilities?
- How optimistic are you on the likely effectiveness of the proposed ASEAN Extradition Treaty?
- What is the roadmap of the Philippine Government in dealing with extradition matters to further contribute to the ASEAN's growing legal cooperation? What might be the possible effect of the change of administration in the negotiations and eventual ratification of the Treaty?
- What are the other policy considerations that should be looked upon by the Philippines relative to the proposed ASEAN Extradition Treaty?

The timeline of the conduct of research is attached as Appendix IV

CHAPTER IV

RESULTS AND DISCUSSION

This Chapter presented the results of the data gathering procedure conducted in order to answer the following research questions:

1. How applicable are the general treaty commitment preferences to the Philippines' forthcoming negotiations with ASEAN on the proposed regional extradition treaty?
2. How does the Philippines prepare itself on the possible ratification to the proposed ASEAN extradition treaty?

This Chapter likewise discussed in detail the method used to analyze the gathered data, i.e. Miles and Huberman (1994) model, which involved the conduct of data reduction, data display, and drawing/verification of conclusions derived from the transcripts of interview and the library research.

The demographics of the participants of the study were presented in Chapter III. The exact transcription of the participants' opinion for each codes generated from the data reduction process were attached in the Appendices.

Results of the study shall be presented in five (5) different parts to answer the research questions of the study. These parts assessed the applicability of the general key preferences proposed by Wagner (2003), Lupu (2014), Simmons (2002) and Parillo (2009) in the Philippine context through the lens of the theoretical propositions derived from the said studies. The determination of the preparatory work to be undertaken by the Philippine Government relative to the possible ratification of the country to the proposed ASEAN extradition treaty was discussed at the latter part of the Chapter.

Furthermore, the opinion and perceptions of the participants were compared with the views of the scholars as presented in the Review of Related Literature.

4.1. Form of Government of the other Contracting Parties

Theoretical Proposition: The Philippines considers the form of government of the other Contracting Party/ies as a treaty commitment preferences.

Form of Government is considered as one of the general key treaty commitment preferences as concluded by Wagner (2003) and Parillo (2009). The following matrix summarized the responses made by the participants relative to the said variable. It should be noted that, among the questions included in the research instrument, following fall under the Form of Government variable, as follows:

- What are the advantages of having similarities in cultures and values, and form of government in negotiating the proposed ASEAN Extradition Treaty?

- What are the experiences of the Philippine Government when negotiating a treaty considering the differences in legal systems and forms of government of each AMS?

The table below presents the initial codes generated from the responses of the six (6) participants on the said variable:

CODE	DESCRIPTION	COUNT	% CODES	NO. OF WORDS
Balance of Interests	Balance of interests and respect for sovereignty	16	34%	581
Legal Framework	This also includes the law-making process of a certain government.	16	34%	748
Disadvantage in Similarities	Similarities in cultures and values between ASEAN countries can serve as a disadvantage in negotiations.	4	8.5%	119
Willingness	Willingness of each member state to negotiate and cooperate.	8	17%	250
Character of Extraditee	In implementation stage, character of extraditee is another factor to consider.	3	6.5%	131

Table 2. Data Reduction of Responses on the Form of Government Variable

There were five (5) codes generated from the responses of the six (6) participants on the Form of Government variable. These include the following: (1) balance of interests; (2) legal framework; (3) disadvantage in similarities; (4) willingness; and (5) character of the extraditee.

All participants mentioned a number of statements that fell under the code Balance of Interests, with a total count of 16 sentences and 581 words, and comprises 34% of the total codes under the said variable.

Key Informant 3 stated the importance of balancing the interests of the AMS in order to make the agreement moving until its conclusion, as follows:

In reality, each of the ASEAN Member States may need to weigh in just how important it is to have this treaty. Like in all negotiations, every negotiating state may need to make compromises so that the agreement pushes through.

This is in line with Kissinger's definition of negotiation, as cited by Meerts (2014), wherein he stated that the latter is a process of determining the conflicting views and positions of each Contracting Party, and enabling the organization to find common grounds to accommodate and resolve said issues under the rule of unanimity. Hence, the ASEAN way of consensus-based decision-making, as well as its principle to strictly observe non-interference in the internal affairs of other Member States, reflects the balancing of interests of each Member State in view of the differences in their forms of government and legal systems.

Furthermore, Key Informant 2 mentioned the differences in the cultures, values and forms of government of each Member State, as follows:

While ASEAN countries appear to share similar cultures, values and form of government vis-à-vis the Western countries, in practice, they are not a homogenous group. The legal systems of these ASEAN countries are varied, ranging from the Philippines' presidential system of government, to the constitutional monarchies of Thailand and Malaysia, to the socialist states of Vietnam and Lao PDR, to the military regime of Myanmar.

This is in line with the position of Narine, as cited by Mahiwo (2013), that a number of factors impede the further integration of ASEAN, notably the attachment to nation-building and national sovereignty, as well as the practice of consultation and consensus in resolving disputes. However, the Key Informants shared the view that the above differences do not hampered the organization's goal to deepen the cooperation of the ASEAN Member States on security, as the latter are able to manage its relations through balance of interests, as supported by Solingen, cited by Mahiwo (2013).

In this connection, Key Informant 2 shared the success in negotiating the Model Extradition Treaty, to wit:

These differences in their legal systems find their way in some of the provisions in the proposed ASEAN Model Extradition Treaty that are meant to accommodate the concern of some member states.

Meerts (2014) added that the national interests of each State and the interests of the organization as a whole should be balanced in so far as within the limits of the existing legal framework of each Contracting Parties.

Similar to the first code, the Legal Framework code was generated from the statements mentioned by all participants, with 16 counts of sentences and 748 words, and comprises 34% of the codes under this variable.

Among the significant statements under this code was made by Key Informant 6 who stated that *having similarities in cultures and values and the form of government could facilitate the finalization, domestic ratification, and entry into force of the proposed ASEAN Extradition Treaty among the AMS*. It was supported by Key Informant 5's statement that *similarities in cultures and values between the peoples of ASEAN are very helpful for negotiators in coming up with compromises and solutions for the good of all the parties*.

It can be deduced that ASEAN has different cultures and values, where their respective legal framework and foreign policy found its basis. However, when compared to the Western countries, the ASEAN Member States may be considered as an organization sharing similar values and cultures in general context, as posited by Key Informant 2.

Key Informant 6 further added that *commonality of values are also significant in terms of the impact on domestic legal systems and national extradition laws. Depending on the adherence of the states to democratic values, including human rights norms, some states' extradition laws may also be subject to constitutional provisions guaranteeing human rights and to international human rights incorporated into municipal law.*

It may be recalled that Wagner (2003) stated that democratic states tend to enter extradition treaties with another democratic state in view of the similarities in cultures, values and internal law, as opposed to non-democratic states with different or conflicting safeguard mechanisms and rules and regulations. Key Informant 6's views are similar with the arguments of Wagner (2003) and Lupu (2014), as discussed in Chapter 2.

However, the above statement of the experts is in conflict with the response made by Key Informant 1 relative to the negotiations between the Philippines and Saudi Arabia on the extradition, mutual legal assistance and transfer of sentenced persons agreements. Key Informant 1 shared that, in one of the negotiations she encountered, wherein the Contracting Parties were the Philippines (a democratic state) and the Saudi Arabia (a monarchical government and a Muslim country), the two countries were able to conclude the said agreements in five (5) days despite their differences in forms of government. Key Informant 1 further added that the key to a smooth negotiation is the willingness of the States to find mutually acceptable solutions to conflicting terms and provisions.

On the other hand, two (2) Key Informants emphasized the disadvantage of having similarities in the forms of government when negotiating the proposed ASEAN Extradition Treaty. Key Informant 1 stated that *if both your countries have very vibrant legislatures, if you have differences in the democratic space versus more restrictive, more authoritative form of government, and sometimes there will be a lot of political opposition in the democratic space.*

The above statement contradicts the views of Wagner (2003) and Lupu (2014). Key Informant 1 opines that democratic form of government presses more freedom of expression leading to more political oppositions which may hamper the negotiation or the implementation process of extradition.

The disadvantage in similarities code has total count of 4 sentences and 119 words, and comprises 8.5% of the total codes under this variable.

On the other hand, five (5) out of six (6) participants emphasized the importance of the willingness of the AMS to negotiate and cooperate with the other Member States in order to conclude the extradition treaty. The Willingness code has a total of eight (8) counts of sentences and 250 words, and comprises 17% of the total codes under this variable.

Key Informant 2 highlighted the significance of willingness of the AMS in the negotiations, as follows:

It is the willingness of the ASEAN countries to cooperate with each other which makes the conclusion of an agreement that is mutually acceptable to all member states possible in the future.

This was similar to the views of Key Informant 3 who opined that *the commitment of states involved plays an important role in the viability of multilateral institutions*. Furthermore, Key Informant 4 emphasized that *the willingness and commitment of the ASEAN Member States serve as an important factor in enabling the organization to negotiate, conclude and enact its agreements. Despite the differences in their legal systems, such factors allow the Member States to look for mutually beneficial terms between and among them without prejudice to the AMS' internal laws*.

The views of the above Key Informants are similar with the position of Kteily et. al. (2013) who stated that one of the critical and important aspects of negotiations is the willingness of both Parties to conclude the agreement. Willingness to negotiate is a part of the pre-negotiation stage which drives the whole negotiation process (Kteily, et. al, 2013).

Key Informant 6, however, noted that *since negotiators usually come to the meeting with instructions from capital on the positions that they should take during the negotiations to advance their countries' interests, the pace of the negotiations would usually be dictated by the willingness of the negotiators to compromise*. This is similar to the views of Parillo (2009) who stated that the commitments of States depend on their interests rather than their norms and values.

Lastly, only one (1) participant shared the relevance of the character of the extraditee in the implementation of extradition treaties. Key Informant 1 mentioned that *it is not so much the form of government, but in terms of the character of the extraditee, so it's really if the person who would consent to the extradition, this is the main thing that would enable us to implement it because the consent should be on the part of the state and the person being extradited.*

The Character of Extraditee code has a count of three (3) sentences and 131 words, and comprises 6.5% of the total codes under this variable.

From the initial codes formulated in the Form of Government variable, two (2) categories were generated, notably (1) Internal Factors; and (2) External Factors. Internal Factors refer to the initial codes that relates to the internal functions and/or decisions being undertaken by the Philippines relative to the negotiations of the proposed ASEAN Extradition Treaty. On the other hand, external factors include the initial codes that signify the mutual cooperation between the AMS in order to successfully conclude the said Treaty.

Following is the mind-map that presented the categories of the codes as a result of the data display process:

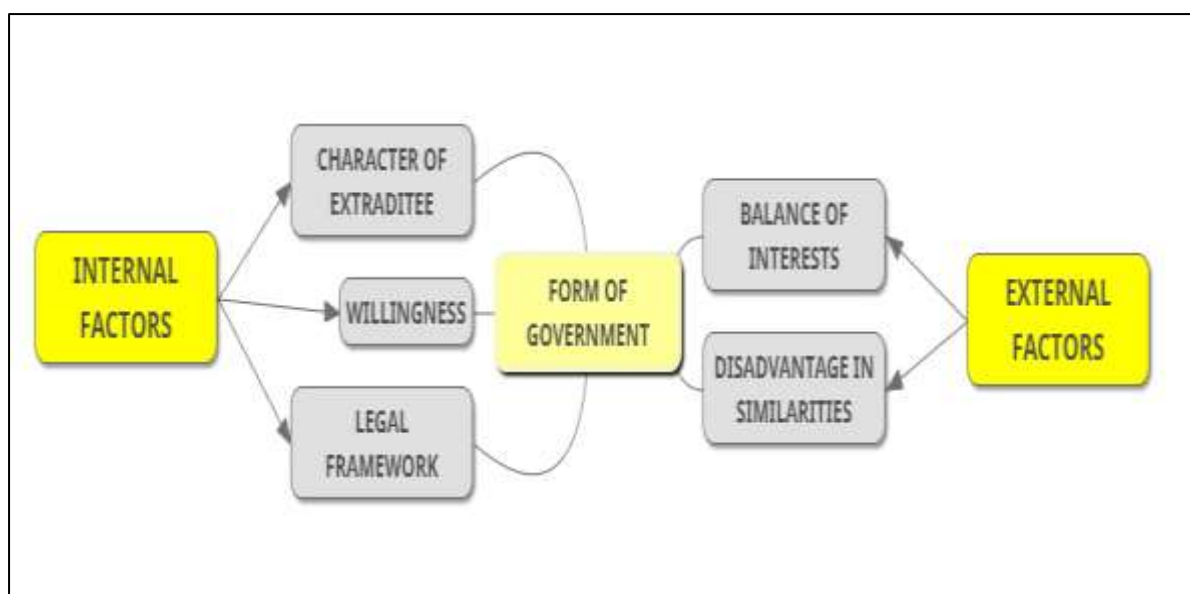
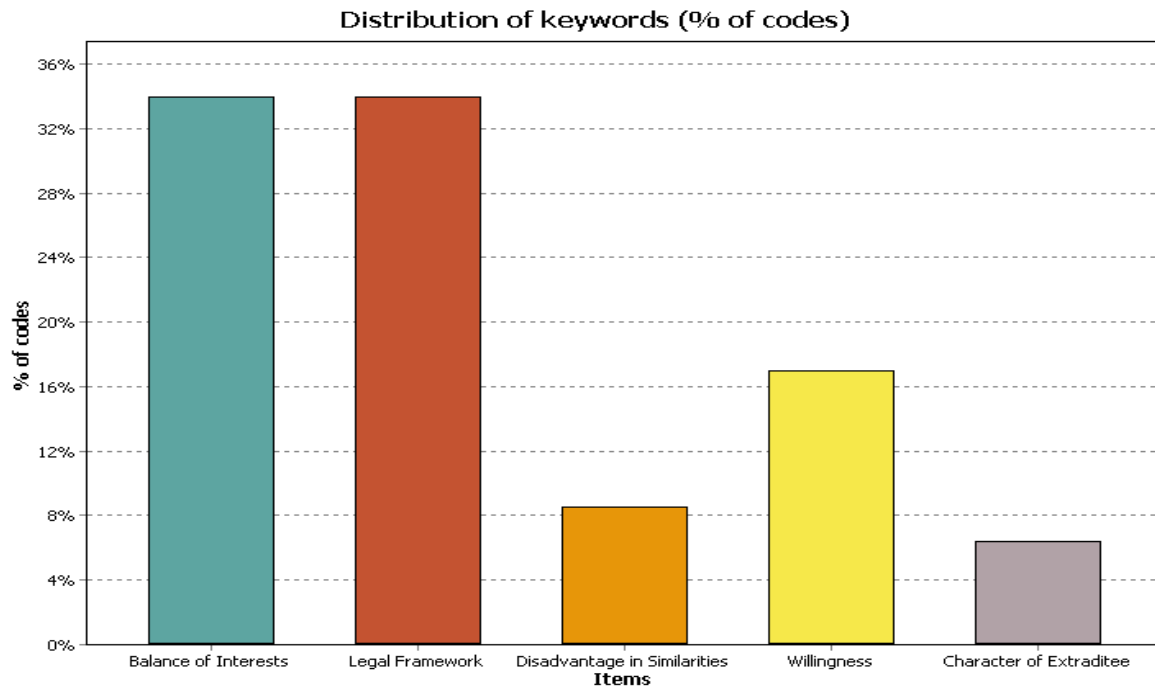


Figure 2. Mind-Map of the Data Display of the Form of Government Variable

The graphical presentation below presented that most of the initial codes generated are not amenable to the first theoretical proposition driven by the recommendations made by Wagner (2003) and Parillo (2009) that the Form of Government is a key determinant in a State's treaty commitment preferences.

Balance of Interests code has a high percentage of codes to which all participants highlighted its importance, especially for ASEAN Member States that have different forms of government. The codes Willingness, Disadvantages in Similarities and Character of Extraditee also implied that the Form of Government variable itself could not be considered as a preference since the above-mentioned codes enable the States to agree and finalize the agreement that is both applicable and constitutional to the Contracting Parties.



For the final theme of the categories and codes, the Word Cloud below presented the most frequently-used words by the six (6) participants which helped the researcher in developing the final theme under this variable.

The above Word Cloud captured the overview of the responses made by the six (6) participants under the Form of Government variable. Generally, it may be deduced that the Philippines considers the laws, processes, rules, legal system and values of the other Contracting Party/ies before it enters into extradition treaties.

In view of the foregoing, the final theme under this variable is the convergence of the AMS as international law meets constitutional law. This is in view of the high percentage of codes of the Balance of Interest and the Legal Framework Code. It may be recalled that the Balance of Interest Code is under the External Factor category, while the Legal Framework Code belongs to the Internal Factor category.

This implied that the Philippines consider the Contracting Party/ies' legal framework/system – their rules and regulations, domestic laws and policies, constitutional rights and obligations, among others -- before it enters into negotiations with the latter. However, it should be emphasized that the Philippines ensure that mutually-agreed terms and provisions are being adopted despite the differences in the Contracting Party/ies' legal system.

Key Informant 1 emphasized the viability of arriving at mutually-agreed terms despite the differences of legal systems of the Contracting Party/ies, as follows:

The different legal systems, like we had a Sha'riah law, they are Islamic countries, so they had Shar'iah law considerations, and because they are a monarchy, so they also had wanted to insert specific provisions on offenses against the king like insulting the family of the king, insulting the

royal family, you know, so we were able to craft that in language that would also be applicable to the Philippines without making it seem like it's political prosecution.

The matrix on the code retrieval of transcript and its initial coding is attached as Appendix V.

4.2. Incumbent Administration's Priority Plans

Theoretical Proposition: The Philippines depends on the incumbent administration's priority plans before it enters the proposed ASEAN extradition treaty.

The Incumbent Administration's Priority Plans as a treaty commitment preference is concluded by Lupu (2014) who stated that the role of domestic veto player, i.e. Heads of States, has a major role in the State's decision to enter into a certain international agreement. This is supported by Rogoff (1994) who stated that, before a certain State enter into certain negotiations to conclude an international agreement, the government has to craft the agreement in such a way that it will gain internal political support. Negotiating an international agreement can be compared to a multi-game environment, wherein the Contracting Parties have to ensure that the international and domestic interests are both achieved in the finalized agreement (Rogoff, 1994).

Under this variable, the following questions were formulated in order to understand the significance of incumbent administration's plans in the Philippines' steps toward the proposed ASEAN Extradition Treaty:

- How optimistic are you on the likely effectiveness of the proposed ASEAN Extradition Treaty?
- What is the roadmap of the Philippine Government in dealing with extradition matters to further contribute to the ASEAN's growing legal cooperation? What might be the possible effect of the change of administration in the negotiations and eventual ratification of the Treaty?

In the matrix below, one may observe that four (4) initial codes were formulated, notably the (1) Willingness; (2) Rule of Law; (3) Policy; and (4) Administrative Projects. As described earlier, Willingness refers to the willful commitment of the Philippines to negotiate and cooperate with the other Member States. Rule of Law, on the other hand, signifies the Philippines' concerted efforts to promote its rule of law which serves as an evidence of the country's working judiciary and government.

Moreover, the Policy code means the conduct of the actual official function of the government relative to treaty-making, i.e. the duty to inform the Office of the President of the highlights and benefits of the pending agreements, in case of new administration. Lastly, the Administrative Projects code involves the prioritization of the incumbent administration's plans which may affect the future of negotiations of certain international agreement.

The table below presents the initial codes that were generated under this variable:

CODE	DESCRIPTION	COUNT	% CODES	NO. OF WORDS
Willingness	Willingness of each member state to negotiate and cooperate.	1	4.5	46
Rule of Law	Promotion of rule of law and evidence of the PH's working judiciary	1	4.5	35
Policy	The actual official functions and mandate of the government	16	72.7	600
Admin Projects	The priority plans of the new incumbent administration	4	18.2	199

Table 3. Data Reduction of Responses on the Incumbent Administration's Priority Plans Variable

First, the Willingness code has one (1) count of sentence and a total of 46 number of words, and comprises 4.5% of the total number of initial codes under this variable.

Key Informant 4 mentioned that the progressive status of the proposed ASEAN Extradition Treaty, having adopted its Model Treaty, is an indication of the increased interdependence of the AMS in terms of enhancing its international legal cooperation. The said participant stated that *this likewise highlighted the trust in the reliability or soundness of the legal and judicial system of the Member States, as well as in the willingness and the capacity of the Member States to grant basic rights to the accused in the pending criminal case therein.*

Second, the statements under Rule of Law Code is somehow similar with the Willingness code. It has one (1) count of sentence and lower number of 35 words as compared with the latter, and comprises 4.5% of the total codes under this variable.

Key Informant 4 posited that *the extradition procedure shall be conducted with deliberate speed and ensured conformity with the provisions set forth in the proposed ASEAN extradition treaty, without prejudice to the rights of the Filipinos and the foreign national.*

On the other hand, the Policy code has 16 counts of statements and 600 words, and comprises 72.7% of the total codes under this variable. This implies that the Philippine Government strictly follows its official functions and mandate relative to its

treaty-making practices. All six (6) participants have shared statements under this initial code.

Key Informant 1 stated the following statement which highlighted the above conclusion:

The Department of Foreign Affairs, in general, is a highly professional organization. So the career officers, the diplomats, we've been here through every political change, through every change in administration. We still try to share with the current head of office about the benefits of entering into negotiations and the ratification of the ASEAN extradition treaty. Because the important thing is how do you inform the Office of the President to also have a buy in, to have an appreciation about the benefits of this kind of treaty.

The same views were shared by Key Informant 3 who mentioned that *the agreements that did not took effect at the time of change of administration are being resubmitted by the Department of Foreign Affairs to the Office of the President or to the Senate of the Philippines, whichever the agreements were held pending, for reconsideration and eventual ratification.*

It should be emphasized that Key Informant 5 strongly stated that *extradition should not be a political matter, and any change in administration should not affect negotiations and eventual ratification of the Treaty.* This is in contradiction with the opinion of Quilop (2000) who stated that the changes in the political leadership of a

certain country would entail a difference in the latter's roadmap in dealing with certain international agreements.

Lastly, the Administrative Projects code, which directly implied the relevance of the Incumbent Administration's Priority Plans variable, has four (4) counts of statements and 199 words, and comprises 18.2% of the total codes under this variable. Key Informants 1 and 3 both shared the view that the incumbent administration may affect the Philippines' roadmap toward the proposed ASEAN Extradition Treaty.

According to Key Informant 3, *a change of administration may be a challenge, in the event that the new executive may not be as supportive towards the eventual ratification and entry into of the Treaty.*

Key Informant 1 even stated a case wherein the Government has to weigh the steps it should undertake relative to the case of a Filipino national who is in jail overseas due to drug-related act. It may be recalled that the current administration has a strong policy to end any drug-related criminal activities within the country through its war on drugs.

Key Informant 1 likewise stated that the Congress may likewise consider the opinion of the Filipinos before concurring to the ratification of the Philippines to the proposed ASEAN extradition treaty because they are so-called voters. This is in line with the idea of Magnuson (2012) who stated that the conclusion of certain international agreements is either facilitated or hampered by parochial motives

depending on whether such effectivity of a treaty will result to electoral support or vice versa.

Furthermore, Ibanez (n.d.) shared that the Senate hearing on the Mutual Legal Assistance Treaty with the ASEAN Member States, which is considered to be a related treaty with extradition, were participated by a number of interested sectors aside from the concerned agencies involving the treaty. These include non-government organizations and civil society organizations. There were also representatives from the private sector and the academe who presented their positions whether for or against the said treaty.

From the initial codes generated above, the following mind-map presented the categories formulated in the data display process to better conceptualize the theme under this variable:

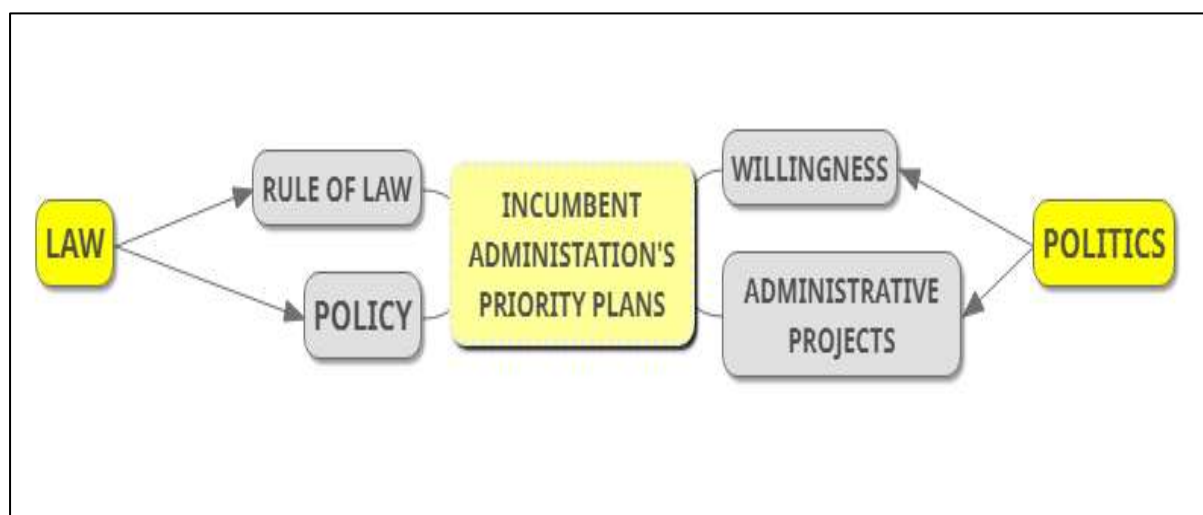


Figure 5. Mind-Map of the Data Display under Incumbent Administration's Priority Plans

The categories generated relative to the initial codes under this variable were as follows: (1) Law; and (2) Politics. Generally, it may be recalled that the applicability of the incumbent administration's priority plans as a preference in the Philippines' treaty-making is one of the research questions that this study sought to answer.

Incumbent administration's priority plans in itself is political in nature, in a sense that the latter is related to the President's own policy considerations for the State; thus, the inclusion of the two (2) initial codes, notably willingness and administrative projects, under this category.

On the other hand, the Law category was crafted to cover the two (2) other initial codes Rule of Law and Policy under this variable. This category implied that the Philippines strictly follows its established laws on treaty-making, and that the country adheres to its independent foreign policy in dealing with international agreements.

For the final theme of the categories and codes, the Word Cloud below presents the most frequently-used words by the six (6) participants which helped the researcher in developing the final theme under this variable:



The above Word Cloud presented the overview of the responses made by the six (6) participants with regard to the Incumbent Administration's Priority Plans variable. It may be deduced that, despite of the change of administration, the Philippines maintains its laws and rules with regard to the Philippine treaty-making practice, and the cooperation between the various concerned agencies, e.g. the DFA and DOJ, were heightened to ensure that the pending agreements of the previous administration shall be reconsidered in the new administration. Thus, the final theme generated with regard to this variable is the Philippines' commitment to rule of law.

This is supported by the graphical presentation below of the percentage of codes obtained from the responses of the participants.

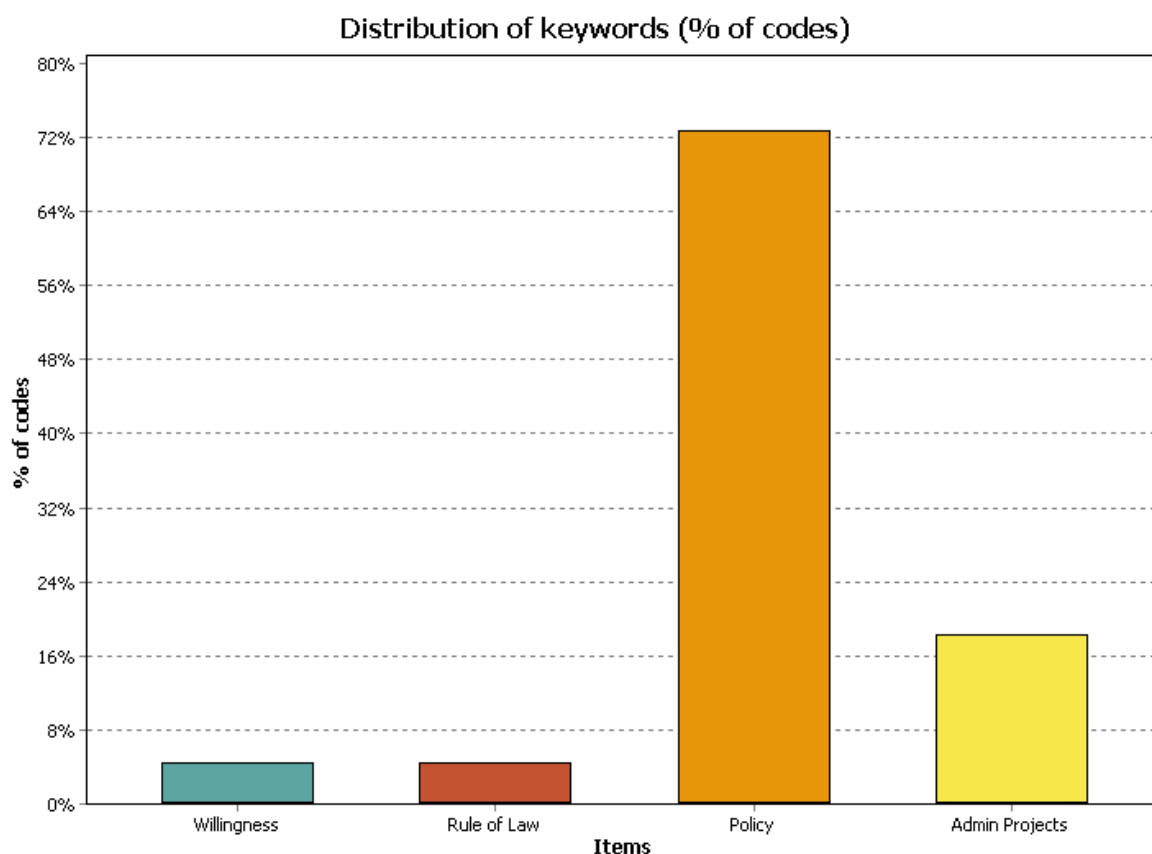


Figure 7. Graphical Presentation on the Percentage of Codes under the Incumbent Administration's Priority Plans Variable

It may be clearly observed that majority of the statements shared by the participants fall under the Policy code. All participants opined that the Philippines' roadmap with regard to international law agreements being entered into with other States is not affected by the change of administration. Thus, it should be emphasized that, in the Philippine context, the Incumbent Administration's Priority Plans are not considered as part of the country's treaty commitment preferences relative to the proposed ASEAN Extradition Treaty. Thus, the result of the study is contradicting with the second theoretical proposition and the argument of Lupu (2014) on the relevance of the said variable in a State's treaty commitment preference.

The transcript retrieval and initial coding under this variable is attached as Appendix VI.

4.3. Capacity to Comply Variable

Theoretical proposition: The Philippine Government examines its capacity to comply with the commitments and obligations set forth in the proposed ASEAN extradition treaty before binding itself thereof.

Parillo (2009) concluded that one of the State's treaty commitment preferences is its capacity to comply with the obligations set forth in the said international agreement. Capacity to comply does not only covers the financial capabilities of a certain State, but this likewise involves largely the ability of the State to uphold its rule of law while observing and implementing its commitments to the treaty.

Moreover, according to Ibanez (n.d.), one of the most crucial aspects of entering into negotiations is the determination whether a State can implement the provisions set forth in a certain agreement.

Following are the questions given to the participants in order to get their views on the importance and applicability of the said variable in the Philippines' treaty commitment preferences:

- How does the Philippine Government ensure the protection of its nationals who committed a crime under the jurisdiction of another ASEAN Member State

considering the differences in the legal systems and policies on penalties in the region?

- How prepared is the Philippines for the proposed ASEAN Extradition Treaty in terms of financial and administrative accountabilities?

The table below presented the initial codes generated from the responses of the participants, as well as the percentage of codes, number of counted statements and total number of words:

CODE	DESCRIPTION	COUNT	% CODES	NO. OF WORDS
Strengthen Institutions	Enhancing the country's institutions which specifically handles extradition processes	14	31.1	536
Amendment of Law	Amendments of the existing internal law to incorporate updates on extradition law	5	11.1	183
Application of Other Laws	Application of other existing laws, i.e. VCCR/VCDR	3	6.7	192
Making Representations	Conduct of making representations as protection measures for detained OFWs	8	17.8	322
Discretionary	Discretionary conduct of extraditions, especially in case of death penalty	10	22.2	442

Table 4. Data Reduction of Responses on the Capacity to Comply Variable

Under this variable, five (5) initial codes were generated from the responses of the participants, notably (1) Strengthen Institutions; (2) Amendment of Law; (3) Application of Other Laws; (4) Making Representations; and (5) Discretionary.

First, the Strengthen Institutions code refers to the proposals made by the participants in order to enable the Philippine Government to prepare itself for the possible ASEAN Extradition Treaty. Four (4) out of six (6) participants mentioned the need of the concerned agencies to reorganize its offices handling the requests for extradition in the event of the ratification of the country in view of the possible increase in number of requests for extradition from the AMS, as well as from other existing extradition bilateral partners of the Philippines.

Key Informant 3 stated that *the Philippines may reconsider reviewing the actual status of the implementing agencies and Courts, and check if possible reorganization of offices can be explored, and additional lawyers and staff can be deployed to specifically handle extradition cases, if necessary*. This was similar to the views of Key Informant 4 who opines that *the possible effectivity of the proposed ASEAN Extradition Treaty would entail higher number of requests for extradition. The existing offices that specifically handle such requests should be reorganized. Proposal to increase manpower should be considered in order to comply with the provisions and timeline to ensure effective and efficient delivery of service, and fair and speedy disposition of cases*.

The same opinion was validated by Key Informant 5 who emphasized that *the implementing agencies should assess its offices that specifically handles extradition*

requests and determine what needs to be strengthened, i.e. number of lawyers handling the case, split offices that will handle ASEAN extradition requests and other non-ASEAN cases, among others. Furthermore, Key Informant 6 highlighted that there may be a need to improve the institutional capacity to administer and facilitate such requests, not just within the DFA-OTLA but especially in the DOJ. This could be by way of streamlined guidelines/procedures or through the creation of a specific unit at the DOJ focused on extradition requests alone. Further trainings on the handling of extradition may be in order, in this regard.

The Strengthen Institutions code has 14 counts of sentences and 536 number of words, and comprises 31.1% of the total codes under this variable.

The Amendment of Law code, on the other hand, has smaller number of counts and words with only 5 and 183, respectively. The said code likewise comprised the 11.1% of the total codes under this variable. Only two (2) participants shared statements that fall under this code.

The Amendment of Law code was formulated on the basis of the frequent statement of the participants of the need of the Philippine Government to amend and/or update its existing domestic law on extradition or the Presidential Decree No. 1069. This is in accordance with the argument of Dionis (2013) who mentioned that the State's capacity to comply to certain agreements also depends on the successful upholding of its rule of law – having the capacity to implement and maintain its existing legal system despite the advancements and developments in international law.

Key Informant 1 highlighted that *strengthening your institutions and upholding the rule of law means strengthening good laws, and strengthening good laws also means repealing or amending bad laws in the Philippines...I think it's high time to revisit your own Philippine extradition law and make it more updated in terms of reflecting the technological developments of the 21st century.* Key Informant 1 likewise emphasized the need of the local courts to be engaged into some sort of training to update their understanding on international law, particularly on extradition procedures, and suggested that *getting the PHILJA, being judicial academy, to also include courses in their juridical programs. So the judges would regularly attend it and those aspiring judges before they even get applications for the judicial in the GVC for counsel, they should go through subject on Philippine extradition law and including the ASEAN extradition treaty.*

Key Informant 5 further added that *considering that the domestic law of the Philippines is old and needs to be updated in view of the developments that took place over time, the Philippine Government needs to revisit the said law and amend some of its provisions to incorporate the commitments made by the Philippines when it enters into other international agreements that concern extradition.* These views are likewise amenable to the argument of Baird (n.d.) who stated that the Contracting Parties have to review the obligations set forth in the agreement to ensure that such laws are constitutional and not in conflict with the State's internal law, otherwise the Parties have to craft reservations.

This is similar to the view of Ibanez (n.d.) that some of the concluded agreements have different provisions as compared with the existing domestic law of a

certain treaty, or perhaps the international agreements present some obligations that were not previously addressed by the current legislation, or there is no existing municipal law related thereto. In said circumstances, there is a need to craft or amend similar domestic law after the ratification or approval of the agreement (Ibanez, n.d.).

In terms of the Application of Other Laws code, the latter has only three (3) counts of sentences and 192 words, and comprises 6.7% of the total codes under this variable. Two (2) of the six (6) respondents mentioned the important role of the Vienna Conventions on Consular Relations and the Vienna Conventions on Diplomatic Relations when asked on how does the Philippine Government ensure the protection of its nationals who committed a crime under the jurisdiction of another Member State.

Key Informant 1 stated that *the Convention on Consular Relations also provide for certain items under Section 5 that are part of the consular services of people. So how do you do consular notification? How do you protect the interests of your nationals? So you want to balance our extradition law, with our obligations under the VCCR, under the VCDR and also, other human rights treaties, ultimately, if you always have issues on deprivation of liberty, you will go back to the human rights treaty.*

Furthermore, Key Informant 6 highlighted that *relevant the work of the DFA on ATN, there are rights under the Vienna Convention on Consular Relations (VCCR) which consular officers make use of to assist Filipinos in conflict with the law, particular those relating to access and communication and contact with our nationals. ASEAN countries have acceded to the VCCR and therefore, despite the differences in legal*

systems and penalties, there is a common understanding that the Embassies can help their nationals and can facilitate access to legal assistance and other forms of support.

In connection with the above-said code, the Making Representations Code, which refers to the role of the diplomats in assisting the Filipino offenders abroad, was crafted on the basis of the application of VCCR and VCDR in safeguarding the rights of the Filipino detainees overseas through the program Assistance-to-Nationals facilitated by the Department of Foreign Affairs.

Key Informant 6 posited that *the Philippine Government ensures the protection of its nationals who commit a crime under the jurisdiction of another ASEAN Member State primarily through the Assistance to Nationals (ATN) mechanism of the Department of Foreign Affairs (DFA). The Philippine Embassies in ASEAN countries all have ATN officers who assist Filipinos who have come in conflict with the law. The DFA, under Republic Act no. 7157 (Philippine Foreign Service Act of 1991), is mandated to implement the three (3) pillars of the Philippine Foreign Policy, as follows: (1) Preservation and enhancement of national security; (2) Promotion and attainment of economic security; and (3) Protection of the rights and promotion of the welfare and interest of Filipinos overseas.*

Furthermore, Key Informant 5 further added *that the officials of the Philippine Embassy who would exert efforts to ensure that the rights of subject Filipino citizen (including right to counsel, right to bail, right to due process) would be upheld in accordance with the laws and procedures of said AMS. Embassy officials may utilize the legal assistance fund in employing counsel for indigents.*

Four (4) out of six (6) participants shared their opinions that fell under this code. Thus, Making Representations code has a count of 8 sentences and 322 words, and comprises 17.8% of the total codes under this variable.

Lastly, with the counts of 10 sentences and 442 words, and comprises 22.2% of the total codes under this variable, the Discretionary code included the responses that ensures the protection of Filipino detainees overseas from death penalty. Key Informant 2 highlighted the following rights of the Philippines not to grant the extradition of its nationals for crimes punishable by death penalty:

In instances where the requested person is sought to be held liable for an offense which carries with it the death penalty, extradition is discretionary upon the requested State, unless the requesting State provides assurance that the death penalty would not be imposed or, if it is imposed, that it would not be carried out.

In the extradition treaties entered into by the Philippines, where the person requested might be imposed a death penalty, the same is usually considered a discretionary ground, such as in the Philippines' extradition treaties with the US, Canada and India. However, in the Philippines' extradition treaty with Thailand (1981) and China (2001) the possibility that the requested person might be sentenced to death penalty was not specifically stated as a ground for refusal to extradite.

With the Philippines' accession to the Second Optional Protocol of the International Covenant on Civil and Political Rights (ICCPR) in 2007, the possible imposition of death penalty upon the requested person by the requested State upon extradition is usually considered as a discretionary ground for refusal to extradite in the subsequent extradition treaties entered into by the country.

In simple terms, Key Informant 3 explained that *the proposed Model ASEAN extradition treaty provides that when the offence for which extradition is requested is punishable by death under the laws of the Requesting Party, and the laws of the Requested Party do not permit such punishment for that offence, the Requested Party may refuse the request unless the conditions that may be agreed upon by the Parties are met.*

Other protection mechanisms were discussed by Key Informant 4 who stated that *Filipino nationals, or even foreign nationals, could not be extradited on the basis of the individual's race, sex, religion, nationality, ethnic origin or personal political opinion. This falls under the mandatory ground of denial for the request of extradition, which is clearly specified in all existing bilateral extradition treaties entered into by the Philippines to date.*

In view of the foregoing, the following mind-map was created to present the categories generated from the above initial codes through the data display process:

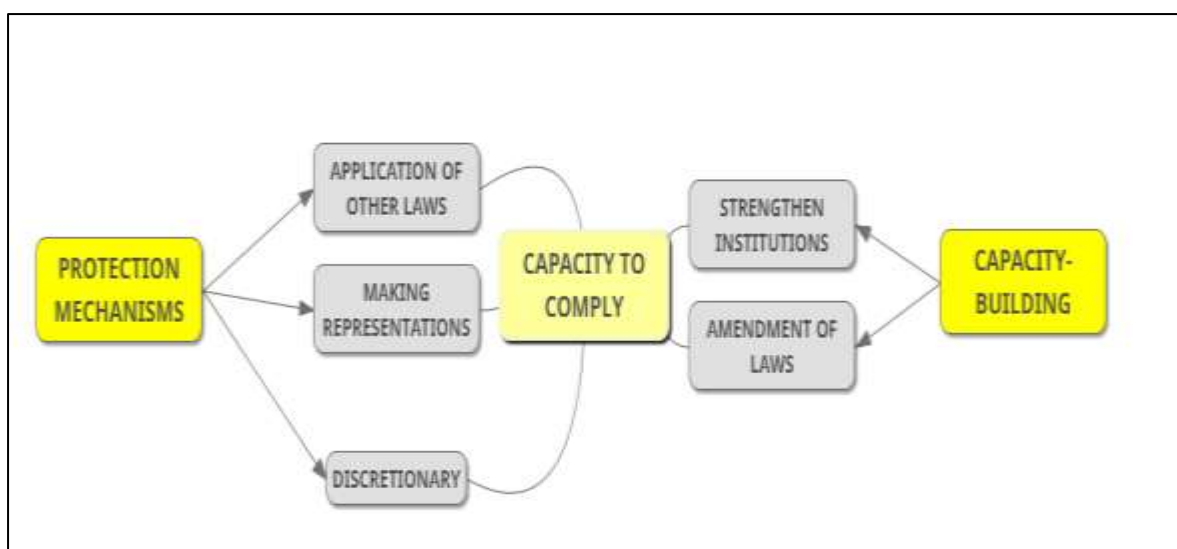


Figure 8. Mind-Map of the Data Display of the Capacity to Comply Variable

Two (2) categories were generated through the codes that were formulated under this variable, notably the (1) Capacity-Building; and (2) Protection Mechanism. The Capacity-Building category involved the strengthening of the Philippine institutions and the amendment of the existing domestic extradition law to better equip itself on the possible effectivity of the proposed ASEAN Extradition Treaty.

On the other hand, the Protection Mechanisms category included the codes Application of other Laws, Making Representations and Discretionary, which highlighted the capacity of the Philippine Government to promote and protect the rights of the Filipino offenders abroad through the aid of their existing international agreements and the current practice of the DFA, through its various Embassies overseas, as part of the third pillar of the Philippine foreign policy.

This is in connection with the graphical presentation below which showed the percentage of codes generated in this variable:

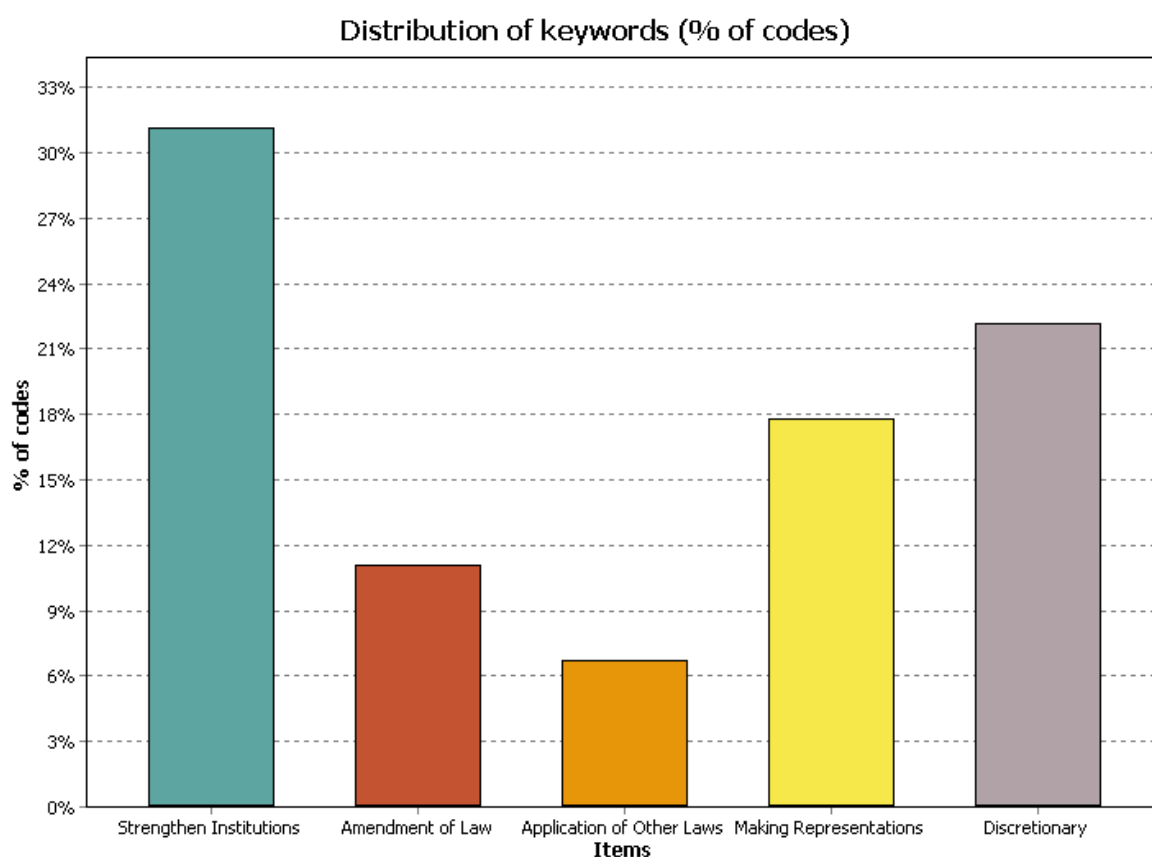


Figure 10. Graphical Presentation on the Percentage of Codes under the Capacity to Comply Variable

From the above graph, it should be noted that the participants viewed the need of the concerned agencies/courts to reorganize in the event of the effectivity of the proposed ASEAN Extradition Treaty. This also included the need to further enhance the officials and staff members' understanding of extradition through the conduct of various trainings to include not only the members of the national government agencies, but also those assigned in local courts, as mentioned by Key Informant 1.

Furthermore, the Discretionary code, with the second highest in percentage, clearly showed the capacity of the Philippines to maintain the rights of the Filipinos to life by not allowing the Filipino offenders to be extradited for offenses with punishment of death penalty. Thus, it can be deduced that the Philippine Government considers the Capacity to Comply as a treaty commitment preference, thus confirming the validity and truthfulness of the third theoretical proposition on the basis of Parillo's study (2009). Thus, the final theme of this variable is Strengthening Governance which captures the concept of the Philippine Government's effort to reorganize to further enhance its protection mechanism for its nationals here and abroad.

The transcript retrieval and initial coding under this variable is attached as Appendix VII.

4.4. PH's Foreseen Benefits from Extradition

Theoretical Proposition: The Philippine Government ensures that the country will gain much benefits before entering into the proposed ASEAN extradition treaty.

It may be recalled that Parillo (2009) created the Opportunity/Willingness Model which highly suggests the general State's treaty commitment preferences. One of the preferences included therein is the benefits that a State will obtain from the agreement it intends to enter into.

Ibanez (n.d.) stated that among the consideration before the Philippines enter into a certain convention is that the agreement should be beneficial to the national

interests, necessary for the country, and an effective mechanism to improve the country's efforts on a certain area of cooperation.

Following is the question included in this study's research instrument to determine the applicability of the foreseen benefits as part of the Philippines' treaty commitment preferences in terms of the proposed ASEAN Extradition Treaty:

- What are the benefits and challenges that the Philippines may encounter when it enters into the ASEAN Extradition Treaty?

The table below presented the initial codes generated from the responses of the participants under this variable through the data reduction process, as well as the percentage of codes, number of counted statements and total number of words:

CODE	DESCRIPTION	COUNT	% CODES	NO. OF WORDS
Compliance to Obligations	Strengthen its commitments to promote regional security	9	25	366
Combat Crimes	Helps in combatting transnational crimes	5	13.9	180
Rule of Law	Promotion of rule of law and evidence of PH's working judiciary	9	25	345
Delineation of Responsibilities	Delineate tasks/authority of concerned agencies in terms of extradition	6	8.3	112
Finances	Financial accountabilities of the PH in the implementation of extradition	3	8.3	112
Political Consequences	This involves the political reasons of extraditing individuals which is highly constitutional	2	5.6	63

Table 5. Data Reduction of Responses on the Foreseen Benefits Variable

Six (6) codes were generated under this variable, notably the (1) Compliance to Obligations; (2) Combat Crimes; (3) Rule of Law; (4) Delineation of Responsibilities; (5) Finances; and (6) Political Consequences.

First, the Compliance to Obligations was described as the efforts made by the Philippine Government to strengthen its commitments to further promote regional security. Said code has 9 counts of sentences and 366 number of words, as well as comprises 25% of the total codes under this variable. Only Key Informants 3 and 6 did not mention any statement under this code.

Key Informant 1 shared that one of the benefits of entering into the proposed ASEAN extradition treaty is the strengthening of the Philippines commitments to other existing international agreements entered into by the country, to wit:

...when it enters into the ASEAN extradition treaty, we can show it as part of our treaty commitments under the United Nations Convention against Corruption, that we're showing serious efforts of combating crime that leads to corruption when we go to meetings with the United Nations Office of Drugs and Crime. Our country is required to give a report on the measures that we've taken towards compliance with our obligations. Definitely, if we have an ASEAN extradition treaty, it would also be big plus for the Philippines to show that.

The same Informant mentioned that the proposed extradition treaty *will also help the Philippines to implement the ASEAN Convention on Trafficking in Persons*

because if we have extradition treaties with other ASEAN countries and its a multilateral instrument, then somehow the desire is to benefit, of course, the Philippines and having our citizens who are committing those kinds of heinous crimes abroad could be extradited back here. This means that the proposed ASEAN extradition treaty shall likewise strengthen the Philippines' capacity to enhance and promote human rights, in line with the opinion of Baird (n.d.) who stated that one of the benefits of concluding agreements is the promotion and protection of State's constituents. This was likewise supported by Key Informant 5 who stated that *an Extradition Treaty with ASEAN states would greatly bolster its legal, security and law enforcement authorities through cooperation with other AMS.*

Second, the Combat Crimes code has 5 counts of sentences and 180 words, and comprises 13.9% of the total codes under this variable. Key Informants 1, 4 and 6 shared their views which fall under this code. This initial code is, somehow, related to the code discussed above. As described in the above matrix, these were the statements that support the idea that one of the benefits of extradition treaty is to combat transnational crimes.

Key Informant 1 expressed that *we [ASEAN] are strengthening ASEAN economic integration, and because of economic integration, then there is a rise of a lot of economically detrimental crimes. You have a lot of cyber-security concerns, you have a lot of like terrorism that's happening, especially in the ASEAN countries that are prone to having violent extremism. And then you also have the issue with harmonization of the different ASEAN occupations instrument.*

This implied that, in view of the developments in terms of relationships between States, i.e. having a goal of an ASEAN economic integration, these incidents, for instance, led to the increase in number of transnational crimes and terrorism. In this connection, the proposed ASEAN Extradition Treaty may facilitate the return of fugitives and prevent them from escaping the law, which was supported by Key Informant 4.

Key Informant 6 further added that *the ASEAN Extradition Treaty will benefit the Philippines to the extent that it can address transnational crime issues, including in priority areas such as illegal drugs, terrorism, and similar challenges with cross-border elements*. This is similar with the view of Wong (2018) who emphasized that agreements such as extradition treaty show the concerted action of States to lessen and avoid threats to regional security. Parillo (2009) also highlighted that extradition treaties provide for the assurance of reciprocating the extradition of criminals from one jurisdiction to another to enable States to prohibit the fear of proliferating terrorism in the region.

The Rule of Law code, on the other hand, which was also generated under the Incumbent Administration's Priority Plans code, has 9 counts of sentences and 345 number of words, and comprises 25% of the total codes, similar to Compliance to Obligations code. However, five (5) out of six (6) participants shared statements under this code.

Key Informant 1 highlighted that the Philippines' ratification to the proposed ASEAN Extradition Treaty helps promote the rule of law in the country, to wit:

You want to also promote the concept that there is a rule of law in the Philippines, and it's a major keyword that we want to prove and benefit of really saying that the Philippines has a working judiciary. The Philippines has a working Ministry of Foreign Affairs; we have a working Ministry of Justice.

This has been supported by Key Informant 3 who stated that *the proposed ASEAN extradition treaty will definitely beef up the regional security, and stretch the reach of the Philippine jurisdiction to include fugitives to other ASEAN Member States. The Extradition Treaty can be a tool towards safety in the region, and also a tool to combat organized crimes, transnational terrorism, and drugs syndicate. Through the proposed treaty, the Philippines, as well as the other ASEAN Member States, could not be considered as a safe haven for law offenders.* Moreover, Key Informant 4 shared that *an ASEAN Extradition treaty could also help enhance cooperation on and increase respect for rule of law within the region. An effective extradition treaty signals that there is no place where criminals can hide in the ASEAN region and this would deter further crimes.*

Key Informant 5 likewise emphasized that despite the differences in the legal systems of the AMS, the proposed ASEAN extradition treaty shall be crafted in a way that is *acceptable and constitutional to all Member States.*

Fourth, Key Informants 1 and 4 made statements that fell under the Delineation of Responsibilities code. The said code has six (6) counts of sentences and 112

number of words, and comprises 8.3% of the total codes under this variable. This code was described as the clear identification of the tasks/authority of the concerned agencies in terms of the implementation of extradition. This code was likewise associated with the challenges that the Philippines may encounter when it enters into the proposed ASEAN extradition treaty.

Key Informant 1 stated that *if the Philippines would enter into this extradition treaty, then once the other ASEAN member countries would find out, then you would expect that there would be a bigger number of requests. So like, presently, the Office of Treaties and Legal Affairs has only one division, handling all of these extradition requests and the DOJ, Office of the Chief State Counsel also does not have a lot of lawyers who are processing and implementing these requests. So if Philippines would enter into this, we would also have to entail strengthening reorganization.*

She further added that *we need the help of the geographic offices, not just the Legal Affairs Office of DFA. So I would really propose a partnership with a geographic and the legal affairs and not just center it on legal affairs and the Department of Justice.* It may be noted that, should the Philippines' enter into the proposed ASEAN extradition treaty, the Government considers further strengthening the agencies involved in the conduct of extradition in view of the seemingly increase in number of the requests from the nine (9) co-Member States, in addition to the existing bilateral partners of the Philippines in terms of extradition.

Key Informant 3's opinion is similar with the latter who stated that *the Philippines has to strengthen its manpower, especially for the lead agency and the*

Courts that will be handling the presumable increased number of extradition cases, as well as to increase the budget allocation to effectively and efficiently act upon such requests.

Fifth, the Finance code has 3 counts of sentences and 112 number of words, and comprises 8.3% of the total codes under this variable. Only Key Informants 1 and 3 mentioned statements under this code. This code likewise was associated with the challenges that may be encountered by the Philippines as it enters into the proposed ASEAN extradition treaty. It was described as the financial accountabilities of the Philippines in the implementation of extradition.

Key Informant 1 expressed that *the challenges that may be encountered in terms of implementing the extradition treaty would be the cost, we are not a rich country. So how do you provide the expenses that will be entailed in paying for the airfare of the extraditee, paying for the airfare of the Interpol representatives and the NBI agents that will be escorting your extraditee, the expenses in prosecuting the legal offense?* This is likewise clearly stated by Key Informant 3 who emphasized that *the challenges on the Philippines' case with regard to the implementation of the extradition of a fugitive would be the funding.*

Lastly, the Political consequences code has two (2) counts of sentences and 63 words, and comprises only 3.6% of the total codes under this variable. Key Informant 6 highlighted that *there are many international human rights groups that have criticized current efforts by ASEAN to conclude such a treaty by raising the specter that such a regional extradition treaty would benefit authoritarian regimes. In*

particular, it was mentioned that it would likely provide a framework for authoritarian regimes assist each other by deporting exiled political dissidents back home where they would face persecution.

From the above-mentioned initial codes, the categories were generated through the data display process as shown in the mind-map below:

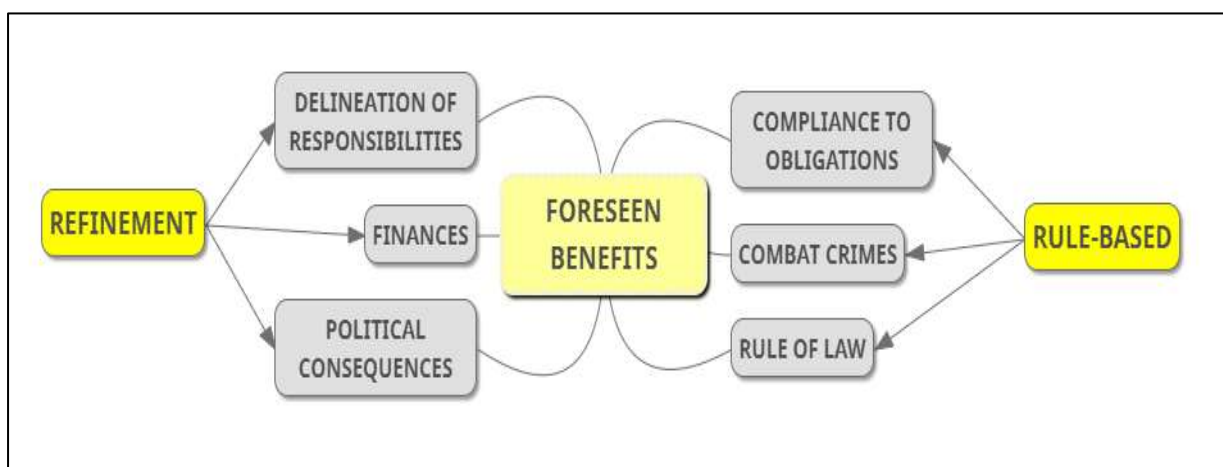


Figure 11. Mind-Map of the Categories under the Foreseen Benefits Variable

Two (2) categories were generated from the six (6) initial codes under this variable. Such categories were identified as Refinement and Rule-Based. Refinement category included the codes Delineation of Responsibilities, Finances and Political Consequences. Said category underscored the aspects that the Philippine Government consider as challenges in the implementation of the proposed ASEAN Extradition Treaty.

On the other hand, the Rule-Based category covered the codes Compliance to Obligations, Combat Crimes and Rule of Law, which present the idea obtained from

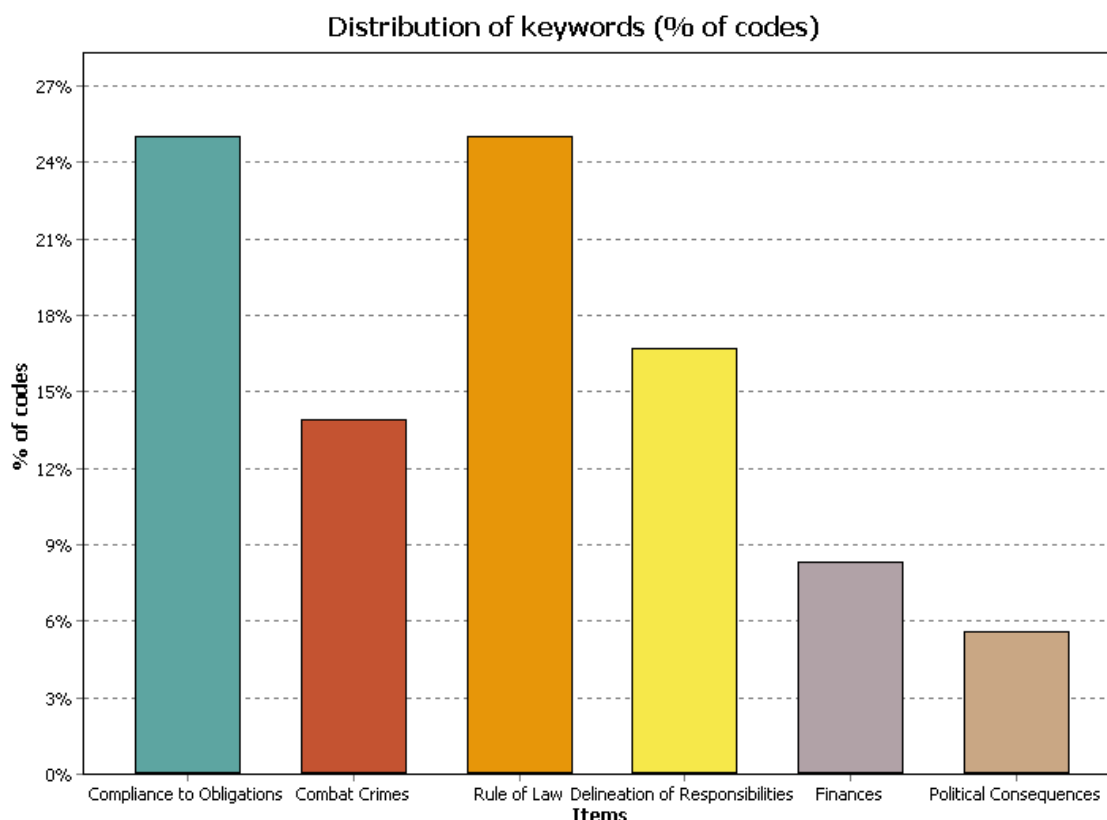


Figure 13. Graphical Presentation on the Percentage of Codes under the Foreseen Benefits Variable

It can be concluded that the Philippines values its commitments and obligations to international agreements, and it can be exemplified through entering into other possible multilateral or regional agreements that can further enhance its capacity to implement extradition, for instance. Furthermore, the importance of rule of law is in the same level of the latter which provides that the country is determined to strictly enforce its internal law, and ensure the constitutionality and applicability of the provisions of international agreement it intends to enter.

The participants also considered the challenges it may face as the country enters into the proposed regional extradition treaty; however, these would not impede the Philippines' decision to commit to the said agreement. The participants discussed the

mechanisms that the Government should undertake in order to rightfully act on its commitments and obligations thereto. Thus, the final theme for this variable is Commitment and Compliance of the Philippine Government in the proposed ASEAN Extradition Treaty.

5. Other Preferences

On the basis of the results, it may be deduced that some (but not all) theoretical propositions presented in the study are deemed valid and true in the Philippine context in terms of the proposed ASEAN extradition treaty.

First, under the Form of Government variable, it is understood that the latter was not considered as part of the Philippines' treaty commitment preferences in view of the other concepts shared by the participants, notably the balancing of interests, willingness of the Contracting Parties, Character of the Extraditee and Disadvantage in Similarities.

In this light, the Legal Framework code was considered to be a possible preference in lieu of the Form of Government variable, as supported by all participants in the study. Form of Government seemed to be a broad variable, and the participants have shared the view that the more specific and applicable preference in the Philippine context is the Legal Framework code. This involved the Philippines' consideration of its internal laws as it negotiates and craft the provisions of the proposed ASEAN Extradition Treaty.

Second, in addition to the Foreseen Benefits variable, the study revealed that the Challenges should likewise be considered as a treaty commitment preference for the Philippines. This was in view of the shared opinion of the participants that the Philippines has to undergo some reorganizations, restructuring, as well as the provision of additional funding relative thereto.

Lastly, as a result of the question *“what are the other policy considerations that should be looked upon by the Philippines relative to the proposed ASEAN Extradition Treaty?”*, Key Informant 6 stated that it is likewise important to consider the status of transnational crimes within the region in order for the Philippines, and other ASEAN Member States as well, to better craft the provisions of the proposed regional extradition treaty.

Thus, the following framework was crafted to present the results of the study:

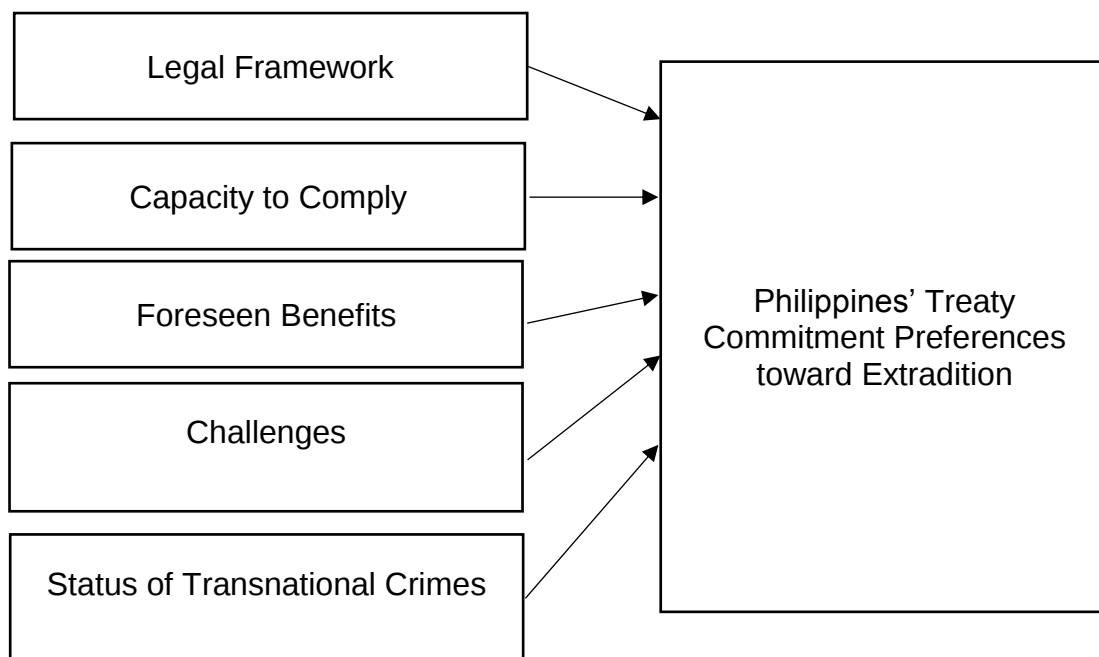


Figure 14. Framework of the Philippines' Treaty Commitment Preferences on the Proposed ASEAN Extradition

The above framework was not in line with the theoretical propositions of the study that the form of government and incumbent administration's priority plans are part of the Philippines' treaty commitment preferences.

6. Preparatory Work of the Philippine Government for the Eventual Ratification of the Proposed ASEAN Extradition Treaty

It has been emphasized in the results of the study the significance of ratifying the proposed ASEAN Extradition Treaty through the benefits that the Philippines will gain therefrom. The main purpose of the said agreement is to combat cross-border crimes in the region. Significant developments were already achieved by the ASEAN, notably the Member States' adoption of the Model Extradition Treaty. It should be noted, however, that the said Model Treaty is a non-legally binding instrument; hence, the latter serves only as a guide of the Member State in entering into bilateral extradition treaties with other States. Nevertheless, the possible regional ASEAN Extradition Treaty shall be the next probable step to be undertaken by the organization given the adoption of the Model Treaty. The negotiations between and among the AMS can be facilitated in view of the adoption of the Model Treaty.

Despite the foregoing, the Philippines may encounter a number of challenges in the negotiations, completion of domestic requirements for the entry into force of the agreement, as well as in the actual implementation of the proposed ASEAN extradition treaty. Hence, the coordination between the concerned agencies in terms of negotiations should be heightened. The same is likewise recommended for the implementing agencies as the latter coordinate with the Office of the President and the

Senate of the Philippines in order to complete the domestic ratification requirements of the country on the proposed regional extradition treaty.

Therefore, the participants shared the view that it is recommended for the Philippine Government to start the review of its existing domestic law on extradition, the Presidential Decree No. 1069, and check the necessary adjustments and updates that should be undertaken given the number of international agreements and bilateral treaties entered into by the Philippines in terms of extradition, as well as the recently adopted Model ASEAN Extradition Treaty. Amendments to the internal law takes a long period of time, and starting the review of the said Presidential Decree would enable the Philippines to focus more on the implementation of the extradition at the time of its possible ratification to the proposed ASEAN Extradition Treaty.

The Philippine Government has to review the effects of the proposed ASEAN extradition treaty to the current legislative and judicial process, and how the Government resolves the adjustments to be made in case of any change thereof.

In terms of the implementation of the extradition, the points raised by the participants of the study are highly useful and significant in order for the Philippines to effectively and efficiently enforce the said proposed treaty. It should be emphasized that the use of technological advancements, as recommended by Key Informant 1, in maintaining database to ensure ease of coordination among the offices involved within the country, is a good tool in order to avoid delays in the conduct of extradition. This is in line with the new normal campaign brought by the Covid-19 pandemic in the country.

Furthermore, as part of the shift to technological advancements, the implementing agencies, i.e. the Department of Justice in coordination with Philippine Judicial Academy, may organize a webinar series and workshop to be attended by all lawyers in the upper and lower court officials, or perhaps, can be a mandatory requirement for their periodical Mandatory Continuing Legal Education. This further training on extradition treaty shall ensure the strict compliance of the Philippine Government in its commitments for a deliberate speed and ensured conformity with the proposed ASEAN extradition treaty.

In this connection, one of the major challenges of the Philippines in this respect shall be the source of funding in view of the prioritization of the Government's efforts to fight against Covid-19, and its seemingly difficult recuperation from the economic losses the pandemic brought to the country. Budget allocations for the shift to technological advancements, trainings, increase in manpower and the actual conduct of extradition should be considered in the event of the possible ratification of the country in the said treaty.

CHAPTER V

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

1. Summary

The Philippines considers a number of treaty commitment preferences on the proposed ASEAN extradition. Generally, the key treaty commitment preferences are provided by Wagner (2003), Lupu (2014), Simmons (2002) and Parillo (2009); however, such preferences were studied in the European context. Thus, the study aimed to: (1) examine the applicability of the general preferences, e.g. form of government, incumbent administration's priority plans, capacity to comply and foreseen benefits, with the Philippines' treaty-making; and (2) determine the preparatory work to be undertaken by the Philippines in the eventual ratification of the proposed ASEAN extradition treaty.

The study utilized qualitative case study research design using face-to-face interview, email interview and library research. The primary unit of analysis of the study are the experts of negotiations in terms of extradition treaty and other ASEAN-related political instruments.

Gathered data were analyzed using the model of Miles and Huberman (1994) as cited by Yin (2009). Several tools were used to further comprehend the gathered information, notably the QDA Miner Lite, Mind-Map and Word Cloud. The said softwares enable the researcher to organize and comprehend large volume of data,

specifically the responses made by the participants which are considered as the primary data of the study.

Based on the results of the study, it may be concluded that the first theoretical proposition, i.e. Form of Government variable, is not considered a preference of the Philippines in treaty commitment relative to the proposed ASEAN Extradition Treaty. This is in view of the shared opinion of the participants that the differences in forms of government can be resolved through balancing of interests; hence, the purpose of having negotiations between the Contracting Parties.

However, it should be noted that all participants agreed that legal framework is important to consider in entering into the proposed ASEAN extradition treaty. This involves the review of the provisions of the agreements and the determination of the constitutionality and applicability of said treaty considering the existing international agreements entered into by the Philippines and its own internal law.

In this regard, this study deduced that instead of Form of Government, Legal Framework can be better considered as one of the Philippines treaty commitment preferences in terms of ASEAN extradition treaty.

Similarly, the results validated that the second theoretical proposition, i.e., Incumbent Administration's Priority Plans, is not applicable in the Philippine context . Two (2) key informants stated the latter may have an effect on the Philippine Government's roadmap; however, given that majority of the participants agreed that the country is committed to its mandate to uphold the rule of law and strictly observe

its independent foreign policy, the study revealed that, in the Philippine context, Lupu's (2014) argument is invalid.

On the other hand, the results of the study confirmed the applicability of the third theoretical propositions in the Philippine context. The codes under the Capacity to Comply variable, notably the Strengthen Institutions, Amendment of Laws, Application of other Laws, Making Representations and Discretionary, all implied that the Philippine Government considers reorganization and restructuring of the implementing agencies, i.e. increasing manpower and facilities, to further promote and protect the rights of its nationals.

Lastly, the Foreseen Benefits variable is likewise considered to be part of the Philippines' treaty commitment preferences as can be shown in the results of the study. The Government's commitment to obligations is deemed to be the mostly considered benefit from entering into the proposed ASEAN extradition treaty, while the challenges of compliance are likewise being looked upon by the country.

Furthermore, it should be noted that other significant preferences on the Philippines' treaty commitment preferences are identified in the study. These include the Legal Framework, Challenges and Status/Situation of Transnational Crimes in the region. The study revealed that said variables are highly important policy considerations before the Philippines enter into the proposed ASEAN extradition treaty, in addition to the Foreseen Benefits and Capacity to Comply variables.

2. Conclusion

2.1. Introduction

The previous Chapters of the study presented the importance of comprehending the treaty commitment preferences of the Philippines in order to ensure that its decisions relative to entering into certain international agreements are constitutional and within the interests of the country and the Filipino people. Treaty commitment preferences, once determined and understood, further strengthen the capacity of the Philippines to effectively and efficiently exercise and implement its obligations and responsibilities.

The attainment of the main objective of the study – the presentation of the results of the study, specifically the validity of the theoretical propositions, and the determination of the preparatory work to be undertaken by the Philippines relative to its possible ratification to the proposed ASEAN extradition treaty -- is further discussed in this section.

In this connection, I observed that the existing studies involving international agreements involve treaty compliance of a certain State. I concur with the statement of Stein that it is further recommended to study the treaty commitment preferences of a country in order to fully understand its behavior, since the two concepts are different from one another. Treaty compliance only refers to the implementation phase of a treaty. By studying the treaty commitment preferences, the pre-negotiation and

negotiation phase shall likewise be covered, which completes the puzzle of a State's roadmap in terms of bilateral/multilateral partnership.

Furthermore, I argued that the Philippines follows certain guidelines/framework, norms and/or values before entering into a certain international agreement, specifically on extradition treaties which involve the rights of the Filipinos, even those law offenders. Thus, I conducted the study to fill the gap in the existing literature, especially that the study is considered a first of its kind in the Philippine context, eyeing the country's position and standard preferences before it enters a legally-binding agreement with an ASEAN Member State.

Following are the objectives of the study: (1) to examine the applicability of the theoretical propositions on the general treaty commitment preferences obtained from the studies of Wagner (2003), Lupu (2014), Simmons (2002) and Parillo (2009), notably the form of government, incumbent administration's priority plans, state's capacity to comply, and foreseen benefits; (2) to determine the preparatory work to be undertaken by the Philippines on its possible ratification to the proposed ASEAN extradition treaty.

The above objectives are addressed in Chapter IV, which was divided into five different sections that provided the discussions on the examination of the theoretical propositions relating to the general treaty commitment preferences in the Philippine context. The next sections presented the results of the study specifically resolving the first objective. The second objective was then presented at the latter part of the Chapter IV after all the findings and results were discussed.

2.2. The Philippines and ASEAN: Mutual Understanding in a Diversified Region

Concluding an ASEAN treaty is one of the most observable indication that the ASEAN Member States are able to align their policies and interests, despite a number of differences, with the provisions set forth in the agreement they negotiated. However, some of the critics of ASEAN stated that one common weakness of the said organization is that it only seeks to discuss and negotiate the issues and concerns that they can agree on, considering as well the ASEAN principles, wherein such are still being debated until to date on whether these are advantageous or the cause of delays in ASEAN's actions and efforts to resolve what needs to be done in the region (Quilop, 2000).

I argued that the above statement is invalid since the ASEAN organization has concluded a number of agreements that are difficult yet necessary to negotiate for the enhancement of its international legal cooperation, notably the ASEAN Mutual Legal Assistance Treaty, among others. In this connection, I aimed to identify how the Philippines is able to pursue its interests in negotiations despite the differences of the ASEAN Member States. I focused the study on the proposed ASEAN Extradition Treaty as it is considered to be the next major step of the organization in its international legal cooperation efforts as the AMS were able to negotiate the Model Extradition Treaty already for the AMS' future use with a bilateral partner.

Furthermore, the study was undertaken to comprehend the pre-negotiation process of the Philippines before it enters into the proposed ASEAN extradition treaty.

This pre-negotiation stage involves the review of the Philippine Government on whether it is best for the State to ratify or accede with a certain agreement. The question on “*what is being taken consideration by the Philippines before ratification of a certain agreement?*” captures the general objectives of the study. Being able to understand the policy decisions of the Philippines gives us an overview of how a certain ASEAN Member State is able to balance its interests with the rest of the members of the organization.

2.3. Convergence of the ASEAN Member States as International Law Meets Constitutional Law

The first theoretical proposition relative to the “Form of Government of each Contracting Party” variable was discussed in Chapter 4.3.1. I argued that the form of government of each Member State should be taken into consideration by the Philippines before entering into the proposed ASEAN extradition treaty since the latter is considered as the backbone of the laws and policies of Member States. However, after conducting the study, the results have shown that the Form of Government variable does not significantly affects the ability of the Member States to negotiate and conclude a certain agreement.

On the statement that democratic states prefer to enter into another democratic states when dealing with extradition treaty, I observed that the participants’ views on the matter are quite different. One participant mentioned that democratic states’ norms and values are similar, which serve as an advantage; hence the negotiations and finalization of the text of the agreement would be easier for the Contracting Parties.

Another mentioned that democratic states invite more political oppositions with much freedom and rights of the citizen to speech and liberation.

By and large, I argued that, since the treaty-making process consists of pre-negotiation, negotiation, ratification and implementation stages, the advantages and disadvantages with regard to the similarities in forms of government, i.e. democratic states to democratic states, comes in different phases. For instance, for the negotiation stage, similarities in forms of government make the jobs of the negotiators easier in view of the possible similarities in judicial systems and policies. However, when it comes to the ratification stage, wherein the international agreement has to go through the Office of the President and Senate of the Philippines, lobbying comes into play and oppositions may be encountered. Thus, I concluded that there are two sides of situation with regard to the negotiations of two democratic states.

Furthermore, there are some contentions wherein developed countries tend to overpower the developing states when it comes to the finalization of the text of the agreements. I argued, however, that the ASEAN principles do not allow such instances in view of the consensus-based decision making. It may be recalled as well that when an ASEAN legal instrument has been signed by all Contracting Parties, it does not mean that the agreement is automatically binding and effective. The instrument of ratification/accession has to be deposited to the ASEAN Secretariat in order to make the agreement enter into force. Should one Member State be delayed in the deposit of accession, whether said Member State is a developed or developing one, ASEAN has no authority to give pressure to the said Member State in view of the non-interference and respect for equal sovereignty principles of the organization.

In this connection, with the view that the ASEAN Member States have differences in their forms of government, and considering the success it has made since its establishment in 1967 until the time when the organization turns into a community in 2015, I concluded that ASEAN has the ability to determine their common grounds and achieve mutual understanding on various areas of cooperation.

The results revealed that the Member States likewise make compromises and sacrifices without losing and making contradictions with their internal policies and interests. Based on the statements made by the participants of the study, I used the code “balance of interests” to describe the ASEAN way of determining and considering its Member States views and position on the agreement being negotiated. I agreed that concessions and compromises are inevitable in negotiations. Should a certain Member State be firmly unreceptive to compromises, the negotiations would be an extreme failure.

Furthermore, the participants likewise emphasized that the legal policies, cultures and values of each Member State should be taken into consideration. It is also mentioned in the discussion that cultures and values are highly significant in making compromises and solutions to certain situations and concerns being encountered by the ASEAN in negotiations. These responses fall under the “legal framework” code. The respondents shared the view that the commonality of values and cultures, which likewise affects the internal policies and laws of the Member States, serves as an advantage; however, the differences thereof do not impede the ability of the ASEAN to find common solutions to common problems in the region.

I observed that one of the major considerations on why should the legal framework be considered by the Philippines and other AMS as well is because of the differences in the norms and values of the Member States. For instance, the Philippines, being a Catholic country, opposes death penalty in view of the right of the Filipinos to life, while other ASEAN Member States, notably Indonesia, Malaysia and Singapore, observe the legality of death penalty. I am of the view that taking for granted the provision on death penalty would result to series of rallies amongst the Filipino condemning its Government for failing to comply with the basic rights of the people, even those detained.

Another important point that was raised by the respondents is the Member States' willingness to negotiate. Despite the differences of the legal systems and the difficulty in negotiations, the Contracting Parties would work on determining the mutually beneficial terms if they are willing to conclude and implement the agreement. Moreover, it should be emphasized that the timeline of the discussions and the length of period of negotiations of a certain agreement is likewise affected by the Contracting Parties' willingness. On the other hand, one respondent also mentioned the importance of the character of extraditee; however, this is considered to be beyond the subject of the study as it is considered to be irrelevant in the ASEAN Member States' negotiations of the proposed ASEAN extradition treaty.

On the basis of the results of the study, I observed that, under the form of government variable, most of the codes I used can be further grouped into two categories such as Internal Factors and External Factors. Internal factors include the willingness of the Member States, legal framework, and character of the extraditee.

External Factors, on the other hand, are the balance of interests and disadvantage in similarities.

I concluded that the Philippines observe the balancing of internal and external factors in negotiating the proposed ASEAN extradition treaty. Thus, despite the differences in the legal systems and forms of government, the Philippines is able to negotiate the agreement in such a way that its internal laws are not prejudiced, while performing its obligations as a member of ASEAN.

2.4. Philippines' Commitment to Rule of Law

The second theoretical proposition to examine which pertains to the “Incumbent Administration's Priority Plans” was discussed in Chapter 4.3.2. The theoretical proposition in this regard is that it likewise forms part of the Philippines' treaty commitment preferences in the proposed ASEAN extradition treaty considering that the Head of State/President has an important role in the treaty-making process. It may be recalled that, for legally-binding international agreements, it has to go through the Office of the President for ratification before it can actually take into effect. Based on the results of the study, however, this preference is considered to be insignificant and does not affect the Philippines' preferences when negotiating an agreement.

Among the codes that I used in discussing this variable were as follows: (1) willingness; (2) rule of law; (3) policy; and (4) administrative projects. As mentioned earlier, willingness of a State fell under the pre-negotiation stage, and this willingness can, somehow, be associated with the Head of State's willfull interest of pursuing the

conclusion of a treaty in this section. This, however, only presented low relevance to the variable being examined in view of its low percentage in the responses made by the participants. I argued that, in practice, the delays in the ratification process of the agreements could not be associated with the personal interests of the Head of State, but on the review of the implications to the country of the certain international agreement or the proposed ASEAN extradition treaty for instance.

The rule of law – protecting the rights of the Filipinos and uplifting the Constitution – can be associated with another code that I used, i.e. Policy. This code presented the Government's strong adherence and obligations with its internal laws, most especially to the treaty-making process. The participants were of the position that the Philippine Government views the international agreements as a non-political matter and were not affected by the changes in administration.

In cases wherein some pending agreements were left unratified by the previous Head of State, the concerned agencies are working on the resubmission of said pending agreements for the current Head of State's review and consideration for ratification. This process is also being undertaken with the pending agreements in the Senate for its concurrence to the ratification made by the previous President. I observed that the Senate of the Philippines and/or the Office of the President often coordinates with the Department of Foreign Affairs on the pending agreements that should be prioritized in ratification and concurrence to Presidential ratification.

Although one respondent mentioned that the change in administration may affect or may be considered as a challenge in the negotiations or ratification of

agreements, the majority of the participants strongly opined that the change of administration is insignificant and should not be considered as a preference. I argued that the effects of the change in administration are clearly observed internally, i.e. war on drugs, among others. I argued that the statement of Rogoff (1994) that international agreements should be crafted in such a way that it will gain political support is more applicable in the domestic laws of the Philippines rather than the international agreements being negotiated by the country. Administrative projects was another code that I used which referred to the priorities of the Head of the State.

From the codes mentioned in this section, I concluded that these can be further grouped into two categories, such as Law and Politics. Law includes the rule of law and policy, while the politics code consisted of willingness and administrative projects. The final theme, therefore, presented the Philippine Government's continuous commitment to rule of law and to what the law says, leaving the politics behind when concluding international agreements that are highly beneficial for the country and the region.

2.5. The Philippines' Strengthening Governance

The third theoretical proposition to examine relative to the "State's Capacity to Comply" was discussed in Chapter 4.3.3. The proposition in this variable was that the Philippines consider thereof as part of its treaty commitment preferences before entering into the proposed ASEAN extradition treaty because this variable is one of the crucial aspects in order to comply with the obligations set forth in the said agreement.

A certain State should not sign a certain agreement if its Government is not yet prepared to implement the obligations and commitments therein. Failure to comply with a certain agreement can lead to disputes and worsening of relations between the Contracting Parties. In this case, the Philippines should peruse its status when dealing with the existing extradition treaties it entered with other bilateral partners to determine its capacity to comply with a multilateral extradition treaty with ASEAN.

It should be recalled that the capacity to comply does not cover the financial accountabilities itself but the ability of the State to uphold rule of law while observing its responsibilities associated with the extradition treaty. I argued that financial accountabilities and upholding of rule of law comes hand-in-hand. For instance, in the event of a foreign national commits a crime within the Philippine jurisdiction, the Government has to ensure that justice shall prevail, and financial constraints should not serve as hindrance in requesting the extradition of the foreign law offender.

The results of the study revealed that the Philippines has to revisit its existing institutions as it prepares for the possible multilateral extradition treaty with ASEAN Member States. These preparations include the creation of new office and/or units that will specifically handle extradition cases under the implementing agency, as well as the increase in lawyers and staff that will ensure the speedy processing and conduct of extradition requests. This is in view of the possible increase in number of requests from the ASEAN Member States in addition to the current bilateral partners of the Philippines in terms of extradition. Moreover, further trainings on the personnel, especially those individuals from the local courts, are likewise recommended by the

participants in order to ensure the effective and efficient compliance of the Philippines to the proposed ASEAN extradition.

In line with the strengthening of institutions, the participants mentioned the need of the Philippine Government to amend and update its existing domestic extradition law, the Presidential Decree No. 1069, in order to reflect the developments and changes in international law.

Furthermore, one of the challenges imposed by the Philippines' move to ratify the extradition treaty is its ability to uphold rule of law – to protect and promote the rights of the Filipino migrant workers. Alongside with the proposed extradition treaty, the participants stated that the other existing conventions, i.e., Vienna Conventions on Diplomatic and Consular Relations, has given authority for the Philippines, through its various Embassies and Consulates General abroad, to extend the protection of the rights of detained Filipino migrant workers through making representations by visitation of the Filipino detainees in jail, providing lawyers to them and informing the family of the detainees of their situation, among others.

In this connection, the proposed ASEAN extradition treaty gives authority to the Requested Party the discretion to allow extradition of its own nationals in cases of violations leading to death penalty. As mentioned earlier, in view of the Philippines' strong opposition to death penalty, upholding the right to life of every Filipino as mandated in the Constitution, and considering as well of being a Catholic country, the State may decide not to extradite its nationals in this special circumstances. In this regard, I observed that the said provision clearly provides for the concessions and

compromises being undertaken by the Member States specifically on highly sensitive issues involving human rights, among others.

I further grouped the codes mentioned above into two categories, notably the protection mechanism and capacity building. Protection mechanism includes the application of other laws, making representations and discretionary. Capacity building, on the other hand, consists of strengthening institutions and amendment of laws.

In view of the foregoing, I concluded that the Philippines considers its capacity to comply before entering into the proposed extradition treaty, through strengthening its institutions and amending its existing domestic law while upholding rule of law and good governance; thus, confirming the validity of the third theoretical proposition.

2.6. The Philippines' Commitment and Compliance to the Proposed ASEAN Extradition

The last theoretical proposition to examine which pertains to the “Foreseen Benefits” was discussed in Chapter 4.3.4. The propositions in this variable is that it significantly forms part of the Philippines' treaty commitment preferences on the proposed ASEAN extradition treaty since the first question to ask for a country as to why it is willing to bind itself to a certain treaty is the benefits that it will accrue from the latter.

Accordingly, based on the discussions of the results from the previous chapter, the benefits are, indeed, the most important variable in the study. First, the participants

agreed that one of the benefits of extradition is to strengthen the Philippines' efforts in compliance with other international conventions, e.g. UNODC, UNCAC and ACTIP, among others. The promotion of human rights of the Filipinos will be further upheld, in line with the efforts of the country and the region to enhance regional security and combat transnational crimes as brought about by the increased economic integration within ASEAN.

Furthermore, with the Philippines entering into the proposed ASEAN extradition treaty, the Government can prove to its constituents that it has a working judiciary that aimed to remove the idea that the country serves as a safe heaven of fugitives and foreign law violators. Thus, it further improves its efforts of protecting its own nationals in its own jurisdiction and even beyond.

On the other hand, the study revealed likewise that aside from the benefits that the country will gain from binding itself to the proposed ASEAN extradition, it is necessary for the Philippine Government to consider the challenges it may encounter as it enters into the said agreement. I argued that the country has to ensure that the challenges to be encountered when the treaty took effect should not overpower the benefits it will gain thereof.

Among the challenges that were mentioned by the participants are the financial resources that need to be prepared in view of the possible reorganization of handling offices, as well as the recommendation to increase manpower to enable the smooth and effective implementation of the said treaty. Reorganization likewise includes the

proper delineation as to which offices are involved and responsible in the processing of extradition requests from the Requesting Parties.

I further grouped the above statements into two categories, notably Refinement which involves delineation of responsibilities, finances and political consequences, and rules-based which consists of compliance to obligations, combatting of crimes and rule of law.

Thus, I concluded that the Philippine Government considers both the benefits and challenges it may gain or encounter as it move toward the negotiations and then eventual ratification of the proposed ASEAN extradition treaty.

Furthermore, other preferences that were considered in the course of the examination of the variables include the determination of the status of transnational crimes within the region in order for the ASEAN Member States, the Philippines in particular, to understand the level of said crimes in the country and the region, and for the Government to decide on the effective strategy and mechanism to address the concern, and craft on its own position before negotiating the proposed ASEAN extradition treaty. I argued that the above-said preference is vital in the pre-negotiation stage. ASEAN's move toward the negotiations of the Model Extradition Treaty and the eventual proposed ASEAN extradition treaty found its basis on the existing status of transnational crimes in the region. I agreed that the economic interdependence and increased movement of people lead to the greater reports of transnational crimes, i.e. illegal drugs.

2.7. Future Directions

In addition to the recommendations made at the latter part of Chapter IV, the following are the additional contributions of the study to the Philippine Government as well as to the discourse of ASEANOLOGY:

Based on the results of the study, it can be concluded that there are five treaty commitment preferences in the Philippine context in terms of the proposed ASEAN extradition treaty, notably the Legal Framework, Capacity to Comply, Foreseen Benefits, Challenges, and Status of Transnational Crimes. The results indicated that, among the general key preferences presented by the various authors, the preferences Challenges, Legal Framework and Status of Transnational Crimes replace the variables Form of Government and Incumbent Administration's Priority Plans.

Generally, this thesis may serve as the foundation of the general framework that best describes the Philippines' treaty commitment preferences in all and/or specific areas of cooperation. This thesis further revealed the following practical implications to the existing negotiation practices of the Philippine negotiators, as follows:

Furthermore, this thesis proposed that the identified Philippines' treaty commitment preferences may serve as the basis and/or guide of the negotiators in the process of crafting the provisions of a certain agreement being handled. The results likewise revealed that it is important to peruse the existing domestic laws and

international agreements entered by the Philippines in order to ensure that the signed treaties are consistent and constitutional, and does not breach any Philippine law, practice and/or even norms.

The thesis stressed the importance for the negotiators to check the capacity of the Philippines in complying the provisions set forth in the agreement being crafted and negotiated. The said capacity does not only covers the financial aspect, but most importantly, its capacity to uphold the rule of law by continuously strengthening its institutions and other relevant laws.

The study revealed that it is important for the Philippines to review and examine the benefits that the Philippines may accrue from the proposed agreement. In this respect, the negotiations should likewise look into the challenges that the country may encounter when it enters the proposed treaty. It is noted that the challenges on implementation of laws are inevitable, however, the negotiators should ensure that said challenges should not prevail over the benefits the country will gain.

The study validated the importance of reviewing the current situation of the problem being addressed in order to better craft the provisions of the agreement and be able to address the issues it intends to resolve.

Lastly, through the results of the study, the implementing agencies of the agreement being negotiated will have a better view and understanding of how the agreements should be formulated, and what are the policy considerations that should be carefully and critically mulled by the concerned authorities.

The thesis likewise contributed to the existing ASEAN literature, specifically on the study of negotiations involving Contracting Parties with different legal systems, cultures and values, and how the Philippines manages to pursue its national interests despite the situation.

It should be noted that most of the existing related studies focus on the European context; thus, this study fills the gap and examined whether the general key preferences likewise apply to the Philippines as it works with the ASEAN on the proposed extradition treaty. Moreover, this thesis concluded that the results of the study in the European context are far different when conducted in the ASEAN context, particularly the Philippines in this case.

Additionally, the use of case study design with the model of Miles and Huberman (1994) as the method of data analysis has proven its credibility in determining the patterns, theme and idea of the unit(s) of analysis, and can therefore be used in ASEANOLOGY.

The study is considered as a first of its kind, specifically in the Philippines, which focuses on the negotiation process in concluding a treaty. Most of the studies covered the implementation stage of an international agreement. It should be noted, however, that the variables of the study are determined through the lens of the proposed ASEAN extradition treaty. Other variables may likewise be identified by conducting further researches on other areas of cooperation, notably in the fields of science and technology, culture, economics, education, and/or other defense-related agreements.

3. Recommendations

In relation with the findings obtained from the study and the above conclusion, the study was able to successfully determine the general key preferences of the Philippines' treaty commitment in terms of the proposed ASEAN Extradition Treaty. However, although the study have reached an important milestone, it likewise offers some directions and open doors for future researches.

Further researches may explore the determination of the Philippines' treaty commitment preferences in other available proposed or existing agreements, i.e. mutual legal assistance and transfer of sentenced persons agreement, and/or other political, economic or socio-cultural ASEAN agreements. The results of these further researches can be compared with the findings of the study, and may serve as the foundation of the general framework of the Philippines' treaty commitment preferences on international legal cooperation and eventually on all areas of cooperation.

Moreover, future researches may widen the participants to include the gathering of views and opinion of the Office of the President and Senate of the Philippines for legally-binding agreements, as the key agencies for the completion of the domestic ratification requirements to make an international agreement effective.

Additionally, future researchers may likewise consider doing a comparison study between the treaty commitment preferences of the Philippines and another ASEAN Member State(s) in order to have an overview of how bilateral/multilateral negotiations work.

The study likewise recommended future research that focuses on the compliance of the Philippines on other international legal cooperation agreements, notably the ASEAN Mutual Legal Assistance Treaty, and/or a study that covers its compliance to a certain multilateral/bilateral extradition agreement.

It is also hoped that future researchers should also explore the implications of the proposed ASEAN extradition treaty specifically on the legislative process in order to showcase a holistic perspective in understanding the implementation phase of the extradition treaty-making in the Philippine context.

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APPENDICES

APPENDIX 1. REQUEST LETTER FOR INTERVIEW

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Sir/Madam:

I am taking the Masters of ASEAN Studies (MAS) Program at the University of the Philippines Open University (UPOU), and am currently working on the thesis entitled *“Treaty Commitment Preferences: The Case of the Philippines on the Proposed ASEAN Extradition.”*

In this regard, I am pleased to invite you to serve as one of the key respondents for the study in view of your expertise and knowledge on the determination of the constitutionality and applicability for the Philippines to enter into legally-binding agreements, notably an extradition treaty. Hence, I am respectfully requesting for a virtual interview via Google Meet in your most convenient time. Should a virtual interview would not be feasible; you may wish to provide your answers to the attached word file of the thesis questions.

Enclosed, for reference, are copies of the overview of the study, thesis questions and informed consent form.

Your views and opinions on the subject matter are highly significant to attain the objectives of the study.

I am deeply hoping for your kind consideration on the above request.

Thank you and warmest regards.

Very truly yours,

KIEREN ROEVI A. BATILES
Student, MAS – UPOU

“TREATY COMMITMENT PREFERENCES: THE CASE OF THE PHILIPPINES ON THE PROPOSED ASEAN EXTRADITION”

Overview

Treaty commitment preference and treaty compliance are both significant in understanding the States’ policy directions, notably in terms of binding themselves with the obligations set forth in a certain international agreement. However, it can be observed that in the existing studies involving international agreements, a number of which are mostly focused on the State Parties’ compliance of certain treaties and/or executive agreements that are considered highly topical and/or controversial.

Stein (2006)¹ stated that the study on treaty compliance per se, somehow, does not completely enable one to comprehend the totality of a State’s behavior. It should be noted that treaty commitment preferences fill the gap in understanding a State’s foreign policy directions (Stein, 2006, pp. 2).

Furthermore, according to Lupu (2014)², many individuals may consider state’s decision to commit to certain international agreement as a purely random act. However, the researcher is of the opinion that states’ decision to commit to a certain treaty is based on the guidelines, framework or norms that the government observes.

¹ Stein, Jana von. (2006). *When and Why Do Treaties Work? Commitment and Compliance in International Economic, Human Rights, and Environmental Law*. University of California: Los Angeles. Retrieved from: <https://search.proquest.com/docview/305344496/35D43B9B33B1432APQ/4?accountid=47253>.

² Lupu, Yonatan. (2014). *Why Do States Join Some Universal Treaties but not Others? An Analysis of Treaty Commitment Preferences?* Washington D.C.: George Washington University. Retrieved from: https://www.researchgate.net/publication/254938467_Why_Do_States_Join_Some_Universal_Treaties_But_Not_Others_An_Analysis_of_Treaty_Commitment_Preferences/link/59da1633a6fdcc2aad129a72/download.

The case study research likewise aims to ascertain the variables that form part of the State's treaty commitment preferences before binding itself to ASEAN Extradition Treaty, which will test the relevance of the arguments provided by Wagner (2003), Lupu (2014), Simmons (2002) and Parillo (2009), and the determination of the preparatory work to be undertaken by the Philippines in the possible ratification thereof. The results of the study can serve as a basis in developing a possible framework that could best describe the State's treaty commitment preferences in extradition and other areas of cooperation.

The above scholars identified the variables that affect a State's treaty commitment preferences, notably the form of government of the other Contracting Party/ies, state's capacity to comply, foreseen benefits and the incumbent administration's priority plans.

Following are the questions to be asked at the focus group discussion/interview related to the variables of the study:

1. What are the advantages of having similarities in cultures and values, and form of government in negotiating the proposed ASEAN Extradition Treaty?
2. What are the experiences of the Philippine Government when negotiating a treaty considering the differences in legal systems and forms of government of each AMS?
3. What are the benefits and challenges that the Philippines may encounter when it enters into the ASEAN Extradition Treaty?
4. How does the Philippine Government ensure the protection of its nationals who committed a crime under the jurisdiction of another ASEAN Member State considering the differences in the legal systems and policies on penalties in the region?

5. How prepared is the Philippines for the proposed ASEAN Extradition Treaty in terms of financial and administrative accountabilities?
6. How optimistic are you on the likely effectiveness of the proposed ASEAN Extradition Treaty?
7. What is the roadmap of the Philippine Government in dealing with extradition matters to further contribute to the ASEAN's growing legal cooperation? What might be the possible effect of the change of administration in the negotiations and eventual ratification of the Treaty?
8. What are the other policy considerations that should be looked upon by the Philippines relative to the proposed ASEAN Extradition Treaty?

APPENDIX 2. INFORMED CONSENT FORM

Date: _____

Informed Consent Form for : _____ (Name of Respondent)

Part I. Introduction

Warmest Greetings!

I, Kieren Roevi A. Batiles, a graduate student of Masters of ASEAN Studies Program at the University of the Philippines Open University (UPOU), is currently undertaking a thesis entitled "*Treaty Commitment Preferences: The Case of the Philippines on the Proposed ASEAN Extradition.*" The study has been reviewed and approved by the Thesis Committee from the UPOU Faculty of Management and Development Studies. Hence, I am respectfully requesting you to take part of the research study by sharing your views and opinion pertaining to the focus of the study.

Should you have any questions or clarifications, you may wish to contact me through mobile number or email address kabatiles@up.edu.ph.

Purpose of Research

The study aims to examine the applicability of the theoretical propositions relative to the Philippines' treaty commitment preferences in terms of extradition, and how would it affect the State's course of action toward the negotiations, finalization and completion of domestic requirements for the possible effectivity of the proposed ASEAN Extradition Treaty.

A number of related studies identify some variables to have an effect to a State's treaty commitment preferences, notably the form of government of the other Contracting Party/ies, state's capacity to comply, foreseen benefits and the incumbent administration's priority plans. The scholars have varying arguments on matters involving the said variables, and the researcher would wish to seek the Philippines' policy considerations, specifically when dealing with the proposed ASEAN Extradition Treaty.

The results of the study shall contribute significantly in the fields of international relations and diplomacy, as well as to ASEANOLGY.

Participant Selection

You are invited to serve as the respondent of the study in view of your knowledge and expertise on negotiations and policy considerations involving the Philippines' commitment to an extradition treaty. Your opinion, perception and experience would largely contribute to the success of the study.

Procedures

The respondent shall be invited for a virtual interview via Google Meet. A meeting invitation shall be sent to the respondent once the schedule has been finalized.

The list of questions, which are crafted on the basis of the arguments of the said scholars relative to the key treaty commitment preferences, is attached, for reference.

The virtual interview will last for 1-2 hours, depending on the extent of discussion. Please be informed that the researcher will use a semi-structured virtual interview wherein the researcher may ask further questions to the respondents.

Should the respondent is unavailable for a virtual interview, he/she may wish to provide his/her answers to the attached soft copy of the questions and sent a copy to the researcher's email address kabatiles@up.edu.ph.

Results of the Study/Confidentiality

The discussions made at the virtual interview or the answers to the questions shall be documented and interpreted properly by the researcher.

Please be noted that the results of the study shall be presented by the researcher in a colloquium to be organized by the University of the Philippines Open University. Said colloquium shall be attended by the faculty members.

Moreover, the researcher shall publish an article on the basis of the results of the study. Thus, the respondents may refuse to share confidential information.

Part II. Authorization/Consent

(Statement by the respondent)

I have been invited to participate in the research "*Treaty Commitment Preferences: The Case of the Philippines on the Proposed ASEAN Extradition.*"

I have read the foregoing information, and I have had the opportunity to ask questions about the matter. Any questions I have asked have been answered with satisfaction. I have consent voluntarily to participate in the study.

Name of Respondent: _____

Signature: _____

Date: _____

(Statement by the researcher)

I have provided the respondent with a copy of this consent form, and ensured to the best of my ability that the respondent understand the statements hereof.

I confirm that the respondent was given an opportunity to raise any questions on the study, and all questions have been answered with satisfaction.

I confirm that the respondent has not been forced to give consent, and the consent has been given willingly and voluntarily.

A copy of this consent form has been given to the respondent, for reference.

Name of Researcher: KIEREN ROEVI A. BATILES

Signature: _____

Date: _____

APPENDIX 3. APPROVED REQUEST FOR LIBRARY RESEARCH

20 January 2020

Sir:

I am taking the Masters of ASEAN Studies (MAS) Program at the University of the Philippines Open University (UPOU), and am currently working on the thesis entitled *“Treaty Commitment Preferences: The Case of the Philippines on the Proposed ASEAN Extradition.”*

In this regard, I respectfully seek your approval for the undersigned to read some documents, and include in the results of study the relevant information that may contribute to the attainment of the objectives of the case study research, i.e. to determine whether the following variables affect the Philippines’ treaty commitment preferences before entering into the ASEAN Extradition Treaty:

1. Form of Government of the other Contracting Party/ies;
2. State’s Capacity to Comply;
3. Incumbent Administration’s Priority Plans; and
4. Foreseen Benefits of the Agreement.

Enclosed, for reference, is a copy of the overview of the study and its research instrument.

I am deeply hoping for your kind consideration on the above request.

Thank you and warmest regards.

Very truly yours,

KIEREN ROEVI A. BATILES
Student, MAS – UPOU

☒ **APPROVED**

☐ **DISAPPROVED**

J. EDUARDO MALAYA

Undersecretary for Administration

Note: Upon approval of this request, I also grant the researcher the right to include the gathered relevant information in her published article as required by the Masters of ASEAN Studies Program at the University of the Philippines Open University.

APPENDIX 4. TIMELINE OF THE RESEARCH STUDY

The conduct of the research study followed the following timeline and schedule:

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug
Thesis Proposal Writing											
Proposal Defense											
Proposal Revisions											
Data Gathering and Analysis											
Submission of Draft Thesis											
Revision of the Manuscript											
Presentation at the Colloquium											

APPENDIX 5. CODE RETRIEVAL ON THE FORM OF GOVERNMENT VARIABLE

CODE	TEXT	PARTICIPANT
Balance of Interests	the nature of extradition as a tool for international cooperation in criminal matters, is very sensitive in terms of balancing the interests of different states.	Key Informant 1
	Different countries have different goals on why they want to enter into these kinds of treaties and thus it will require a careful assessment of the needs of each nation and the difficulties of these countries that they would encounter in implementing the extradition procedures	Key Informant 1
	the more similar the values, culture, and forms of government are, the easier for the AMS to come to an understanding on the formulation and implementation of the regional extradition treaty.	Key Informant 6
	While these principles present challenges for negotiators to conclude an agreement, they are important safety mechanisms to ensure the sovereignty and independence of the ASEAN Member States, at the same time ensuring the unity and solidarity of the organization.	Key Informant 5
	Nonetheless, similarities in cultures and values between the peoples of ASEAN are very helpful for negotiators in coming up with compromises and solutions for the good of all the parties.	Key Informant 5
	So perhaps for a state that would not allow death penalty, then they would not allow extradition to that state because of the death penalty that doesn't prohibit them. So that's part of the balancing of interests.	Key Informant 1
	In reality, each of the ASEAN Member States may need to weigh in just how important it is to have this treaty. Like in all negotiations, every negotiating state may need to make compromises so that the agreement pushes through.	Key Informant 3
	the proposed ASEAN Extradition Treaty, which will need to take into account the criminal laws of 10 different jurisdictions, and come up with a list of common denominator when negotiating the list of crimes classified as extraditable offenses	Key Informant 3
	These differences in their legal systems find their way in some of the provisions in the proposed ASEAN Model Extradition Treaty that are meant to accommodate the concern of some member states.	Key Informant 2

	On the other hand, some argue that while this may be the case, this method fits the culture and values of the region – the slower process includes a lot of trust building so that at the end of the day, this “ASEAN way” of decision making ensures that everyone is willing to work together.	Key Informant 3
	All agreements in ASEAN are reached through consensus. This way, all member states – big or small – are equal in ASEAN's negotiation and decision making process.	Key Informant 3
	The continued adoption of the ASEAN Way in conducting the discussions is also helpful in smoothening some of the less contentious points in the negotiations.	Key Informant 2
	Since progress depends on the level of comfort of all, there is always a possibility that negotiated provisions would represent the 'lowest common denominator', or the position acceptable to all AMS	Key Informant 6
	When I was part of the Philippine delegation for the ASEAN SOM Working Group on the Remaining Instruments under the ASEAN Charter, from 2010-2011, which tackled, inter alia, the Rules of Procedure for the Interpretation of the ASEAN Charter, what struck me about the process was that the negotiations would always proceed according to the level of comfort of the different AMS.	Key Informant 6
	ASEAN made a significant progress in the negotiations, which enable the Members to meet mutually beneficial terms for them, and to rationalize the differences in legal systems between and among them.	Key Informant 4
	And the interesting thing that made the negotiation smoother was because both the Ministry of Justice of Saudi Arabia and the Philippines were very concerned about meeting a mutually acceptable solution. So	Key Informant 1
Character of Extraditee	in terms of the character of the extraditee, so it's really if the person who would consent to the extradition, this is the main thing that would enable us to implement it because the consent should be on the part of the state and the person being extradited.	Key Informant 1
	And I think what was very helpful was, I guess the reality of these kinds of cases, the family of the complainant in the crime was able to pay for lawyers, pay for the airfare of the law enforcement -- NBI International Operations Division. They were the ones who bought the	Key Informant 1

	ticket. They were the ones who coordinated with the Interpol	
	So that's not so much the issue, but it depends on the willingness of the extraditee to coordinate in this process.	Key Informant 1
Disadvantage in Similarities	But it can also be a challenge in the sense that if both your countries have very vibrant legislatures, if you have differences in the democratic space versus more restrictive, more authoritative form of government, and sometimes there will be a lot of political opposition in the democratic space.	Key Informant 1
	it should be noted that despite the similarities in such aspects, negotiations can still be difficult depending on other factors, e.g. the willingness of the State to conclude the agreement.	Key Informant 4
	cultural differences play an important part when sending back a criminal about to face a criminal punishment or death penalty.	Key Informant 2
	ASEAN Member States are actually quite diverse, and this may be a hindrance when negotiating an ASEAN Extradition Treaty.	Key Informant 3
Legal Framework	considering the different legal systems and the forms of government, I think the issue, as I mentioned earlier, is not just the democratic states, but more of like the system of law, the legal system, the previous leader.	Key Informant 1
	the different legal systems, like we had a Sha'riah law, they are Islamic countries, so they had Shar'iah law considerations, and because they are a monarchy, so they also had wanted to insert specific provisions on offenses against the king like insulting the family of the king, insulting the royal family, you know, so we were able to craft that in language that would also be applicable to the Philippines without making it seem like it's political prosecution.	Key Informant 1
	they would require like you have to have an extradition act like the Philippines we need to have a separate extradition law instead of just entering into a bilateral extradition. Or as in the ASEAN multilateral extradition treaty. And then, before you also implement this one, usually you have to look at the critical provisions in these treaties that make it difficult because of differences in the penalties, differences in perspectives on, let's say, the death penalty, which in some countries are allowed, in some countries are not allowed.	Key Informant 1

	When negotiating the proposed ASEAN Extradition Treaty, the Philippines considers the existing provisions of its Extradition Law, its existing bilateral extradition agreements and its experience in implementing requests for extradition.	Key Informant 2
	The Philippines' experience in implementing extradition requests was also taken into consideration by the Philippine delegation when making interventions in the course of the negotiations on the proposed agreement.	Key Informant 2
	The differences in laws and forms of government may prove to be a challenge when negotiating the ASEAN Extradition Treaty	Key Informant 3
	An effective control of the domestic policy making processes by the incumbent leaderships ensure that there will be no changes in the foreign policy orientation of these states.	Key Informant 2
	So you have to look at the implementing rules and regulations. You have to refer to the Senate, the Congress, the whole lawmaking process of two governments. We need to be considered in preparing the proposed ASEAN extradition treaty.	Key Informant 1
	all Member States would need to weigh in if extraditing for political and religious reasons, or extraditing their own nationals, would be permitted under the treaty. Some Member States may impose death penalty while others may not – some Member States may need to consider if they will permit extradition to another Member State that imposes a penalty that their jurisdiction may consider as against their value	Key Informant 3
	As noted by a scholar, while treaties (such as the proposed ASEAN Extradition Treaty) may provide for the rendition of criminal fugitives between states, is for the national/domestic law to determine whether the fugitive should be surrendered in accordance with the extradition treaty.	Key Informant 6
	treaties, international treaties that states become a party to would automatically become a part of their internal law without need for additional legislation, or sometimes because the extradition treaty would already be very precise in terms of how did they implement the terms of the treaty.	Key Informant 1
	the implementation of your extradition treaty obligations, they must be tailored to the particular legal system of that country that you	Key Informant 1

	are negotiating with. So some countries for example, they do not require implementing law or like they don't need to make domestic legislation before they apply the extradition process because according to their legal system, the international law automatically becomes a direct application.	
	Depending on the adherence of the states to democratic values, including human rights norms, some states' extradition laws may also be subject to constitutional provisions guaranteeing human rights and to international human rights incorporated into municipal law.	Key Informant 6
	At the same time, as much as possible, they don't want their existing agreements to be deemed in contravention of the proposed ASEAN Model Extradition Treaty.	Key Informant 2
	One of the significant differences of the ASEAN Member States in terms of the legal policies relating to extradition is that only the Philippines and Singapore do not allow the grant of request for extradition in the absence of a formal cooperation/treaty. Myanmar, on the other hand, grants the said request on a case-by-case basis. The other seven (7) Member States allow the conduct of extradition even in the absence of an extradition treaty with the Requesting Party.	Key Informant 4
	When negotiating treaties, one of the most important tasks of negotiators is to ensure that the constitution, laws and practices of their countries are upheld and protected.	Key Informant 2
Willingness	it's the relationship that you build between the two countries. That's the thing that you need to point out: beyond the differences in legal systems and forms of government, the more important thing is the relationship that the negotiators build with each other and the central authorities.	Key Informant 1
	The commitment of states involved plays an important role in the viability of multilateral institutions.	Key Informant 3
	it should be noted that despite the similarities in such aspects, negotiations can still be difficult depending on other factors, e.g. the willingness of the State to conclude the agreement.	Key Informant 4
	Despite the differences in their legal systems, such factors allow the Member States to look for mutually beneficial terms between and among them without prejudice to the AMS' internal laws.	Key Informant 4

	The willingness and commitment of the ASEAN Member States serve as an important factor in enabling the organization to negotiate, conclude and enact its agreements.	Key Informant 4
	it is the willingness of the ASEAN countries to cooperate with each other which makes the conclusion of an agreement that is mutually acceptable to all member states possible in the future.	Key Informant 2
	Since negotiators usually come to the meeting with instructions from capital on the positions that they should take during the negotiations to advance their countries' interests, the pace of the negotiations would usually be dictated by the willingness of the negotiators to compromise.	Key Informant 6
	The legally non-binding nature of the proposed agreement also contributes to the willingness of some member states to compromise in some areas of negotiation.	Key Informant 2

**APPENDIX 6. CODE RETRIEVAL ON THE INCUMBENT ADMINISTRATION'S
PRIORITY PLANS VARIABLE**

CODE	TEXT	PARTICIPANT
Admin Projects	A change of administration may be a challenge, in the event that the new executive may not be as supportive towards the eventual ratification and entry into for of the Treaty.	Key Informant 3
	we should have like what is the roadmap and then a theme, for example, for each state visit, then you want to shift the focus of the Philippines from just addressing okay, migrant workers, household service workers, but also trying to change the image of the Philippines as a financial hub, as an industrial hub, as a technical hub, and that includes proving that we have strong rule of law mechanisms in the Philippines that includes proving that if you are an investor, you want to do business in the Philippines, that if there's a crime committed against you, you can go after them.	Key Informant 1
	the change of administration also depends on the priorities of the President	Key Informant 1
	So you can say that rule of law will always be very vital pillar in any kind of political, social, economic, cultural progress of a nation, and that includes showing that this kind of extradition treaty is evidence that we have a strong regime of rule of law in the Philippines.	Key Informant 1
Policy	the effectiveness of its implementation of its existing agreements on extradition.	Key Informant 2
	Having an actual extradition agreement with other ASEAN countries, whether on a bilateral or a multilateral basis, would also be helpful in fostering goodwill with our ASEAN neighbors and in combating crimes in the region.	Key Informant 2
	I think the Department of Foreign Affairs, in general, is a highly professional organization. So the career officers, the diplomats, we've been here through every political change, through every change in administration. We still try to share with the current head of office about the benefits of entering into negotiations and the ratification of the ASEAN extradition treaty.	Key Informant 1

	Because the important thing is how do you inform the Office of the President to also have a buy in, to have an appreciation about the benefits of this kind of treaty.	
	Should the aforementioned reorganization and beefing up of manpower that will specifically handle extradition requests be checked and strengthened, it can be deduced that an ASEAN-wide extradition treaty will enhance the security of the region.	Key Informant 3
	the obligations imposed upon the Philippines by the proposed agreement does not appear to be significant to a point that a change in administration would change the nature of the country's commitments to the agreement under negotiation.	Key Informant 2
	the agreements that did not took effect at the time of change of administration are being resubmitted by the Department of Foreign Affairs to the Office of the President or to the Senate of the Philippines, whichever the agreements were held pending, for reconsideration and eventual ratification.	Key Informant 3
	It should be noted, however, that the success of the proposed ASEAN Extradition Treaty should be backed up by the efforts of the Philippine Government to ensure that the provisions stated therein are in consistent with the existing domestic law on extradition, i.e. P.D. 1069, and other related laws that the Philippines adhere to.	Key Informant 4
	Through, the effectivity of the ASEAN-wide extradition treaty, the Philippines shall not be associated as a safe haven where fugitives and escapees can unreasonably delay, mummify, mock, frustrate, checkmate, and defeat the request for bilateral justice and international cooperation.	Key Informant 4
	Despite the change of administration, the various agencies and departments in the Philippine Government shall have similar mandate and responsibilities.	Key Informant 4
	part of the roadmap of the Philippines would be striking the right balance between advancing its interests in forging a regional treaty that could address the challenges of	Key Informant 6

	transnational crime through enhanced legal cooperation among the countries in the region, and yet, at the same time ensuring that fundamental rights are respected through the careful crafting of the provisions, and eventually through the proper implementation of the treaty.	
	our national extradition law and Philippine treaty practice could provide some indication on the road map that we will take.	Key Informant 6
	It should be noted that pending treaties and executive agreements shall be resubmitted to the Office of the President and to the Senate for consideration should there be a change in the Philippine administration.	Key informant 4
	Thus, I think that law enforcement and judicial officials would exert their best efforts to cooperate with their counterparts with other AMS.	Key Informant 5
	Extradition should not be a political matter, and any change in administration should not affect negotiations and eventual ratification of the Treaty.	Key Informant 5
	I am fairly optimistic that with political commitment from the ASEAN heads of states and the heads of the justice ministries, the proposed ASEAN Extradition Treaty could prove to be effective in enhancing legal cooperation and combating transnational crimes in the region.	Key Informant 6
	The ASEAN has a mechanism for the regular meetings of the justice ministers which could prioritize this matter.	Key Informant 6
Rule of Law	The extradition procedure shall be conducted with deliberate speed and ensured conformity with the provisions set forth in the proposed ASEAN extradition treaty, without prejudice to the rights of the Filipinos and the foreign national.	Key Informant 4
Willingness	This likewise highlighted the trust in the reliability or soundness of the legal and judicial system of the Member States, as well as in the willingness and the capacity of the Member States to grant basic rights to the accused in the pending criminal case therein.	Key Informant 4

APPENDIX 7. CODE RETRIEVAL ON THE CAPACITY TO COMPLY VARIABLE

CODE	TEXT	PARTICIPANT
Amendment of Law	considering that the domestic law of the Philippines is old and needs to be updated in view of the developments that took place over time, the Philippine Government needs to revisit the said law and amend some of its provisions to incorporate the commitments made by the Philippines when it enters into other international agreements that concern extradition.	Key Informant 5
	and strengthening good laws also means repealing or amending bad laws in the Philippines.	Key Informant 1
	I think it's high time to revisit your own Philippine extradition law and make it more updated in terms of reflecting the technological developments of the 21st century.	Key Informant 1
	but if there is an ASEAN extradition treaty, and eventually our Senate and Congress will allow amendments for the Philippine extradition law to make it harmonized with the provisions of the ASEAN extradition treaty, and I think it's possible but also balanced with the political aspect of it because you have to consider these are voters	Key Informant 1
	So when you look at the provisions of the extradition law, it's a very, very old law, my God, Ferdinand Marcos, thanks for asking.	Key Informant 1
Application of Other Laws	to also invoke the Vienna Convention on Consular Relations and Vienna Convention on Diplomatic Relations	Key Informant 1
	the Convention on Consular Relations also provide for certain items under Section 5, that are part of the consular services of people, right? So how do you do consular notification? How do you protect the interests of your nationals? So you want to balance our extradition law, with our obligations under the VCCR, under the VCDR and also, other human rights treaties, ultimately, if you always have issues on deprivation of liberty, you will go back to the human rights treaty.	Key Informant 1
	So all those human rights treaties of the Philippines [that we are] a party to, that we ratified, we have acceded to, that's	Key Informant 1

	something that you need to also have in mind, that even if they may say that it's really a balance, you want to prosecute this offense, you want to make sure that this criminal is fugitive from justice would be prosecuted accordingly. But at the same time, you want to ensure that the human rights regime of our country, when it comes to dealing with this person, would also be observed.	
Discretionary	This falls under the mandatory ground of denial for the request of extradition, which is clearly specified in all existing bilateral extradition treaties entered into by the Philippines to date.	Key Informant 4
	Article 5, Item 3 on the "Discretionary Grounds of Refusal" states that "when the offence for which extradition is requested is punishable by death under the laws of the Requesting Party, and the laws of the Requested Party do not permit such punishment for that offence, the Requested Party may refuse the request unless the conditions that may be agreed upon by the Parties are met."	Key Informant 4
	This provision clearly provides that if a Requesting Party demands the extradition of a Filipino national for an offense committed in the jurisdiction of the Requesting Party, and is punishable by death penalty, then the Philippines may refuse to grant the said request for extradition on the basis of discretionary grounds of refusal.	Key Informant 4
	For instance, it should be noted that Filipino nationals, or even foreign nationals, could not be extradited on the basis of the individual's race, sex, religion, nationality, ethnic origin or personal political opinion.	Key Informant 4
	in instances where the requested person is sought to be held liable for an offense which carries with it the death penalty, extradition is discretionary upon the requested	Key Informant 2
	In the extradition treaties entered into by the Philippines, where the person requested might be imposed a death penalty, the same is usually considered a discretionary ground, such as in the Philippines' extradition treaties with the US, Canada and India.	Key Informant 2
	With the Philippines' accession to the Second Optional Protocol of the International	Key Informant 2

	Covenant on Civil and Political Rights (ICCPR) in 2007, the possible imposition of death penalty upon the requested person by the requested State upon extradition is usually considered as a discretionary ground for refusal to extradite in the subsequent extradition treaties entered into by the country.	
	the proposed Model ASEAN extradition treaty provides that when the offence for which extradition is requested is punishable by death under the laws of the Requesting Party, and the laws of the Requested Party do not permit such punishment for that offence, the Requested Party may refuse the request unless the conditions that may be agreed upon by the Parties are met.	Key Informant 3
	The Philippine Government may take this into consideration during the negotiation phases as it decides whether it will agree to extradite its nationals who committed a crime under the jurisdiction of another ASEAN Member State.	Key Informant 3
	the Philippines will need to balance its interest on this against its need to prosecute the fugitive nationals of another ASEAN Member State who may have committed a crime punishable by PH law within PH territory.	Key Informant 3
Making Representations	Relevant the work of the DFA on ATN, there are rights under the Vienna Convention on Consular Relations (VCCR) which consular officers make use of to assist Filipinos in conflict with the law	Key Informant 6
	So by making use of legal assistance treaty frameworks and a consular assistance rights under the VCCR, and mindful of its mandate under its constitutive law, the DFA through its embassies in the ASEAN, has been exerting efforts to assist Filipino nationals in conflict with the law.	Key Informant 6
	The DFA, under Republic Act no. 7157 (Philippine Foreign Service Act of 1991), is mandated to implement the three (3) pillars of the Philippine Foreign Policy, as follows: 1. Preservation and enhancement of national security; 2. Promotion and attainment of economic security; and 3. Protection of the rights and promotion of the welfare and interest of Filipinos overseas.	Key Informant 6

	The Philippine Government ensures the protection of its nationals who commit a crime under the jurisdiction of another ASEAN Member State primarily through the Assistance to Nationals (ATN) mechanism of the Department of Foreign Affairs (DFA). The Philippine Embassies in ASEAN countries all have ATN officers who assist Filipinos who have come in conflict with the law.	Key Informant 6
	Embassy officials may utilize the legal assistance fund in employing counsel for indigents.	Key Informant 5
	Even if there are different legal systems and policies on penalties in the region, when we when we make our representation, it's also good to remind them that our points of unity with the other countries is if we have common treaty together.	Key Informant 1
	"The Requested Party shall make all necessary arrangements for assistance to the Requesting Party, including legal representation in any proceedings arising out of the requests of extradition.	Key Informant 4
	the officials of the Philippine Embassy who would exert efforts to ensure that the rights of subject Filipino citizen (including right to counsel, right to bail, right to due process) would be upheld in accordance with the laws and procedures of said AMS.	Key Informant 5
Strengthen Institutions	It means strengthening, not just your prosecution arm or the justice arm, but also the Bureau of Jail Management. Like how do you make sure that the extraditees or potential extraditees would also be rehabilitated. So it's more of restorative justice, more than emphasizing that they're not really serving sentence at this point, but just temporarily in detention until they get extradited to their country, also for upholding the rule of law.	Key Informant 1
	more of helping those who will be the central authorities implementing these aspects.	Key Informant 1
	As to the administrative arrangements, since the possible effectivity of the proposed ASEAN Extradition Treaty would entail higher number of requests for extradition, the existing offices that specifically handle such requests should be reorganized.	Key Informant 4
	Proposal to increase manpower should be considered in order to comply with the	Key Informant 4

	provisions and timeline to ensure effective and efficient delivery of service, and fair and speedy disposition of cases.	
	How do you empower the judiciary, if you have judges in the local courts and prosecutors in the local courts, in the provinces, who are not aware of how to implement the extradition treaty, or Philippine extradition law or its amended version?	Key Informant 1
	Careful assessment and review is being done by the Department of Justice and the Department of Foreign Affairs before a certain Filipino national can be extradited, as requested by the Requesting State. Other agencies involved in the conduct of extradition include the Office of the Ombudsman and the Anti-Money Laundering Council, which specifically handle the fight against corruption and money-laundering offenses, respectively.	Key Informant 4
	the implementing agencies should assess its offices that specifically handles extradition requests and determine what needs to be strengthened, i.e. number of lawyers handling the case, split offices that will handle ASEAN extradition requests and other non-ASEAN cases, among others.	Key Informant 5
	to strengthen your institutions and to uphold the rule of law means strengthening good laws, and strengthening good laws also means repealing or amending bad laws in the Philippines.	Key Informant 1
	the government shall ensure that appropriate mechanism and actions shall be undertaken in observance of its commitment to ASEAN relative to the proposed regional extradition treaty. The logistical arrangements, which both include the financial and administrative accountabilities, are very crucial in this endeavor	Key Informant 3
	the Philippines may reconsider reviewing the actual status of the implementing agencies and Courts, and check if possible reorganization of offices can be explored, and additional lawyers and staff can be deployed to specifically handle extradition cases, if necessary.	Key Informant 3
	adequate measures and safeguards must be set up in place, such as establishing	Key Informant 3

	adequate burden of proof as a requirement for application under the extradition treaty.	
	financial responsibilities may include logistical arrangements and resources to arrange for the transfer of the extraditee with escorts, and pursuit of extradition requests before Philippine courts which usually takes a very long time.	Key Informant 2
	there may be a need to improve the institutional capacity to administer and facilitate such requests, not just within the DFA-OTLA but especially in the DOJ.	Key Informant 6
	This could be by way of streamlined guidelines/procedures or through the creation of a specific unit at the DOJ focused on extradition requests alone. Further trainings on the handling of extradition may be in order, in this regard.	Key Informant 6

APPENDIX 8. CODE RETRIEVAL ON THE FORESEEN BENEFITS VARIABLE

CODE	TEXT	PARTICIPANTS
Combat Crimes	It likewise strengthens the cooperation between the States in the investigation, prosecution and suppression of crimes, e.g. terrorism, drug trafficking and money laundering, among others. Furthermore, through extradition treaties, the Philippines can remove the image of being a “safe-haven” to escape prosecution and punishment.	Key Informant 4
	we're strengthening asean economic integration, and because of economic integration, then there is a rise of a lot of economically detrimental crimes. You have a lot of cyber-security concerns, you have a lot of like terrorism that's happening, especially in the ASEAN countries that are prone to having violent extremism. And then you also have the issue with harmonization of the different ASEAN occupations instrument.	Key Informant 1
	the emergence of a lot of migrant workers who are somehow victims of trafficking in persons.	Key Informant 1
	Extradition treaties facilitate the return of fugitives who fled to another State to escape from law.	Key Informant 4
	The ASEAN Extradition Treaty will benefit the Philippines to the extent that it can address transnational crime issues, including in priority areas such as illegal drugs, terrorism, and similar challenges with cross-border elements.	Key Informant 6
Compliance to Obligations	the fact that we have these instruments means we are serious about our human rights obligations.	Key Informant 1
	This [extradition treaty] will also help us implement our ASEAN Convention on Trafficking in Persons because if we have extradition treaties with other ASEAN countries and its a multilateral instrument, then somehow the desire is to benefit, of course, the Philippines and having our citizens who are committing those kinds of heinous crimes abroad could be extradited back here.	Key Informant 1
	The benefit of extradition is the mutual assistance between states in criminal law enforcement across national boundaries.	Key Informant 4

	An Extradition Treaty with ASEAN states would greatly bolster its legal, security and law enforcement authorities through cooperation with other AMS.	Key Informant 5
	This treaty, in fact, provides for a legal framework that the Requested and Requesting States shall strictly follow in the conduct of extradition in order for the fugitive to face charges or serve their sentences for offenses which they have been convicted of in the Philippine	Key Informant 4
	The legal systems of some ASEAN countries allow them to extradite to another country or request the extradition from another country, on the basis of assurance of reciprocity or other general international agreements, such as the UN Convention against Transnational Organized Crime or the UN Convention against Corruption.	Key Informant 2
	when it enters into the ASEAN extradition treaty, we can show it as part of our treaty commitments under the United Nations Convention against Corruption, that we're showing serious efforts of combating crime that leads to corruption when we go to meetings with the United Nations Office of Drugs and Crime. Our country is required to give a report on the measures that we've taken towards compliance with our obligations. Definitely, if we have an ASEAN extradition treaty, it would also be big plus for the Philippines to show that.	Key Informant 1
	Those ASEAN member countries whose legal systems are less developed or that have less experience in dealing with extradition requests would benefit from having a model extradition treaty that they can use as reference in their future negotiations.	Key Informant 2
	The ASEAN Model Extradition Treaty is intended to facilitate and be used as reference in the negotiation of bilateral extradition countries by the ASEAN member states with other countries	Key Informant 2
Delineation of Responsibilities	Another challenge will be if the Philippines would enter into this extradition treaty, then once the other ASEAN member countries would find out, then you would expect that there would be a bigger number of requests. So like, presently, the Office of Treaties and	Key Informant 1

	Legal Affairs has only one division, handling all of these extradition requests and the DOJ, Office of the Chief State Counsel also does not have a lot of lawyers who are processing and implementing these requests	
	So that's why we need the help of the geographic offices, not just the Legal Affairs Office of DFA. So I would really propose a partnership with a geographic and the legal affairs and not just center it on legal affairs and the Department of Justice.	Key Informant 1
	So if Philippines would enter into this, we would also have to entail strengthening reorganization.	Key Informant 1
	the Philippines has to strengthen its manpower, especially for the lead agency and the Courts that will be handling the presumable increased number of extradition cases, as well as to increase the budget allocation to effectively and efficiently act upon such requests.	Key Informant 3
	what kind of courts will be able to entertain these kinds of cases? The prosecutorial authority -- is it the Department of Justice National Prosecution Service? Is it the Office of the Solicitor General? Is it the Ombudsman and Sandiganbayan who will be prosecuting these kinds of offenses and [what is] the responsibility of the Foreign Affairs? So, will it be the Office of Treaties and Legal Affairs? Will it be the geographic office concerned or within a state all these different authorities would be working together to really implement the extradition treaty?	Key informant 1
	the need to really delineate clearly the responsibilities of the different authorities	
Finances	challenges that may be encountered in terms of implementing the extradition treaty would be the cost, we are not a rich country. So how do you provide the expenses that will be entailed in paying for the airfare of the extraditee, paying for the airfare of the Interpol representatives and the NBI agents that will be escorting your extradite, the expenses in prosecuting the legal offense?	Key Informant 1
	another benefit there is if eventually this will make our legislators aware that we need to provide more budget for this kind of treaty implementation.	Key Informant 1

	The challenges on the Philippines' case with regard to the implementation of the extradition of a fugitive would be the funding.	Key Informant 3
Political Consequences	In particular, it was mentioned that it would likely provide a framework for authoritarian regimes assist each other by deporting exiled political dissidents back home where they would face persecution.	Key Informant 6
	There are many international human rights groups that have criticized current efforts by ASEAN to conclude such a treaty by raising the specter that such a regional extradition treaty would benefit authoritarian regimes.	Key Informant 6
Rule of Law	in some special circumstances, the right to bail can be granted by authorities, notably in situations wherein the individual needs an urgent medical attention and hospitalization.	Key Informant 4
	The Extradition Treaty can be a tool towards safety in the region, and also a tool to combat organized crimes, transnational terrorism, and drugs syndicate. Through the proposed treaty, the Philippines, as well as the other ASEAN Member States, could not be considered as a safe haven for law offenders.	Key Informant 3
	through the negotiations being conducted between and among the ASEAN Member States, said issues are being re-assessed to make the proposed treaty acceptable and constitutional to all Member States.	Key Informant 5
	You want to also promote the concept that there is a rule of law in the Philippines, and it's a major keyword that we want to prove and benefit of really saying that the Philippines has a working judiciary. The Philippines has a working Ministry of Foreign Affairs, we have a working Ministry of Justice.	Key Informant 1
	An extradition treaty within the region will help ensure that there are no safe havens for criminals engaged in these cross-border crimes.	Key Informant 6
	a regional extradition treaty could help ensure that such criminals who escape to other ASEAN countries, are returned promptly so that they could face charges and legal proceedings in their country of origin/the place where they committed a crime.	Key Informant 6
	An ASEAN Extradition treaty could also help enhance cooperation on and increase respect for rule of law within the region. An effective extradition treaty signals that there is no place	Key Informant 6

	where criminals can hide in the ASEAN region and this would deter further crimes	
	the later treaties prevail than those laws that took effect on an earlier date. This is in compliance with the Philippines' practice that when a certain international agreement becomes effective in the country, it shall be on the same level of applicability with its internal law.	Key Informant 4
	the proposed ASEAN extradition treaty, the latter will definitely beef up the regional security, and stretch the reach of the Philippine jurisdiction to include fugitives to other ASEAN Member States.	Key Informant 3