



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

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Received in February 2021 • Revised in July 2022 • Accepted in June 2023 • Published in May 2024

ABSTRACT - Treaty commitment preference provides for the guidelines being observed by States before concluding an agreement. In the Western context, Wagner (2003), Lupu (2014), Simmons (2002) and Parillo (2009) concluded that the general treaty commitment preferences are the form of government, incumbent administration's priority plans, State's capacity to comply, and its foreseen benefits. In this regard, this study was conducted to examine the applicability to the Philippines of said general treaty commitment preferences before binding itself to the proposed ASEAN Extradition Treaty. Following are the theoretical propositions of the study on the basis of the above studies: (1) The Philippines considers the form of government of the other Contracting Party/ies as a treaty commitment preference; (2) The Philippines depends on the incumbent administration's priority plans before it decides to enter into the proposed ASEAN extradition treaty; (3) The Philippine Government examines its capacity to comply with the commitments and obligations set forth in the proposed ASEAN extradition treaty; and (4) the Philippine Government ensures that the country will gain much benefit from the proposed ASEAN extradition treaty. Interviews with the prominent negotiators of extradition law and other ASEAN instruments were conducted to validate the propositions and/or to identify other relevant preferences that may be deemed applicable. The results of the study presented that the form of government and incumbent administration's priority plans are not considered as treaty commitment preferences of the Philippines. On the other hand, in addition to the capacity to comply and foreseen benefits variables, the following preferences are also identified as part of the Philippines 'treaty commitment preferences: (1) challenges, (2) status/situation of transnational crimes in the region, and (3) legal framework of the Contracting Parties.

Keywords: Treaty Commitment Preferences, ASEAN Extradition, Philippines

To cite this paper: Batiles, K. A. (2024). Treaty Commitment Preferences: The Case of the Philippines on the Proposed ASEAN Extradition. *Journal of Management and Development Studies* Volume 10 Issue 1, 1-17.

INTRODUCTION

Several attempts were made to clearly define the Philippines' national interests. According to the study of the National Defense College of the Philippines (2017), the country's national interests can be summarized into inclusive security, inclusive development, and inclusive

governance. However, it is believed that a number of internal and external factors caused its continuous reframing.

Internally, national interests can be understood by looking into the government's programs and projects which are crafted to further benefit the Filipino people. Every administration has its own priorities and policy directions – either directed towards education, poverty, anti-corruption, and/or anti-drug campaign, among others.

To further enhance the capability of the government in attaining those objectives, the Philippines enters several treaties with other States in various areas of cooperation. This engagement also strengthens the country's relations with its bilateral and multilateral partners.

One may comprehend national interests through the lens of foreign relations. The international agreements entered into by the government contributes to the definition of the Philippines' national interests in the external dimension. Considering that every State has their own independent foreign policy, how can the Philippines ensure that its national interests are not prejudiced in the formulation of the provisions of a certain treaty?

The Philippines' foreign policy can be best understood by considering the country's treaty commitment preference. Stein (2006) posited that a review on treaty compliance per se, somehow, does not completely enable one to comprehend the totality of a State's behavior.

Treaty commitment preference provides the general framework and/or guidelines being observed by a certain State before the latter concludes an agreement. Stein (2006, p. 2) emphasizes that "one must also understand why States originally assume these international legal obligations". The conduct of treaty-making starts with the negotiations of the agreement. This stage is very crucial since the negotiators must ensure that the Philippines' national interests are reflected thereof.

In this regard, this study determined the treaty commitment preferences of the Philippines in the context of the proposed ASEAN Extradition Treaty. Considering the ASEAN-way consensus decision-making, the effectivity of this treaty is believed to be challenging as it requires the harmonization of the varying legal systems and policies between and among its Member States (Nakano, 2018).

The Philippines is committed to its obligations as a member of ASEAN; however, signing the treaty does not automatically bind the country to a certain ASEAN instrument. A ratification/accession must be deposited first before the agreement becomes effective.

This study sought to answer the question "what are the determinants of the Philippines' treaty commitment preferences before its ratification of the proposed ASEAN Extradition Treaty?"

The general treaty commitment preferences of certain Western countries were identified by the scholars Wagner (2003), Lupu (2014), Simmons (2002) and Parillo (2009).

In view of the aforementioned gap in studying the Philippines' foreign policy behavior due to the lack of enough research focusing on its treaty commitment preferences, the study evaluated the applicability of the above-mentioned general key preferences with the Philippines' experience in treaty-making.

Preparatory work in the event of the Philippines' ratification to the ASEAN Extradition Treaty is likewise determined in this study. Results likewise serve as a framework/guideline of the policymakers in negotiating other proposed agreements in similar or other areas of cooperation.

RESEARCH PROBLEM

According to the study of Lupu (2014), international relations theory provides that each state's preferences vary systematically from one another. Hence, the existing studies on the Western states' preferences may or may not be entirely applicable in the Philippine context.

Generally, this study aimed to determine the Philippines' treaty commitment preferences before entering into the proposed ASEAN Extradition Treaty.

Specifically, this study was conducted to:

1. examine the applicability of the following theoretical propositions in the Philippine context on the basis of the general treaty commitment preferences identified by Wagner (2003), Lupu (2014), Simmons (2002) and Parillo (2009):
 - 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.
2. craft a framework that best describes the Philippines' treaty commitment preferences in extradition and other areas of cooperation
3. determine the preparatory work that needs to be undertaken by the Philippines in the event of its ratification to the proposed ASEAN extradition treaty.

The above objectives contribute in enlightening the definition of national interest as determined by the Philippines' foreign relations.

METHODOLOGY

This study used case study research qualitative design to attain the objectives of the study. Individual interview, email interview and library research were used to gather data from the participants. An individual in-person interview was conducted by the researcher before the onset of the pandemic. However, with the shift to the use of digital technologies due to COVID-19, an email interview was the preferred mode of the participants of the study.

Five (5) representatives from the Department of Foreign Affairs and one (1) from the Department of Justice were invited as participants of the study who had significant contributions and experiences on negotiations of extradition treaties and other ASEAN instruments.

According to Executive Order No. 459, the negotiations for the conclusion of a certain treaty shall be coordinated by the Department of Foreign Affairs as it is mandated to implement the country's foreign policy. The Department of Justice, on the other hand, is the lead agency for the implementation of extradition of Filipino or foreign nationals.

Two of the participants were members of the Philippine delegation who negotiated one of the Philippine extradition treaties with another bilateral partner. One participant was a member of the Philippine delegation at the 7th ASEAN Senior Law Officials Meeting Working Group on the proposed Model Extradition Treaty in 2018. One key informant is a Philippine diplomat-lawyer who works on the Philippine political and economic agreements. Two participants are diplomat-lawyers who are experts on international law and Philippine treaty-making practice. Last key informant was a member of the Philippine delegation at the ASEAN Senior Officials Meeting on the Remaining Instruments under the ASEAN Charter.

Batiles

The researcher used primary sources of data, such as interview transcripts and answers from the participants of the study. Secondary sources, i.e., books and journal articles on Philippine treaty-making and extradition, were also used by the researcher.

The model of Miles and Huberman created in 1994 was used in analyzing the data. Data reduction is a process of determining the patterns in a large volume of data and assigning codes thereof. Data display is the further categorization of the initial codes reflecting the relationships between them. Finally, the conclusion verification is the process of generating themes relative to the confirmation or inapplicability of the theoretical propositions. Applications such as qualitative data analysis (QDA) Miner Lite and MindMup were utilized to organize the data, and to present the results through graphical and figure display.

The study was limited to the examination of the applicability to the Philippine context of the theoretical propositions based on the general preferences identified by Wagner (2003), Lupu (2014), Simmons (2002) and Parillo (2009).

RESULTS AND DISCUSSION

This study was conducted to examine the applicability of the four theoretical propositions on the Philippines' treaty commitment preferences in terms of the proposed ASEAN extradition treaty. The propositions were crafted on the basis of the treaty commitment preferences identified by Wagner (2003), Lupu (2014), Simmons (2002) and Parillo (2009) in the Western context.

- I. Convergence of the ASEAN Member States as constitutional law meets international law – Form of Government variable

The Philippines' national interests can be easily understood through a framework developed by Romero (2017). He stated that these interests are categorized into three aspects: (1) inclusive security; (2) inclusive development; and (3) inclusive governance.

Inclusive security is defined by Romero (2017) as a government priority "where all lives matter." Inclusive development, on the other hand, is described as an effort in which "all dreams are reachable," and inclusive governance considers "all voices" as important. The term inclusive is significant as it envisions to cover all sectors to include the poor, disadvantaged and marginalized, among others.

The attainment of the Philippines' national interests are anchored on how the national government interacts with the local government units, the private sector, the foreign governments, and other stakeholders in the domestic and global communities.

How does the Philippines pursue its independent foreign policy when entering into treaties? Wagner (2003) posited that democratic states tend to enter an extradition treaty with another democratic partner in view of the similarities in their policies, culture and values, among others.

Following are the initial codes generated under the Form of Government variable:

1. Balance of interests
2. Legal Framework
3. Disadvantage in Similarities
4. Willingness

5. Character of Extraditee

First, the participants of the study shared the view that similarities in the policies and norms of two Contracting Parties serve as an advantage in negotiations, however, it does not limit the possibility of concluding extradition treaties with countries of dissimilar forms of government.

The participants agreed that a number of factors impede the further integration of ASEAN, particularly the Member States' attachment to nation-building and national sovereignty. However, they emphasized the prominence in ASEAN of the concept of balance of interests through compromises. This practice is exemplified in the ASEAN way of consensus-based decision-making and non-interference of the internal affairs of states. The key factor in the continuous negotiations in ASEAN is the Member States' willingness to find mutually acceptable solutions to conflicting provisions. This is in line with Meerts' (2014) views highlighting that compromises in negotiations are inevitable.

Second, the study has shown that similarities in forms of government of the Contracting Parties, i.e. democratic-to-democratic, also pose difficulty in the ratification phase of treaty-making. Political freedom gives opportunity for the people to oppose the conclusion of the proposed treaty.

Third, on Parillo's (2009) opinion that non-democracies entered more extradition treaties than the democratic states, the study revealed that the forms of government do not necessarily dictate the roadmap of the Philippines' cooperation involving extradition of erring Filipinos or foreign national/s.

Figure 1 presented the percentage of frequency of initial codes generated through the data reduction process from the form of government variable.

Balance of Interests code has a high percentage of codes highlighting the participants' perception of its importance in negotiations, particularly in the case of ASEAN Member States with differing forms of government.

The percentage of the Legal Framework code showed that the Philippines strictly observes its existing legal framework – rules and regulations, policies, values and norms – ensuring its conformity with international and domestic laws.

The codes Willingness, Disadvantages in Similarities and Character of Extraditee also implicated that the Form of Government variable itself could not be considered as a preference. These codes implied that the States can agree and finalize the agreement that is both applicable and constitutional to them even if their forms of government are different from one another.

The final theme of this variable is the *“Convergence of the ASEAN Member States as constitutional law meets international law”* highlighting the ability of the States to balance their interests in a way that is not prejudicial to their own internal rules and regulations. Thus, form of government is not considered as a Philippine treaty commitment preference.

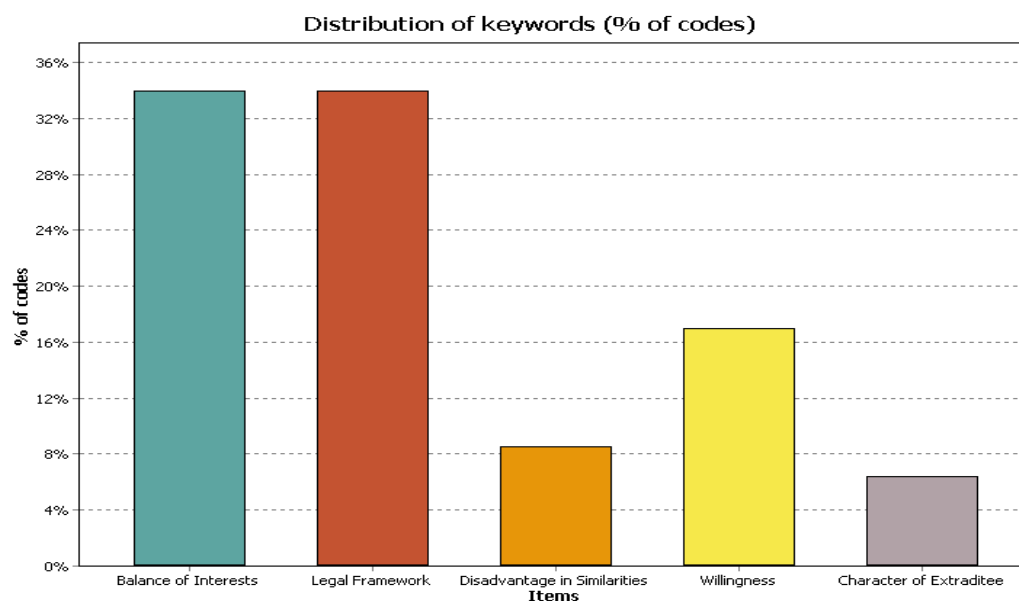


Figure 1. Percentage of Codes under the Form of Government Variable

II. The Philippines' commitment to rule of law – Incumbent Administration variable

The country's national interests remain broad with no clear-cut definition as the former is said to be driven by the changing priorities of every administration. The National Defense College of the Philippines (NDCP) (2017) stated that the President's priorities define the national interests of the country. This involves the shift of the government programs and projects in line with the policy directions of the President. It is also observed that the government allocates more funds to these initiatives. Reframing of national interests can also be observed through the Philippines' relations with some big powers – i.e., with the United States and China (NDCP, 2017).

Lupu (2014), Quilop (2000) and Magnuson (2012) highlighted the importance of the Head of State and other concerned agencies in the successful effectivity of a certain treaty. The presence of parochial motives and other domestic politics is another aspect that must be considered in treaty-making. Rogoff (1994) agreed to the idea that international agreements should be crafted in a way that it will gain internal political support.

In the case of the Philippines, the Senate contributes in treaty-making through the hearings they conducted to review the constitutionality of the proposed treaty. Concurrence of the Senate to the President's ratification is mandatory in order to make a treaty effective.

Below are the initial codes generated under the Incumbent Administration variable:

1. Willingness
2. Rule of Law
3. Policy
4. Admin Projects

The findings of the study revealed, however, that the concerned agencies involved in extradition are highly professional organizations. Should there be any agreements that were not acted upon until the assumption of the new President, these pending agreements are being retransmitted to the Office of the President or the Senate of the Philippines for further review and eventual ratification or concurrence.

The participants also shared the view that international agreements are not considered a political matter; hence, the ratification/concurrence thereof shall not be affected by the change of administration.

Figure 2 below showed that the majority of the statements shared by the participants fell 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.

The final theme that was generated under this variable is *"the Philippines' commitment to rule of law."* Recalling the Philippines' adherence to its legal framework, the Incumbent Administration's Priority Plans are not considered a treaty commitment preference relative to the proposed ASEAN Extradition Treaty.

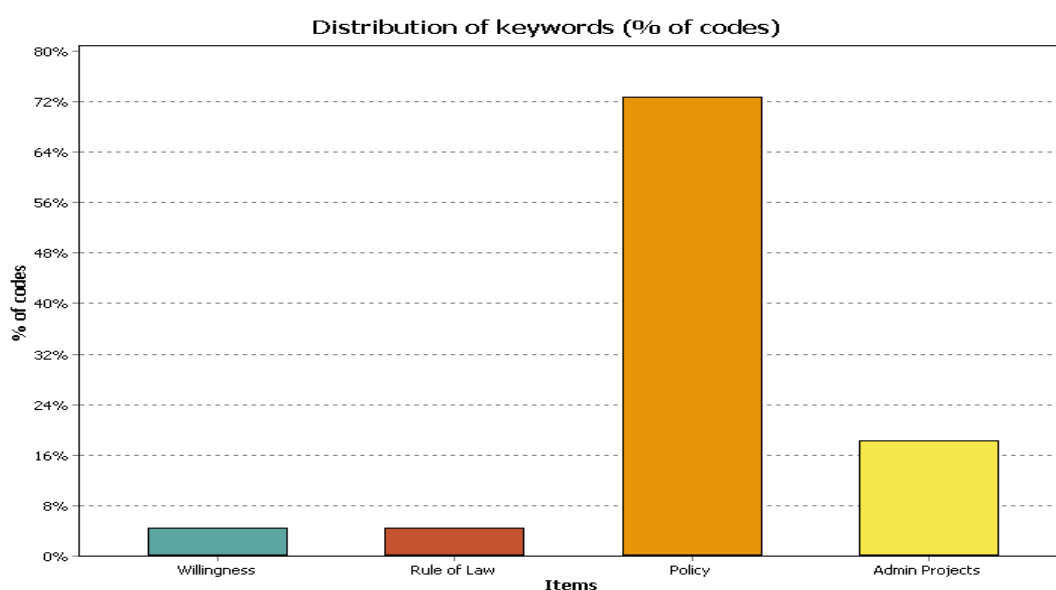


Figure 2. Percentage of Codes under the Incumbent Administration

III. Strengthening Governance of the Philippines – Capacity to Comply variable

The country's foreign policy are highlighted in several provisions of the Philippine constitution, notably in the following:

Article II, Section 2: "The Philippines renounces war as an instrument of national policy, 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."

Article II, Section 7: "The State shall pursue an independent foreign policy. In its relations with other states the paramount consideration shall be national sovereignty, territorial integrity, national interest, and the right to self-determination."

Also, the Department of Foreign Affairs has been given authority to implement the following three pillars of Philippine Foreign Policy, as provided in the Republic Act No. 7157, otherwise known as "Philippine Foreign Service Act of 1991":

Batiles

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.

The above pillars can also be attained by the Philippines through the assistance of its bilateral/multilateral partners through cooperation agreements. It is important, however, for a State to ensure its capacity to implement the commitments provided in a certain agreement.

Baird (n.d.) emphasized the need for perusal of the obligations/commitments required before contracting to a certain treaty. A critical review on agreements shall ensure that the provisions stated therein are all constitutional and within the scope of the Philippines' national interests.

Following are the initial codes generated under the Capacity to Comply variable:

1. Strengthen institutions
2. Amendment of law
3. Application of other laws
4. Making representations
5. Discretionary

Under this variable, the study highlighted the Philippine Government's need for reorganization in the event of the effectivity of the proposed ASEAN Extradition Treaty. This reorganization includes the further enhancement of the officials' and staff members' understanding of extradition through the conduct of various trainings, not only for the national government agencies, but also for those assigned in local courts.

The results of the study are in line with the position of Dionis (2013) who emphasized that a state's capacity is not only confined with fiscal capacity but also with administrative capacity, specifically the country's ability to uphold rule of law.

The study further revealed that the Philippines' adherence to other international conventions, notably the Vienna Conventions on Diplomatic and Consular Relations, strengthened its protection mechanisms for detained overseas Filipino workers. Consular and Assistance to Nationals (ATN) services are the core functions of the Philippine foreign service posts – ensuring that detained Overseas Filipino Workers (OFWs) have the right to counsel and right to due process of law.

In Figure 3 below, the Discretionary code, defined as the discretionary conduct of extradition particularly in the case of death penalty, the second highest in percentage, clearly showed the capacity of the Philippines to protect the rights of the Filipinos, as the participants emphasized that the government does not allow Filipino offenders to be extradited to another country for offenses punishable by death penalty.

Thus, the final theme of this variable is the *"Philippines' Strengthening Governance"* which captures the Philippine Government's effort to reorganize its institutions and to conduct capacity-building initiatives to further enhance its protection mechanism for Filipino nationals here and abroad. The Philippine Government considers the Capacity to Comply as a treaty commitment preference, confirming the applicability of the third theoretical proposition, in line with the study of Parillo (2009).

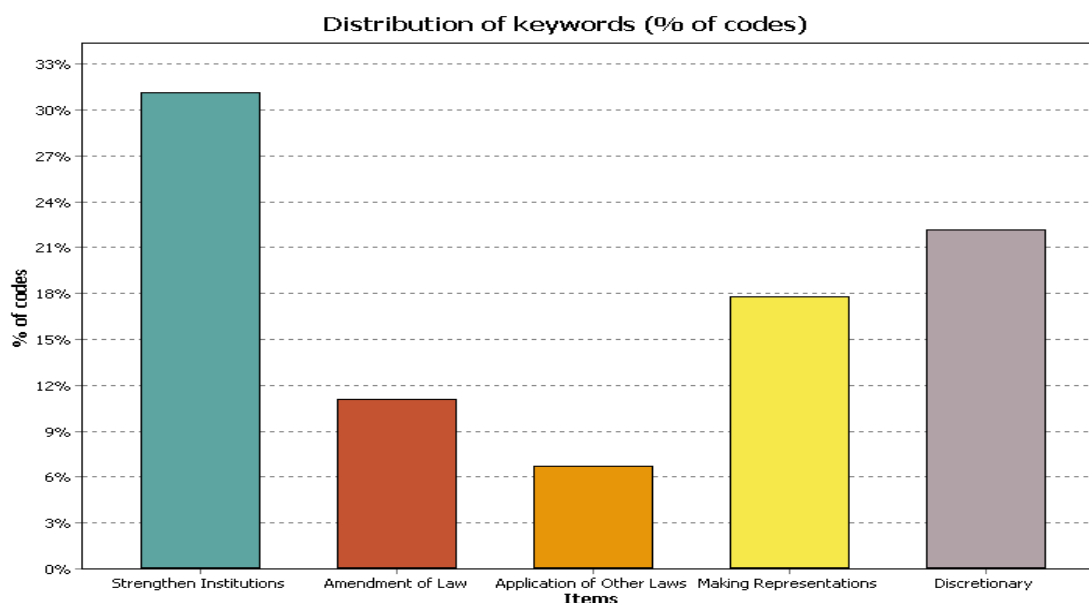


Figure 3. Percentage of Codes under the Capacity to Comply

IV. Commitment and Compliance of the Philippines to the Proposed ASEAN Extradition – Foreseen Benefits variable

The benefits variable is highly significant as it defines the national interests of the country. Is extradition treaty beneficial to the Filipino people? Would it enhance the government's efforts to uphold human rights? Would it strengthen national security while flourishing its foreign relations with ASEAN and other states?

Ibanez (n.d.) highlighted that one of the most significant considerations before the country enters into a certain treaty is the benefits that it will gain thereof, particularly if it is in line with its national interests, and serves as an effective mechanism to improve the country's efforts to implement a certain area of cooperation.

Parillo (2009) also emphasized that both the cost of compliance and the benefits are important in entering into a certain international agreement. The participants likewise shared the view that the challenges and benefits should be taken into consideration by the Philippines before entering into the proposed extradition treaty.

The following are the initial codes generated under the Foreseen Benefits code:

1. Compliance to obligations
2. Combat crimes
3. Rule of law
4. Delineation of responsibilities
5. Finances
6. Political consequences

It can be concluded from Figure 4 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 will further enhance its capacity to implement extradition, for instance. The case is similar to the code Rule of Law which provides that the

country is determined to strictly enforce its internal law, and ensures the constitutionality and applicability of the provisions of international agreement it intends to enter.

The participants also considered the challenges it may face as it enters into the proposed regional extradition treaty; however, these would not impede the Philippines' decision to commit to the said agreement. Among the challenges that were mentioned by the participants are insufficient financial resources, lack of manpower, and confusing delineation of tasks among the concerned agencies.

Interdependence of ASEAN resulted in increased migration. This development led to higher cases of victims of transnational crimes involving illegal drugs and trafficking of persons, among others. This economic interdependence encourages states to enter extradition treaties.

Wong (2018) stated that extradition treaties enable the Contracting Parties to lessen, if not avoid, threats to regional security. Results revealed that the benefits that will be gained by the Philippines from the proposed ASEAN extradition treaty fell under the "compliance to obligations," "combat crimes," and "rule of law" codes.

Mechanisms on how to resolve such challenges were likewise discussed by the participants in order for the Government 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,"* confirming the applicability of the fourth theoretical proposition relating to the benefits variable.

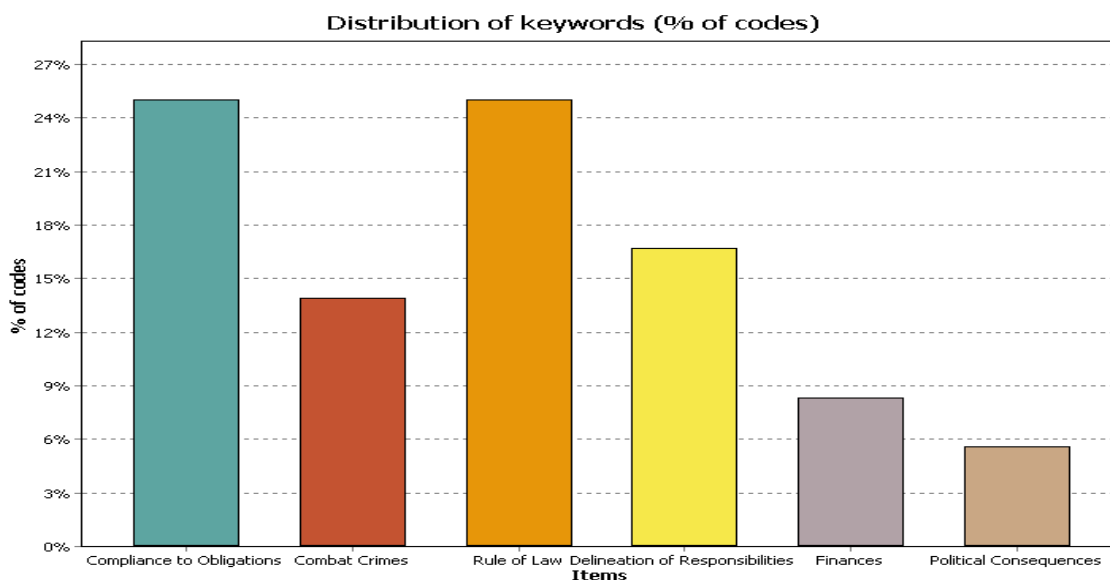


Figure 4. Percentage of Codes under the Foreseen Benefits

V. The Philippine Treaty Commitment Preferences Framework

Based on the above evidences, it may be deduced that some (but not all) preferences presented by the studies of Wagner (2003), Lupu (2014), Simmons (2002) and Parillo (2009), are confirmed applicable in the Philippine context in terms of negotiating/acceding to the proposed ASEAN extradition treaty. Other variables that may be considered as treaty commitment preferences of the Philippines were likewise identified.

The following framework presents the results of the study:

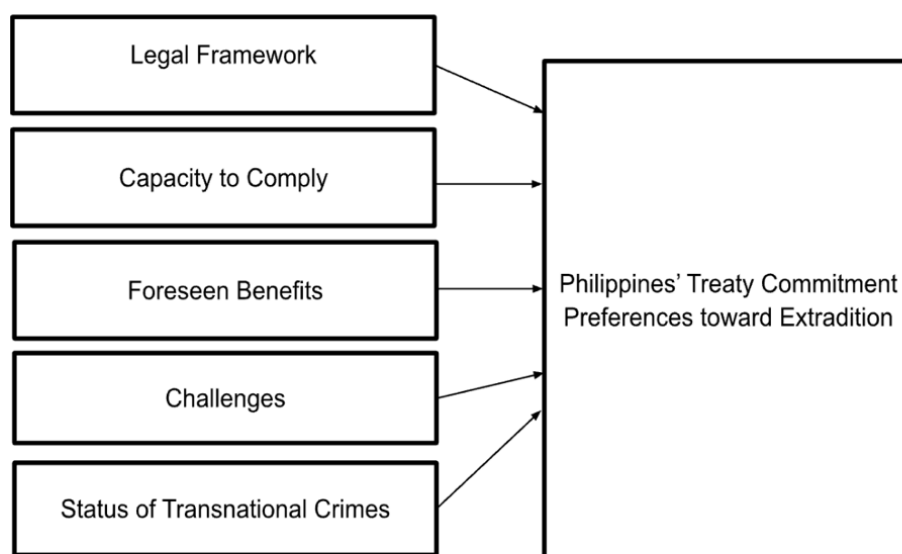


Figure 5. Framework of the Philippines' Treaty Commitment Preferences on the Proposed ASEAN Extradition

The participants opined that form of Government seemed to be a broad variable, and that the more specific and applicable preference in the Philippine context is the Legal Framework code. This involves the Philippines' strict adherence to its internal laws as it negotiates and crafts the provisions of the proposed ASEAN Extradition Treaty.

On the other hand, in addition to the Foreseen Benefits and Capacity to Comply variable, the study revealed that the Challenges should likewise be considered as a part of the Philippines' treaty commitment preferences.

The Philippines has to undergo some reorganizations, restructuring, as well as allocating additional funds in order to effectively implement the proposed ASEAN extradition. Use of technological advancements serves as an advantage in maintaining a database and ensuring swift coordination among the implementing agencies to avoid delays in the conduct of extradition.

It is likewise important to consider the status of transnational crimes within the region in order for the Philippines and other ASEAN Member States to better craft the provisions of the proposed regional extradition treaty.

VI. Preparatory Work to be Considered by the Philippine Government

Ratification to the proposed ASEAN extradition treaty would entail an expected increase in the number of requests for extradition from the nine other Member States, in addition to the other existing bilateral partners that have extradition treaties with the Philippines.

It is therefore recommended for the Philippine Government to start reviewing its existing domestic law on extradition (or the Presidential Decree No. 1069), and to update the latter on the basis of global and domestic developments. Necessary adjustments should be undertaken given the number of multilateral agreements and bilateral treaties that have been

Batiles

entered into by the Philippines in terms of extradition, notably the recently adopted Model ASEAN Extradition Treaty.

The Philippines may also consider setting up a certain office/unit in the Department of Justice that exclusively handles the conduct of extradition. Trainings among the officials and staff members in the concerned national agencies and local government units must be conducted to keep them updated of the developments concerning extradition.

Furthermore, the Philippine Government must secure an additional budget for the implementation of extradition, i.e., development of a database for effective and efficient coordination among the concerned agencies, and hiring of staff members to assist in the extradition work, among others.

CONCLUSION AND RECOMMENDATIONS

The Philippines is a party to a number of multilateral conventions on extradition, namely the United Nations Convention Against Corruption (UNCAC), the United Conventions against Transnational Organized Crime (UNTOC), the ASEAN Convention on Counter-Terrorism (ACCT) and the ASEAN Convention Against Trafficking in Persons (ACTIP). The said conventions are practically beneficial for the Philippines and the Filipino people; however, some of these conventions, i.e., UNCAC and UNTOC, were not considered as legal basis for extradition for the Philippines as specified in its declaration when it signed the Conventions. On the other hand, ACTIP and ACCT clearly provide that the State Party has the discretion if the said Conventions are acceptable legal bases for the conduct of extradition (Malaya, et al., 2019). These Conventions reflect the national interests of the Philippines and serve as another instrument to consider in negotiating any future bilateral/multilateral agreements of similar nature.

With the conditions set forth by the Philippines vis-a-vis the conduct of extradition on the basis of the above-mentioned Conventions, as well as the perceived need of the ASEAN Member States to come up with an ASEAN Extradition Treaty, this study examined the applicability in the Philippine context through the lens of the proposed ASEAN extradition treaty the theoretical propositions identified by Wagner (2003), Lupu (2014), Simmons (2002) and Parillo (2009).

While the Philippines has bilateral extradition treaties with Indonesia and Thailand and other dialogue partners such as Australia, China, etc, Frost (2008, p. 151) posited that ASEAN enters into bilateral and multilateral agreements which are envisioned *“to advance the foreign policy interests of each signatory and enhance regional security.”* The study also revealed that in view of the increasing number of transnational crimes and terrorism in the region, the effectivity of an ASEAN extradition treaty is long overdue.

Negotiations, both in bilateral and multilateral sense, are significant in treaty-making as it serves as the opportunity of the State Parties to ensure that its national interests are pursued, notably on the benefits the agreement would provide to the countries' nationals. The experiences of the participants in negotiating bilateral agreements with other countries served as the core basis of the results of the study, particularly in assessing the preferences of the Philippines in relation to the proposed ASEAN Extradition Treaty.

Some of the critics of ASEAN stated that one of its common weaknesses is that it only seeks to discuss and negotiate the issues that they can fully agree on – remaining silent on the regional concerns which they find difficult to resolve.

I argued that the ASEAN organization has concluded a number of agreements that are challenging to negotiate yet relevant for the enhancement of its international legal cooperation, notably the ASEAN Mutual Legal Assistance Treaty. In this connection, I aimed to identify how the Philippines is able to pursue its national interests in negotiations despite the ASEAN Member States differences in terms of political, economic and socio-cultural aspects.

On the first theoretical proposition, I argued that 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, can be observed in different phases.

For instance, in the negotiation stage, similarities in forms of government make the jobs of the negotiators easier in view of the possible similarities in the countries' judicial systems and policies. However, when it comes to the ratification stage, the international agreement has to go through the Office of the President and Senate of the Philippines where lobbying comes into play and oppositions thereto may be encountered.

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 its principle on 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 imply that the agreement is automatically binding and effective. The instrument of ratification/accession has to be deposited to the ASEAN Secretariat in order to enable the agreement to enter into force. Should one Member State be delayed in the deposit of an accession document (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.

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

Thus, it can be concluded that the Philippines observe the balancing of internal and external factors in negotiating the proposed ASEAN extradition treaty. 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.

On the second theoretical proposition, the main question associated with it is how domestic politics and parochial motives drive the Head of State/other concerned agencies in the treaty-

making process, specifically on the ratification phase. 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 crafting of domestic laws rather than the international agreements being negotiated by the country. Indeed, international agreements are not considered as political matters and should not be affected by the change of administration.

Relative to the third theoretical proposition, it may be recalled that the capacity to comply does not only cover the financial accountabilities itself, but the ability of the State to uphold rule of law while observing its commitments with the extradition treaty. I argued that financial accountabilities and upholding the rule of law comes hand-in-hand. For instance, in the event that 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 question “how can the Philippines ensure that the rights of Filipino law offenders are protected under the proposed ASEAN extradition treaty?” is the highlight of this proposition. 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. In this regard, the Philippines’ strong opposition to the death penalty and its commitment in upholding the right to life of every Filipino serve as its guiding principle not to extradite its nationals in these 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.

Lastly, on the fourth theoretical proposition, 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.

Aside from the legal framework and challenges, the status of transnational crimes is likewise considered as part of the Philippines’ treaty commitment preferences. 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.

In view of the foregoing, the study further revealed the following practical implications to the existing negotiation practices of the Philippine negotiators, as follows:

The study 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 negotiated.

The study likewise contributed to the existing ASEAN literature, specifically on the concepts of “unity in diversity,” “disapproval of Eurocentrism,” and the presentation of “meta-nation” interactions between the ASEAN Member States (AMS).

The study highlighted the balance of interests between the AMS, considering the differences in their legal systems, cultures and values, and how the Philippines manages to pursue its

national interests despite the circumstances. It likewise revealed that results of the study in the Western context are far different in the ASEAN's, particularly the Philippines in this case.

Additionally, the use of case study design with the model of Miles and Huberman 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.

As a conclusion, it may be deduced from the foregoing discussions that the main objectives and the theoretical propositions were duly addressed in this research. The primary unit of analysis – the key negotiators, as well as the information obtained through library research – significantly serve as the basis of the initial attempt to create a guidelines/framework on negotiations of international agreements.

Through the existing literatures and the participants of the study, it can be concluded that before the Philippine Government enters into the proposed ASEAN extradition treaty, it should consider its own internal policies more closely through the determination of the constitutionality of the said agreement, and how the latter contributes to the country's efforts to uphold the rule of law.

Upholding of rule of law comes hand-in-hand with the government's initiatives to enter into some international agreements that will provide significant benefits to the Filipino people. This does not mean, however, that the Government overlooks the challenges it will encounter upon binding itself thereof. Finally, the Philippines and the ASEAN likewise examine the status of transnational crimes in the region to better craft the obligations and commitments of the Member States and ensure the further strengthening of the region's security.

Considering that the ASEAN shall continuously engage its Member States to further integrate the region, it can be expected that a number of initiatives relating to the drafting of legal instruments will take place close at hand within the regional community. Hence, the significant developments in the study of ASEAN, specifically on how the Member States deal with their differences in negotiations, may be further explored by the future researchers, the academe, the diplomats, the experts and other enthusiasts.

REFERENCES

- Baird, Natalie. (n.d.). To Ratify or Not to Ratify? An Assessment of the Case for Ratification of International Human Rights Treaties in the Pacific. *Melbourne Journal of International Law*. Retrieved from: https://law.unimelb.edu.au/_data/assets/pdf_file/0004/1687162/Baird.pdf. Accessed on 2 December 2019.
- Dionis, Marta Sanchez. (2013). Bridging the Gap between Commitment and Compliance: State Capacity and Human Rights in Guatemala. *Institut Barcelona Estudis Internacionales*. Retrieved from: https://www.ibe.org/ibe_studentpaper11_71914.pdf. Accessed on 12 February 2020.
- Frost, Ellen. (2008). "Motivations of Individual Actors, Designing Asia Major." *Asia's New Regionalism*. London: Lynne Rienner Publishers. Accessed on 5 February 2020.

- Ibanez, Mayla Fermina. (n.d.). CIL Research Project on International Maritime Crimes: The Philippines' Country Report. Centre for International Law, National University Singapore.
- 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_Preference_s/link/59da1633a6fdcc2aad129a72/download. Accessed on 13 November 2019.
- Magnuson, William. (2012). The Domestic Politics of International Extradition. Texas: Texas A&M University School of Law. Retrieved from: <http://scholarship.law.tamu.edu/cgi/viewcontent.cgi?article=1757&context=facscholar>. Accessed from: 13 November 2019.
- Malaya, J. Eduardo, Monedero-Arnesto, Ma. Sheila & Paras, Ricardo III. (2019). Enhancing International Legal Cooperation: Extradition, Mutual Legal Assistance, Transfer of Sentenced Persons, and Cooperation on Transnational Organized Crimes and Narcotic Drugs. Quezon City: University of the Philippines Law Center. Accessed on 15 April 2019.
- Meerts, Paul William. (2014). Diplomatic Negotiation: Essence and Evolution. Clingendael University: The Hague. Retrieved from: <https://www.peacepalacelibrary.nl/ebooks/files/390675148.pdf>.
- Nakano, Takahashi. (2018). Southeast Asia Lays Groundwork for Terrorism Extradition Treaties. Nikkei Asian Review. Retrieved from: asia.nikkei.com/Politics/International-relations/Southeast-Asia-lays-groundwork-for-terrorism-extradition-treaties. Accessed on 1 December 2019.
- National Defense College of the Philippines. (2017). National Security Review: Rethinking Philippine National Interests Towards Calibrating National Policies. Retrieved from: <http://www.ndcp.edu.ph/wp-content/uploads/publications/Rethinking%20Philippine%20National%20Interest%20Towards%20Calibrating%20National%20Policies.pdf>. Accessed on 1 August 2021.
- Parillo, Robert Louis. (2009). Extradition: A Test of International Cooperation in the Enforcement of Domestic Criminal Law. Florida State University Libraries. Retrieved from: <https://fsu.digital.flvc.org/islandora/object/fsu:180423/datastream/PDF/view>. Accessed on 15 April 2019.
- Quilop, Raymund Jose. (2000). ASEAN Multilateralism, Factors, Features, Challenges, and Prospects for Southeast Asia and the Asia Pacific Region. Accessed on 6 March 2020.
- Rogoff, Martin A. (1994). The Obligation to Negotiate in International Law: Rules and Realities. University of Maine School of Law: Michigan Journal of International Law. Retrieved from: <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1517&context=mjil>.

- Simmons, Beth. (2002). *Why Commit? Explaining State Acceptance of International Human Rights Obligations*. Berkeley, California: University of California. Retrieved from: https://wcfia.harvard.edu/files/wcfia/files/752_simmonswhycommit.pdf. Accessed on 13 November 2019.
- 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>. Accessed on 11 November 2019.
- Wagner, Wolfgang. (2003). Building an International Security Community: The Democratic Peace and the Politics of Extradition in Western Europe. *Journal of Peace Research*, Vol. 40 (6), 695. Accessed on 16 April 2019.
- Wong, Jack. (2018). *Trickled-Down Assurances: Could the Central Authority, Treaty or Judiciary Alleviate Extradition Issues Amongst Non-Traditional Treaty Partners?* Wellington, New Zealand: Victoria University of Wellington. Retrieved from: https://researcharchive.vuw.ac.nz/xmlui/bitstream/handle/10063/7903/thesis_access.PDF?sequence=6. Accessed on 2 December 2019.