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*LEGISLATIVE OVERSIGHT (THROUGH EX ANTE AND EX POST MECHANISMS)
AND ITS INFLUENCE IN POLICY MAKING AND POLICY REFORMS IN THE
PHILIPPINE EDUCATION AND AGRICULTURE SECTORS*

Author(s)

*Portia P. Silang, House of Representatives, Philippines
psilang@yahoo.com*

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I – Introduction

1.1. Legislative Oversight’s Relevance and Definition

The Philippine government’s powers are shared by its three branches – legislative, executive and judicial. The doctrine of “separation of powers” came from the influence of American colonization and was embedded in the Constitution to disperse governmental functions. Davidson and Oleszek (1996) observe that although the three branches are presumably coequal, the legislature takes the lead in formulating the structure and duties of the other two branches. Congress passed statutes which set out the design of the executive branch, creating departments, offices, corporations and other agencies, or abolish already existing ones as the public service demands. The judiciary, too, is largely a creation of Congress especially through the laws enacted creating lower courts under the Supreme Court

Congress, by virtue of its lawmaking power, has delegated an enormous amount of legislative authority to the executive branch and its administrative agencies. Relevant in maintaining check and balance, oversight becomes necessary to ensure that the administrative agencies perform their functions and responsibilities within the authority delegated to them, and hold the unelected bureaucrats or officials accountable for their actions and decisions. Earle (2004:2 as cited by McGrath, 2011) writes: “Oversight, strictly speaking, refers to review after the

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fact. It includes inquiries about policies that are or have been in effect, investigations of past administrative actions, and the calling of executive officers to account for their financial transactions". Yamamoto (2007:9), in an Inter-Parliamentary Union (IPU) study of 88 parliaments, defines legislative oversight as "the review, monitoring and supervision of government and public agencies, including the implementation of policy and legislation." With the growth in size of the government, congressional oversight is more important than ever in assuring the government functions economically, efficiently and effectively.

Oversight comes as very significant in tightening accountability and transparency among executive agencies, and in providing the link between policy and the will of the people (McGrath, 2011:4). Accountability and transparency in policy implementation contributes in conveying a sense of legitimacy to the process and to the individual policy programs; and legitimacy, in this manner, means that "powers are exercised by agencies and are generally recognized by the principals and by the community at large as acceptable" (McGrath, 2011:5). In democratic governance, it is a necessary condition that the citizens and their elected representatives should have control of the decisions regarding public policy.

The Philippine Supreme Court (through G.R. 166715. ABAKADA GURO Partylist et al. V. PURISIMA & PARAYNO, et al., August 14, 2008) ruled out and divided into three categories the acts done by Congress purportedly in the exercise of its oversight powers: scrutiny, investigation and supervision. Congressional scrutiny implies a lesser intensity and continuity of attention to administrative operations. Its primary purpose is to determine economy and efficiency of the operation of government activities. In the exercise of legislative scrutiny, Congress may request

information and report from the other branches of government and expert sources, including subpoena power, to enforce such requests. It can give recommendations or pass resolutions for consideration of the agency involved.

Congressional investigation involves a more intense digging of facts and is constitutionally recognized. The third and most encompassing form by which Congress exercises its oversight power is through legislative supervision. Supervision connotes a continuing and informed awareness on the part of a congressional committee regarding executive operations in a given administrative area. While both congressional scrutiny and investigation involve inquiry into past executive branch actions in order to influence future executive branch performance, congressional supervision allows Congress to scrutinize the exercise of delegated law-making authority, and permits Congress to retain part of that delegated authority (GR 166175, August 14, 2008). For purposes of this dissertation, the Philippine Supreme Court's jurisprudence will be adhered to as the congressional committees of the bicameral chamber move along these categorizations in the performance of their oversight functions.

1.2. Statement of the Research Problem

Overseeing the bureaucracy remains a challenge to the Philippine legislature, and has become imperative at the wake of very high degree of delegation of the policymaking role of Congress to the Executive agencies and officials. Because delegation creates information asymmetry, Congress needs to oversee, in aid of legislation, so that corrective and appropriate measures can be undertaken in the outcomes of policy or program evaluation notwithstanding amending existing laws.

The Philippine Congress, as the body that represents the people, is called upon to oversee that the formulation and administration of public policy reflect and meet the people's needs; that Congress's delegated authority to an Executive agency is designed such that the agreed policy is properly crafted according to the intent of Congress and properly implemented and delivered to the citizenry (Yamamoto 2007:9).

Oversight is a legislative tool that can be employed to obtain the necessary information from the experts in the executive branch to aid lawmakers in amending existing statutes or drafting new policies. However, research showed that oversight in the Philippines is less performed than lawmaking and constituency service. With the Rules of each Chamber in the 15th and 16th Congresses mandating each standing committee at both Houses to conduct oversight, it is expected that committees will conduct more inquiries and monitoring, but the oversight performance of the committees remained wanting.

The conduct of oversight by Philippine Congress is frequently misunderstood. The legislators overseeing were often accused of grandstanding, some even charged of being soft, conspiratorial, or conniving with the Executive agencies. Though restricted by the constitutional phrase "in aid of legislation", the intent of legislative inquiries or investigations and the performance of the members doing oversight are frequently being questioned due to the lack of tangible results in the crafting or amending legislation as outputs of these inquiries or investigations.

Critics who fault Congress's oversight may be establishing unattainable standards. Many analysts are looking for "police patrol" oversight – active, direct, systematic, regular and planned surveillance of executive activities. However, Congress often waits until "fire alarms" go off from

interest groups, media, and others about administrative violations before it begins to review in detail the agencies' activities (Davidson and Oleszek, 1996:335). If Congress falls short on the police patrol technique, it responds with readiness to political fire alarms. Even in the nature of fire alarm, oversight remains a potent, democratic responsibility of Congress. It is just hoped that oversight activities increase in number and more standing committees engage in inquiry in their respective domain. It remains a challenge for both Houses of Congress to conduct oversight in a continuous manner amidst the negative perception from the public and the lack of sustained interest from the legislators themselves.

During the 8th and 10th Congresses, the Philippine Congress conducted comprehensive, systematic, targeted and well-funded congressional reviews through the creation of Congressional Commissions such as the Congressional Commission on Education (EDCOM) and Congressional Commission on Agriculture (AGRICOM) in the interest of formulating policy recommendations to these two problematic sectors. As a result, sound proposals within the national strategic framework were forwarded to Congress to address the challenges in these sectors, in the realm of globalization and poor performance. Congress translated right after the congressional reviews the highly needed legislative recommendations of EDCOM and AGRICOM into bills and enacted them into laws but the translation of the remaining proposals into statutes took a long time to come close to the number of recommendations. The performance of Congress in this regard may suggest that legislative oversight was not fully harnessed as an effective and reform-oriented tool in policy-making (*ex ante* mechanism) for the problematic sectors of education and agriculture, or pursued to encourage the concerned government agencies to observe efficiency, effectiveness and economy in their use of public resources, and

in promoting transparency and accountability in their operations (*ex post* mechanism). The oversight opportunities and results were not maximized by both the legislative and executive branches to determine if policies sufficed or funds were enough and utilized well vis-à-vis the implemented policies/programs, or enact the identified policy proposals in the long list of recommendations by EDCOM and AGRICOM. This fact may have contributed to the causes of the delay in the target results of the said congressional reviews - that of the modernization of Philippine agriculture and fisheries uplifting their competitiveness, and the development of a competitive human resource brought about by a globally aligned educational system.

Unlike lawmaking, committee work, or the budget process which received ample attention from academicians and experts, such high profile congressional reviews and probes and even latent oversight activities largely escaped the scholarly scrutiny of the Philippine public administration and political science experts. Positive and negative perceptions and criticisms abound regarding legislative oversight, especially investigation, but ironically, there is a dearth of academic literature and empirical studies on this matter in the Philippine context.

This dissertation will examine the oversight work done by Congress focusing on the more systematic and focused oversight or congressional review conducted by the congressional commissions - EDCOM and AGRICOM and find out the probable reasons of Congress' protracted action on the recommendations of the two congressional commissions which need legislative action, at the same time assess the role of oversight in policymaking and policy reforms.

1.3. Objectives of the Research

The study will examine the role of delegation and legislative oversight in policy-making and policy-reform in the context of the legislative-executive relation using the Principal-Agent

theory which describes how Congress or the Committee (Principal) delegates, designs institutions, authorizes powers and responsibilities and appropriates budgetary allocations to the Executive or an administrative agency (Agent) for it to be able to perform its mandate. To monitor how the administrative agency (Agent) performs and implement policies or legislations, Congress (Principal) oversees.

Three important questions need to be answered at the end of this study to understand delegation and legislative oversight in the realm of Philippine public administration, to wit: *(1) What factors determine Congress's behaviour to oversee? (2) How did these congressional bodies been effective, through ex ante and ex post mechanisms, as effective instruments for policymaking and policy reforms? (3) What did the EDCOM and AGRICOM, and the consequent oversight bodies (i.e., Congressional Oversight Committee on Education [COCE] and Congressional Oversight Committee on Agriculture and Fisheries Modernization [COCAFAM], accomplish in their oversight efforts?* These inquiries are discussed in detail in the following objectives which the study aims to address and prove:

1. To identify the factors affecting the decision-making to conduct oversight in Congress;
2. To identify and analyze which types of oversight activities, both in *ex ante* and *ex post* mechanisms, were used by EDCOM and AGRICOM and determine the mechanisms in use in the legislative oversight by COCE and COCAFAM after the enactment of proposed legislations by EDCOM and AGRICOM;
3. To evaluate the actions taken by Congress out of the legislative oversight conducted by EDCOM and AGRICOM as gauge of the effectiveness of congressional reviews in shaping public policies in the Philippine education and agriculture sectors; and the consequent

oversight on the implementation of enacted laws as conducted by COCE and COCAFAM on the concerned executive agencies;

4. To explore the theoretical underpinnings in the conduct of *ex ante* delegation and *ex post* oversight especially in congressional reviews and/or investigations; and
5. To develop and recommend a possible framework for a continuous, organized and effective legislative oversight for policy-making/reform alongside the law making and representation functions in the two chambers of Congress and with consideration of the legislative- executive relations.

1.4. Significance of the Study

Legislative oversight is perceived to be necessary and integral in shaping public policy/reform. However, studies in this aspect of legislative work in the Philippine context are rare, making the field inadequately studied both in the political science and public administration spheres. This research, in the Philippine context and in public administration sense, is a pioneering study that goes into the analysis of the dynamics of legislative oversight. The research attempts to use the Agency Theory (or Principal-Agent Theory) (Frederickson and Smith, 2003:37;) in explaining the legislative- executive relations in terms of delegation (Huber and Shipan, 2002), creation of institutions and authorization of powers, and the corresponding implementation of the executive agencies of the policies or legislations to satisfy these delegations or authorizations; and evaluate the process of legislative oversight in the *Context-Mechanism-Outcome (CMO)* configuration (Pawson and Tilley, 1997:27).

The study will be done on two levels: the first level of which studies congressional review/oversight using the EDCOM and AGRICOM experiences, and the influence of the two

commissions' oversight recommendations on policy making/reform for the two important sectors: education and agriculture. The researcher recognized the existence of multiple principals- single agent or multiple principals-multiple agents and will be analysing the theory and the oversight practice on this context. This will also determine how legislative oversight can be made as an effective instrument, through *ex ante* and *ex post* mechanisms, in promoting institutional accountability and transparency in the concerned executive agencies, aside from the role of oversight in strengthening the country's democratic institutions. As such, the study will significantly contribute to the literature and better understanding of legislative oversight in the milieu of Philippine public administration.

The research will also apply, on the second level, the Principal-Agent theory in the Philippine legislative-executive relations, determine the factors in the conduct or lack of oversight by the Congressional Oversight Committee (COC) created after the congressional review (i.e. COCE) or through the enactment of a specific law (in this study, it means the COCAF), and ascertain whether congressional oversight affected policy formulation and reforms in the education and agriculture sectors. The existing literature has often contradicting approaches in studying oversight, the first one which focused much in the individual legislator, and the second, which focused on institutions and aggregate institutional activities. If to understand whether and why legislative oversight is or is not performed, neither approach suffice alone.

The individual and institutional factors, in addition to the possible environmental causes or contexts influencing the decision-making of principals to conduct oversight have to be taken into account and analyzed. Aside from highlighting the relevance of the context (environmental,

institutional, and individual factors), the significance of the use of information and incentives in the decision making of Philippine lawmakers and congressional committees and concerned executive agencies will also be examined. The study will use the agency theory to analyze and understand congressional *ex ante* delegation and *ex post* oversight in the Philippine administrative system.

With the lack of previous in-depth analysis on the matter in the Philippine context, the study will refer to the institutional and what is known in the literature as the behaviorist determinants as exemplified by Ogul's (1976) opportunity factors (causes which may induce or limit oversight) as they affect the decision of the legislators to oversee. These indicators are the (1) legal authority; (2) staff resources; (3) committee structure; (4) subject matter or expertise; (5) background and status on a committee; (6) relations with the executive agency; (7) member priorities and goals including advocacies; and (8) partisanship or membership/position in a political party. There are also the so-called "conversion factors" which define the most common situations in which propensities are converted into behavior to oversee (Ogul 1976:22). Among these are sharp policy disagreements with the executive, executive requests for minor or major changes in executive programs or policies, and impact of sudden and particular external events such as a sudden crisis or scandal or *force majeure* (Ogul, p.23).

The research contributes into the theory building in public administration in its application of the Agency Theory (the Principal-Agent theory) to explain the relation of Congress (Principal) and the bureaucracy (Agent) in particular in terms of legislative delegation of authority, creation of institutions, and oversight. Legislative oversight decision-making will be assessed to better understand the factors causing lawmakers and congressional committees to

decide whether to conduct or not oversight functions. The research will also establish the influence of legislative oversight in policy making/reform and to the policy outcomes and in making the executive agencies accountable in their implementation of legislative policies or laws.

For the scholars of public administration, this study explains the influence and role of legislative oversight in policy making/reform and as a means of Congress (Principal) to obtain accountability from the concerned Executive institutions (Agents) with regards to the delegated powers vested on them on how they implement policies to get their outcomes along the theoretical approaches (agency theory) used in this research. In addition to this, the study also contributes to public administration methods of research through the Context-Mechanism-Outcome (CMO) configuration or model and in the understanding of the conduct of oversight work and the different tools or techniques used in administering it.

The research also aims for executive agencies and officials to comprehend the rationale why Congress oversees the bureaucracy, explain their existing relation with the legislature, and the need for these executive agencies to exercise accountability and transparency in their actions in policy implementation, and be responsive on the outcomes of legislative oversight.

For the public, this research imparts information relevant to their understanding of the process of legislative oversight and the importance of feedback mechanism and citizen's participation in its conduct, being the citizens as the Principal of Congress and the Executive.

1.5. Scope and Delimitation of the Study

There is a paucity of research studies about the Philippine Congress particularly in the realm of Philippine public administration. Notwithstanding this fact, this study hopes to analyze the dynamics of legislative oversight through the *ex ante* and *ex post* mechanisms and its effects

on policy making in the Philippine education and agriculture sectors, particularly concentrating only on the *legislative* translation of the results of the congressional review done by EDCOM and AGRICOM. The legislative oversight experiences of EDCOM and AGRICOM were chosen as samples in this study because the congressional reviews were completed by the two commissions. The two congressional reviews both produced a roster of recommendations for legislation, important pieces of legislation (or legislative policies) were enacted where the Congress/Committee (Principal) delegated discretion and authority (*ex ante* mechanism) to the executive bodies (Agents) in the respective laws created, and provided for the creation of COCAFAM in the law to oversee *ex post* the implementation of agricultural laws.

The study tracks down the status of the recommendations of EDCOM and AGRICOM in the legislative sphere from the 9th Congress (1992-1995) up to the 16th Congress (2013-2016) spanning seven Congresses (or more than a two-decade period) in recognition of the gestation and time expended in lawmaking. The research analyzes what were done with these policy recommendations in the legislative branch only, primarily through reviewing the archived records of both the Senate and HREP in a per Congress basis. Seeking out the availability for interview of the primary sources of information or the key informants is a priority challenge to the researcher as the research covers multiple Congresses.

The research studies the delegation of authority *ex ante* through the statutory language used in the enacted laws to determine the discretion allowed by the statute based on EDCOM's and AGRICOM's recommendations, while for the *ex post* oversight, the monitoring of meetings conducted by the Congressional Oversight Committee on Education (COCE) in the 9th Congress and the COCAFAM, covering the period from 10th Congress to 15th Congress, will be examined. The

oversight committee's minutes or transcripts of meetings will be reviewed to establish the degree of oversight (*ex-post*) done by the above-mentioned bodies from the 10th to 15th Congress in relation to EDCOM's recommendations. Factors determining the legislative oversight decision making of the Principal to oversee its Agents will be identified and validated through first hand interviews with key informants.

In addition to the dynamics, the research also looks on how EDUCOM and AGRICOM's legislative recommendations were enacted into law based on the action(s) taken by the legislature after the conduct of oversight in a per Congress basis as applicable from the 10^h to 16th Congress. In addition, the study also evaluates the oversight activities of COCAFEM (Principal) regarding AFMA with related agencies (Agents) feeding in data on its implementation, pinpoint weaknesses of the law, and whether its recommendations, if any, were adopted through legislation or policy reforms to amend or enhance AFMA. Recognizing the limitations of the government document reviews that will be conducted, personal interviews are expected to complement and verify record evaluation in examining primarily how legislative oversight can be utilized to improve policies and their implementation or how it can be employed by Congress (Principal) as an instrument to exact accountability and transparency in the executive agencies (Agents).

The study of legislative oversight is not complete if the delegation of discretion (*ex ante*) to administrative agencies, is not also considered or at the very least recognized. The extent of delegation would be measured through the length and specificity of the statute, considered as proxy indicators in the literature. This can be best explained by considering them as examples of *ex ante* and *ex post* controls over agency action.

II- Review of Related Literature

There is paucity of legislative studies literature pertaining to Philippine Congress. In the very few related literature present, the dynamics of other legislative functions like decision-making, delegation and oversight were glaringly lacking. As this is a pioneering study on legislative oversight in the Philippine Congress, and there is an inadequacy of reliable local literature, there is no option for the researcher but to utilize studies on legislative review conducted in the US Congress from which the Philippine legislature is patterned, and some comparative notes on European and Asian Parliaments. For the purpose of the Conference, the review of literature will just focus on the theory used in the research.

2. 1. The Agency Theory

The principal-agent framework has been applied to studies in the influence of public principals, particularly Congress and the President, and agents - the executive agencies or the government bureaucracy. The initial premise in this theory was that the bureaucracy hoards information (resulting to information asymmetry), seeks autonomy, and shirks (i.e., does not try hard to produce the highly valued output and thus causing an allocative inefficiency or adverse reaction) (Frederickson and Smith, 2003:37).

McCubbins and Page (1987) discuss that there are two forms of information asymmetries between agents and Congress: asymmetries in information about the activities of the agent and information about how these activities affect outcomes, which, in addition to degree of conflict in the policy issue, become predictors of levels of delegation from Congress to its agents.

The Principal-Agent theory seeks to comprehend the situations under which the lawmakers can maintain control over policymaking within the legislative-executive relations when they are

in the disadvantageous end on problems of information asymmetries (McGrath,2011:27). Vetschera (1998) shows that with relatively inaccurate or minimal information, the principal's capacity to influence the agent behaviour is restricted and when the principal has access to more information it can influence the agent's behaviour to suit the set agenda. McGrath (2011) writes that in the context of legislative-executive relations, as in the context of the relationship between private sector managers and their employees, the principal can try and harness the agent's expertise while at the same time attempt to avoid deleterious "agency drift". He explains that the canonical insight of the principal-agent theory is that principals can manipulate an agent's incentives so as to benefit from their expertise, but at the same time keep them from drifting too far from the principal's preferences over outcomes.

Congressional committees reflect the specialization of legislators in order to provide their constituents with services, but cannot directly provide all of the appropriate services. Thus, the necessity arises for the legislators to delegate the provision of some of these services to bureaus (agencies) that trade total budget for a total output of these services. Weingast (1984) argues that the delegation will only occur if bureau production (complete with shirking) provides greater net benefits than any other method of providing the service. Weingast argues that the congressional committee system is seen as a governance structure that emerged to solve contractual problems in the market for votes so legislators could capture gains from trade. Further, he explains that legislators sacrifice control over some policy areas in exchange for monopoly rights over policies that benefit their constituencies. The committees delegate the provisions of some services to bureaus; hence, a principal-agent relationship develops. The principal-agent problems can be alleviated if the committees develop efficient incentive

structure to discipline the bureaus (Weingast and Marshall, 1988). Much of the literature that apply the principal-agent theory to bureaucratic oversight focus on the relationship between one congressional oversight committee and one bureau, however, in practice, the pattern of congressional oversight is more complicated.

Delegation of authority to executive agencies is not the result of legislators putting their property to the most efficient use. Rather, those in power today are most concerned of setting up a governance scheme for the bureaucracy that cannot in turn be amended or reversed by those who may be in power tomorrow. To ensure the opponents do not control the bureaucracy in the future, then the legislature purposely give up control over it into present. Bureaus are given great discretion in order to insulate policy outcomes from future changes in the balance of political power. The bureaus also favour insulation from political uncertainty, and once agencies are set up, bureaucrats predictably take steps to increase their autonomy. They can accomplish this independence partly by gaining expertise, or asset specificity, in their field.

This study by Weingast and Moran (1983) implies that Congress can and does effectively design institutional structures (“the incentives system”) that allow it to delegate policymaking power with minimal need for *ex post* monitoring (oversight). This means essentially, as applied in public administration work in legislative-executive relations, the principal-agent theory focuses on institutional design as a strategic choice of principal who seek mechanisms to combat agency problems. By supposition, principals are initially in control, in the strict sense that the exact terms of the agent’s job are a matter of institutional design (or the incentive system), and the authority to constitute or not to constitute agents falls within the principal’s jurisdiction (Thatcher and Sweet, 2001:16).

Scholars of US politics have used the principal-agent model to investigate the relationship between Congress and executive agencies, and the tasks performed by congressional committees (Moe, 1987). When the framework is applied to the output side of politics, its relevance becomes apparent and the government may in general be considered as the principal of the public sector, whatever the nature of the political regime. The principal-agent approach asks the question how government gets the job done, given the transaction cost limitations impinging upon government. In international relations, delegation has been used to explain why sovereignty-conscious states create international organization. The basic model has been used to assess the efficacy of mechanisms devised to ensure agent compliance, and extended, elaborated upon and adapted to take account of cases where there are multiple principals.

Kivistö (2005) adds that there are different variants of this relationship ranging from single-principal-single-agent to multiple-principal-single-agent or single-principal-multiple-agent. As their respective titles suggest, single-principal-single-agent focuses on one principal and one agent, multiple-principals-single-agent allows multiple principals to direct a single agent in different areas and single-principal-multiple-agents refers to a scenario where one principal is directing many agents. Of the three situations, Kivistö writes that the second scenario is most traditionally used in state-run operations where a single unit is controlled by various actors. Strehl, Reisinger and Kalatschan (2007a) highlight seven components of the theory that is applicable to studies exploring New Public Management: governance, New Institutional Economics, strategy, marketing, resource allocation mechanisms and organisation behaviour. This study portrays how principal-agent theory is being used in public administration studies.

Most previous oversight literature in the principal-agent tradition has tended to ignore the extent to which the use of *ex post* monitoring shapes the structure of *ex ante* incentives (e.g. Weingast and Moran (1983); McCubbins and Schwartz (1984); Weingast (1984)). These literature correctly emphasize that a lack of oversight could mean either legislative abdication or complete (but difficult to observe) dominance over agencies but contribute little to explain variation in oversight activity. McGrath (2011) argues that some amount of monitoring (*ex post*) must take place in order to enforce *ex ante* contracts between political principals and their agents. This interrelationship between *ex ante* and *ex post* strategies are also recognized by previous authors (Epstein and O'Halloran (1994, 1996, 1999); Bawn (1997) and Huber and Shipan (2002)).

With regards to monitoring agents, Mitnick (1973) noted that unlike economic model, if the principal (political legislature) has no self interest to monitor agent's actions, they will hardly bear any cost incurred by the agent's continued shirking, rather bulk of this cost will shift to the general public. McGrath (2011) emphasizes that some amount of monitoring (*ex post*) must take place in order to enforce *ex ante* contracts between political principals and their agents.

However, the literature acknowledges that *ex ante* and *ex post* controls are necessarily related. The studies of McCubbins and Schwartz (1984) and McCubbins, Noll and Weingast (1984, 1987), highlight that *ex ante* controls have advanced because *ex post* mechanisms are often too costly and inefficient. Similarly, Horn and Shepsle (1989) argue that *ex post* controls may seem ineffective because an effective *ex ante* design of statutes and procedures emerges; in addition, these works were not able to provide clear predictions or explanations of delegation or oversight. While recognizing that the existence of *ex post* mechanisms may help to enforce the limits of the *ex ante* restrictions that legislatures put in place, many of these studies provide

no clear predictions of when and under which conditions the *ex post* mechanism will be used (McGrath, 2011:137).

2.2. Oversight (*Ex Post*) and Delegation (*Ex Ante*) Mechanisms

Ex post, or after the fact, control is considered the primary means of legislative oversight of the bureaucracy (Ogul, 1976; Aberbach, 1990) as it comes after the implementation of policy. The first wave of empirical literature considered only *ex post* oversight with conclusion that it does not happen often enough to enforce legislative control of policymaking; theoretical studies often predict no empirical role for *ex post* oversight. This is problematic because different oversight activities exist across legislatures and these theoretical approaches cannot account for this variation. Past studies mostly focused on *ex post* mechanism, which can be said that the previous researches on the determinants of oversight hearings have at least half of the story of how legislatures control bureaucrats (McGrath, 2011). In fact, it was the failure of these early studies (Scher, 1963; Bibby, 1966, 1968; Lowi, 1969; Huntington, 1973; Ogul, 1976; Fiorina, 1977; Woll, 1977; Doss and Schott, 1986) to recognize *ex ante* mechanisms that inspired McCubbins and Schwartz (1984) to explore these strategies in more detail. McCubbins, Noll and Weingast (1984, 1987), in their studies, stress the over-all significance of *ex ante*, or before the fact, mechanism of legislative control.

Statutory restrictions on delegations of discretion is such an example of an *ex ante* control where oversight is obviously and necessarily *ex post* (Huber and Shipan, 2002). McGrath (2011:163) considers the relationship between *ex ante* and *ex post* oversight to be a choice of the legislature (Principal). McGrath (p.165) makes a case for the development of a theory that

can account for both the policymaking motives of legislators and the fact that legislatures have distinct strategic alternatives to affect policy outcomes.

Literature in the Principal-Agent tradition has focused on the use of *ex ante*, or before the fact, mechanisms of legislative policy control at the expense of explicit oversight activity (Moe, 1989, 1990, a, b; Epstein and O'Hollaran, 1994, 1999; Hamilton and Schroeder, 1994; Huber and Shipan, 2000, 2002). These works emphasize that legislatures can design incentives which make it more likely that bureaucrats implement policy in line with what the legislature wants. Furthermore, these works deemphasize the theoretical importance of *ex post*, or after the fact, mechanisms of control, such as the use of formal oversight hearings.

Huber and Shipan (2002) find that the less able a legislature is to conduct effective *ex post* monitoring, the more likely they are to enact *ex ante* strictures on discretion, all else equal. These authors are among the first researchers to predict the relationship between *ex ante* and *ex post* methods of control and to examine these predictions empirically. However, they do not consider oversight to be a strategic choice of the overseers (McGrath, 2011:164-165).

Much of the recent literature on political control of the bureaucracy has been focused on *ex ante* mechanism at the expense of the *ex-post* oversight strategies (Moe, 1989, 1990a,b; Epstein and O'Hollaran, 1994, 1999; Huber and Shipan, 2000, 2002). The study of oversight, as a mechanism of political control, has waned since scholars started focusing on *ex ante* controls. This direction of recent research is missing the other half almost assuming away any need for *ex post* oversight to enforce the limits of the *ex ante* measures (McGrath, 2011).

Recent comparative institutional theories embrace a "separation of powers" methodology (de Figueiredo Jr., Jacobi and Weingast, 2008) of considering the effect of

institutional constraints on legislative behaviour. In particular, Epstein and O'Halloran (1999) and Huber and Shipan (2002) examine the extent to which anticipated bureaucratic behaviour and, in the latter study, anticipated judicial behaviour, affect the amount of *ex ante* discretion legislators delegate to implementing bureaucrats. In seeking to explain the legislature's choice between erecting *ex ante* constraints on discretion and performing *ex post* monitoring tasks, the ability of other institutional actors, such as the courts, to affect policy outcomes is also considered (Huber and Shipan, 2002).

Delegation is necessary in a modern democracy and may even serve to promote expert and expedient decision making (Mashaw, 1985, 1997). Given the inevitability of delegation, oversight becomes a necessary tool to keep bureaucrats accountable to the public and to keep the public privy to the decisions of the bureaucracy. McGrath (2011:15) argues that oversight must be considered while simultaneously recognizing that it comes after an initial delegation of discretion.

2.3. Statutory Delegation of Discretion (*Ex Ante* mechanism)

A number of authors (Huber and Shipan, 2002; McCubbins, Noll and Weingast, 1987; and Epstein and O'Halloran, 1994) as cited by McGrath (2011:16) have highlighted statutes as a means to control bureaucratic action. Politicians make laws that delegate broad authority to bureaucrats. If these lawmakers want to closely control bureaucratic behavior, more detailed legislation should be produced to constrict the scope of the agency's discretion (p.16).

Legislatures, in fact, give great discretion to executive agencies to implement policy that may or may not reflect the will of the legislature. There are contesting claims that the legislative grants of administrative discretion implied administrative dominance and concomitant legislative

impotency as a consequence (Lowi, 1969; Niskanen, 1971; O'Connor, 1978; Rourke, 1984; McCubbins and Schwartz, 1984; McCubbins, Noll and Weingast, 1987, 1989). These authors argue that legislators, as the principals, can alter bureaucratic incentives with statutory discretion. Procedural requirements in individual statutes can help to rein potentially discretion-abusing bureaucrats through the "politics of structural choice" (Moe, 1990b). In addition to procedural limits on discretion, scholars have proposed that legislators can limit discretion more directly, by controlling the specificity of the legislation meant to delegate authority to bureaucrats (Epstein and O'Hollaran, 1994, 1996; Huber and Shipan, 2002). McGrath (2011:103) argues that a prescriptive limiting of statutory discretion is more direct than procedural arrangements because they are more specific in nature and the policy outcomes are more certain to legislators. In addition, empirical research has demonstrated that procedural arrangements may be largely ineffectual (Balla, 1998; Hamilton and Schroeder, 1994).

Huber and Shipan (2002:43) introduce the idea of "statutes as blueprints for policymaking" by positing that: when legislative statutes are specific, they make it more difficult for other political actors, especially bureaucrats, to enact policies that differ from those that legislative majorities prefer. Thus, specific statutes allow legislative majorities to limit the policymaking discretion of other political actors, while vague statutes give a larger policymaking role to these other actors (p. 44). The two authors argue that the length of a statute, controlling for narrow policy area, is at least a proxy for the amount of statutory discretion given to an agency, the idea is "the longer a law is, the more detailed it should be in terms of instructing and directing (constricting) agency action." This finding can be assessed if manifest on the legislations approved from EDCOM and AGRICOM's recommendations, specifically the Higher Education Act,

Technical Education and Skills Development Act, and Agriculture and Fisheries Modernization Act, determine the extent of delegated powers to respective agencies created in the laws, and the extent of oversight which followed the implementation of the laws.

McGrath (p. 103) mulls over the analogy of a blueprint mentioning that “by including more specific prescriptive language into statutes, legislators make implementation of the policy program in the statute straightforward. When there are fewer specific steps for bureaucrats to follow in implementing a statute, it is natural that they can more readily consider their “own personal judgment and conscience,” that is, their “own discretion” (pp.103-104).

By introducing strict limits of discretion, administrative procedures ensure that outcomes will be closer to an elected official’s ideal than if the agency had an unlimited range of options. But the mechanism only works if there is *ex post* enforcement of the rules. If the court ruled consistently with the intent of Congress, then the bureau would have strong incentives to follow their intent. On the other hand, by implication, if the courts were not aligned with the legislature, such mechanism would provide the bureau with more latitude to implement policy (McGrath, p. 214). He finds that legislatures likely anticipate the actions of state courts when they craft their policymaking strategies. This is a significant contribution because it adds additional hint of “separation of powers” (Weingast, 2008) to the extant literature on substitution effects between *ex ante* and *ex post* strategies (Bawn, 1997; Huber and Shipan, 2002; Gailmard, 2002).

Previous literatures on statutory discretion suggest that legislators vary levels of bureaucratic discretion according to intra- and inter- institutional variation. At the inter-institutional level, a host of scholars have argued that legislators consider the extent to which

their policy preferences diverge from the bureaucratic agents' to whom they wish to delegate (Epstein and O'Halloran, 1999; Huber and Shipan, 2002; Lewis, 2003).

In the context of Principal-Agent theory, these authors cite that this is an entirely reasonable explanation for why some legislators at some times write more or less restrictive legislation than others. Legislators simply trust like-minded policy implementers more than those with starkly different preferences from them and, assuming that restricting discretion with statutory language is costly, seek to minimize their transaction costs without too much policy loss. Epstein and O'Halloran (1999) and Huber and Shipan (2002) argue that the transaction cost of restricting discretion can increase with the complexity of a policy area. Their contentions imply that variation in statutory discretion across legislatures can be partially attributed to variation in legislative capacity to deal with (i.e. their ability to design policy that achieves their preferred outcomes) technically/scientifically complex policy area. Second, intra-institutional potential explanation for a legislature's willingness to limit an agency's discretion is the extent to which they can rely on alternative, and potentially less costly means to control bureaucratic decision making. A central insight of Huber and Shipan (2002) is that all legislatures become better able to control policy *ex post* (through oversight activities), they have fewer incentives to incur the costs of *ex ante* restrictions on discretion.

McDonald and Franko (2007) argue that discretion is also related to bureaucratic capacity, with better performing agencies receiving more freedom to implement policy as they see fit than those agencies with less capacity. These authors analyze the proclivity of Congress to attach limitation riders to agency appropriations.

Aside from the length of a statute, Huber and Shipan (2002) find that “procedures seem to play a minor role, relative to policy instructions, at all contexts” (p. 72). McGrath argues with Huber and Shipan for the appropriateness of statute length as a proxy for the amount of statutory control exercised by a legislature. Motivated by the theoretical framework on procedural constraints (McCubbins and Schwartz, 1984; McCubbins, Noll and Weingast, 1987, 1989; Moe, 1990b), Epstein and O’Halloran (1999) measure policy making autonomy by identifying through Congressional Quarterly reports, the extent to which statutes both delegate policy authority and set procedural limits on that authority.

For Huber and Shipan (2002), a substitution relationship exists: when *ex post* ability (such as the ability to conduct oversight hearings cheaply) is high, then there is little incentive for legislators to exert costly *ex ante* control. McGrath (2011) disagrees with Huber and Shipan and presents that this is not an *ex ante/ex post* substitution argument, but instead demonstrates the potential complementarity of the strategies (McGrath, 2011:220). McGrath notes that legislators seek to maintain such democratically necessary control while at the same time they try to harness the bureaucracy’s policy-specific expertise –this insight being standard in Principal-Agent accounts of legislative-executive relations (p.220). McGrath emphasizes that institutional features of legislatures may facilitate or debilitate their ability to conduct oversight with the frequency needed to keep recalcitrant bureaucrats in line (p.223).

Sean Gailmard (2009:161-186) examines a model in which legislative principals monitor a bureaucratic agent’s implementation of a project. Each principal can perform oversight of the implementation to limit information asymmetries exploited by the agent and he finds out that oversight is costly to perform with information leakages between principals. Notably, his study

explains that the multiplicity of principals reduces their collective control over the agent even though they have common interests about the agent's actions (p. 167). The results indicate that the institutional structure of the overseeing body has a significant effect on accountability, independent of the institutional structure of the overseen (p. 178).

Gaps in the Cited Literature

Studies related to the principal-agent theory are clear on focusing the studies on the existing relation between the legislature (principal) and the bureaucratic agency (agent). Since it is always argued that oversight (*ex post*) is costly to perform, there is the tendency of the principal to opt for the *ex ante* mechanism of delegating discretion to the agent, which came to a point that the bureaucracy is indeed expanded in its delegated powers. The use of these mechanisms can be further explored and analysed, and their impact to Congress's powers be evaluated.

There are also no in depth or substantial studies which cite the effects of environmental factors in legislative oversight decision making like partisanship or legislative-executive relations in the legislative policy control (both *ex ante* and *ex post*). The researcher believes that the nature of the legislative-executive relations and the individual factors enumerated especially the personal background and member's priorities and goals are significant factors affecting legislative oversight decision making. This research will study which individual, institutional and environmental factors really push or inhibit oversight activities in Philippine Congress.

Usual studies on *ex ante* delegation of discretion or *ex post* oversight were done separately. This study will provide information on a complete cycle of congressional review – from its proposed recommendations as results of oversight (*ex post*) enacted into new

legislations (*ex ante*) to implement the recommendations, and then oversight (*ex post*) rendered as mandated by these laws through the creation of congressional oversight committee in the realm of Principal-Agent Theory. This study will determine the impact of congressional reviews in policy making, whether *ex post* review/oversight really controls the delegation of authority to the statutes creating new government agencies or programs; whether the *ex ante* delegation brings about or justifies more oversight or limits oversight; whether “legislating” oversight through the statutory creation of a congressional oversight committee (COC) would achieve the ideal scenario for oversight – continuous, comprehensive, responsible to the needs of the law, and effect the necessary changes in the law, if needed. Using the Context-Mechanism-Outcome (CMO) model in the analysis of the research data will more completely illustrate the evaluation process by holistically considering the contexts, mechanisms and outcomes and adding value to the evaluation practices in public administration. These portions of the research add value to the study in the overall body of literature on oversight, policymaking, monitoring and evaluation and public administration.

Employing evaluation parameters like the CMO is the primary method of analysis to be adopted in the study to explain the dynamics of congressional oversight: Context will take into consideration the individual, institutional and environmental factors crucial in the decision-making of the lawmakers to oversee. The Mechanism is through *ex ante* delegation of discretion and the *ex post* oversight, which for this research will analyze the techniques of oversight employed in the congressional reviews and beyond, specifically investigations or inquiries; and the Outcome (effectiveness) of the functioning of legislative oversight In the legislative arena.

III – CONCEPTUAL FRAMEWORK

In the context of the study as illustrated in the conceptual framework in Figure 2, the Philippine Congress, in particular the committee, is the public principal which *ex ante* delegates, designs the institutional structures and authorizes (i.e., designs the incentive system) of the executive agency. The committee passes laws (*ex ante*) which may create the agency, provide its powers and mandates and define its goals, policies, and programs. Congress also authorizes and appropriates its budget to expend on its operations and policy and program implementation. Hence the executive agency becomes the agent implementing the intent of Congress (as principal), specializing on the mandate given to it, accumulating expertise and information which the principal or the committee becomes too much dependent upon. And as this goes on, information asymmetries result which make bureaucrats maximize their discretion and their budgets, which make Congress or the committee delegate more, and at the same time, control more (Niskanen, 1975). This control is legislative oversight (*ex post*). However, legislative oversight is not automatic, it is a question of the willingness or decisiveness of the legislature to oversee.

Legislators do behave differently, especially so concerning legislative oversight. Figure 2 presents the conceptual framework of this study, using the Principal-Agent theory to explain the relationship of Congress and the executive/public bureaucracy and the CMO configuration to analyze the oversight performance of the EDCOM and AGRICOM, the COCE and COCAF. Usually, the initiation of formal oversight hearing comes from the decision of the Committee or the chairperson to conduct oversight of a particular program or policy or the operations of an administrative agency based from a committee referral or any issue with a *motu proprio* (i.e.,

majority plus one of committee members vote) decision. However, for the first level of this study, the initiation of congressional review was an offshoot of the bicameral adoption of the respective Joint Resolution for the creation of EDCOM brought about by the deteriorating quality of the Philippine educational system, and in case of AGRICOM, the rice crisis and globalization. Thus, at the first level of analysis, institutional factors (presence of Joint Resolutions) and environmental factors (propensity factors) triggered the congressional review of the two sectors. On the second level as illustrated, factors affecting legislative oversight decision-making of the Principal (which also serve as the Context) are divided into individual; institutional; and environmental factors. The decision to oversee is governed by the individual behavior of each legislator, especially the committee chairperson and the incentives available to him. The experience and personal background of the Committee Chairman and members influence their perception on issues or policies laid out on the Committee for oversight. The value the Chairman/member will give to an issue/policy, even with substantial information at hand, is prompted by his/her own priorities, his rank or position in the Committee and political goals, whether the goal is earning re-election, making public policy, or achieving professional influence and status (Fenno, 1973:1). These differences in goal patterns were then related to other attitudinal and behavioral characteristics. Members see committee work as important to the achievement of personal political goals or advocacies; members are like purposive actors whose behavior derives more directly from self-interest.

In Seymour Scher's (1963:529-531, 551) early article on the conditions under which congressmen find it in their interest to engage in oversight, he points out that members arrange their priorities on the basis of rational estimates of their own situations and in order to attain the

most benefits possible for themselves. Or as Ogul (1976: 20) writes, “How much oversight captures his concern relates to its contribution to his political career.” This emphasizes the relevance of individual factors in the decision-making to oversee.

Institutional factors like the committee structure and composition; its staff, consultants and available resources; the committee’s mandate or jurisdiction including internal rules and relations within the chamber and between chambers; political party; and existing laws, may influence the decision-making to conduct oversight. The significance of these institutional determinants to oversight function would be assessed in this study.

Environmental factors such as propensity factors (e.g. crisis situation, scandals, force majeure); need to repeal or amend existing laws which may fall under the Committee’s mandate; sharp policy differences with the executive or the status of the existing legislative-executive relations; and pressure from civil society influence the principal’s willingness to oversee. Party alignment may count whether to conduct oversight or not, however, existing literature points out that partisanship is not that crucial in legislative oversight decision making.

Figure 2 also shows that Congress (Principal) *ex ante* delegates authority - its contract with the Executive/administrative agency (Agent), designs the agency’s institutional structures (incentive system), and appropriates funds to the Agent for its policy and program implementation. In this cycle, because the Principal delegates, it needs to monitor, audit, evaluate or review (oversight) how the Agent carries its delegated authority (*ex post* mechanism) —to implement certain mandates and policies. Among oversight activities are scrutiny, investigation and supervision (as per Philippine Supreme Court Ruling).

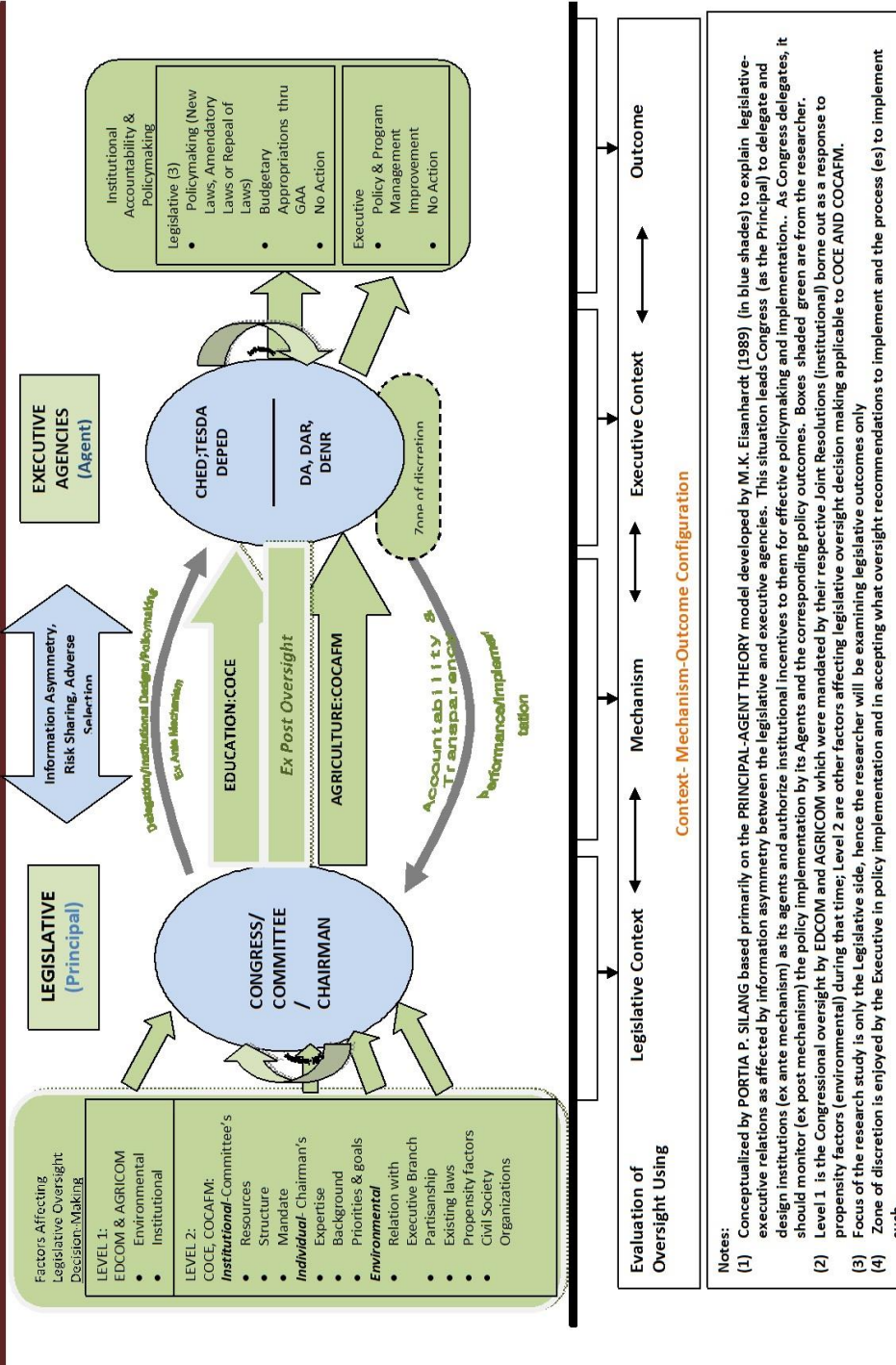
Both the legislators and heads of the different agencies have self-interests affecting the principal-agent relationship as shown in Figure 2. The model also puts forward the Principal's political decision making that incorporates self interest on the part of politicians; considers problems in the executive agency in carrying out the intentions of the principal's decisions; a political desire to have some effect on future events; and the desire to be re-elected. Both the lawmaker and the executive are interested in self-preservation, however, the agent's role is to support the political decision making and performance that gets the politicians re-elected.

The Executive agency with the advantage of having the expertise and information, responds and builds a "zone of discretion" in the process of oversight as shown in Figure 2, wherein it has the discretion or choice to cooperate or be hostile with the whole oversight process. Since oversight function is largely affected by the relation between the executive and legislative, effect of oversight to the Executive agency, being the Agent, would be mentioned in the discussion but not deeply studied in this research. This limitation is deliberate to delimit the focus of the study which is the legislative part.

The determination of the outcomes of oversight is limited on the institutional accountability of the Legislature by way of assessing the effects of oversight in legislative policy or lawmaking. As presented in Figure 2, the effectiveness of the congressional review would be measured through the legislations/policies enacted, whether new, amendatory, or repeal of laws; creation of new institutions (for CHED and TESDA) and the consequent reorganization of the education sector; budget authorization in the General Appropriations Act in the case of AFMA; or the lack of action in both Chambers of Congress for some of the proposed legislative recommendations of the oversight bodies. Resolutions recommending prosecution or filing of

cases in court against officials or employees who committed malfeasance, misfeasance and nonfeasance can also be considered oversight outcome, but on the administrative side and would not be tackled in the study. The Executive accountability in policy and project management and implementation, or its lack of action, may be mentioned but is not covered by the dissertation.

Figure 1. CONCEPTUAL FRAMEWORK USING THE PRINCIPAL-AGENT THEORY IN STUDYING PHILIPPINE LEGISLATIVE OVERSIGHT (1)



Notes:
 (1) Conceptualized by PORTIA P. SILANG based primarily on the PRINCIPAL-AGENT THEORY model developed by M.K. Eisanhardt (1989) (in blue shades) to explain legislative-executive relations as affected by information asymmetry between the legislative and executive agencies. This situation leads Congress (as the Principal) to delegate and design institutions (ex ante mechanism) as its agents and authorize institutional incentives to them for effective policymaking and implementation. As Congress delegates, it should monitor (ex post mechanism) the policy implementation by its Agents and the corresponding policy outcomes. Boxes shaded green are from the researcher.
 (2) Level 1 is the Congressional oversight by EDCOM and AGRICOM which were mandated by their respective Joint Resolutions (Institutional) borne out as a response to propensity factors (environmental) during that time; Level 2 are other factors affecting legislative oversight decision making applicable to COCE AND COCAFAM.
 (3) Focus of the research study is only the Legislative side, hence the researcher will be examining legislative outcomes only.
 (4) Zone of discretion is enjoyed by the Executive in policy implementation and in accepting what oversight recommendations to implement and the process (es) to implement such.

IV - RESEARCH DESIGN AND METHODOLOGY

The research utilizes qualitative methods to generate its data, namely: (1) document analysis of published and non-published government documents related to the congressional review by EDCOM and AGRICOM and the conduct of oversight of the congressional oversight committees (COCE and COCAFAM); (2) interview with key informants; and (3) case studies.

A. Document Analysis

Content analysis of available published and non-published primary source materials is undertaken from the HREP'S and Senate's archived records of the two congressional commissions (EDCOM and AGRICOM), COCE and COCAFAM. The records which will be analyzed per Congress include the minutes, transcripts, plenary journals, Congressional records and related publications. The website of HREP and the Senate were also accessed for the list of Republic Acts approved from the 9th Congress to 16th Congress for education, and from 10th to 16th Congress for agriculture, fisheries, environment and agrarian reform.

The following activities employ government document review in gathering data:

1. Tracking down of the status of the recommendations of EDCOM and AGRICOM in the legislative arena from the 9th Congress (1992-1995) up to the 16th Congress (2013-2016) to determine the total number and percentage of enacted measures based from the actual recommendations of EDCOM and AGRICOM, the proportion of national and local laws passed for each sector, the distribution of local laws based on nature or type of service or educational level or category. Summary matrices for these data will be prepared. The resulting data will be utilized in the interview with key informants with regard to the reasons or factors for the prioritization in enacting laws and the delay or lack of action for the other recommendations.
2. Assessment of the context or the different factors affecting the legislative oversight decision making of the Principal (Plenary, Committee or Chairman). These factors are divided into the environmental (presence of propensity factor) and institutional (Joint Resolution) factors for Level 1 (AGRICOM or EDCOM and whole sector), and for Level

2 (oversight by COCAFAM and agency)- the individual factors (expertise or background; style of leadership; members' priorities, goals and/or advocacy, rank in the committee); institutional factors (legal mandate; committee staff capacity/competence and resources; committee structure; political party; existing laws); and environmental factors (executive-legislative relation; presence of propensity factors). Document analysis is the initial method in obtaining data for the most crucial factors affecting the decision to conduct legislative oversight, which will be validated by interview with key informants

3. Assessment of oversight activities by the Congressional Oversight Committees (COCs) – the COC on Education (COCE) in the 10th Congress and the COCAFAM from its creation to the present. The following data were gathered: frequency and agenda of meetings, results of its oversight activities in terms of legislative policy recommendations attendance of members; kind of information being requested by the COC with regard to the laws enacted or recommendations by COCE or COCAFAM.

In addition to the case of COCAFAM, the data collected will be used to evaluate if having a formal joint oversight body (COC) contributes to the success of the AFMA; whether the recommendations of the experts' review or assessment on the first five years of AFMA, or the succeeding results of COCAFAM's oversight activities were translated into legislation by the House Committees on Agriculture, Aquatic Resources and Fisheries and Food Security or the Committee on Agriculture and Food Security in the Senate.

Descriptive data on how and how much the concerned executive/administrative agencies adopt the recommendations from oversight activities by the COC or standing committee (if applicable) vis-à-vis total recommendations to measure effectiveness of oversight.

B. Interview with Key Informants

After the determination of what actions were taken by Congress on the EDCOM and AGRICOM's recommendations from the past and present Congresses from the document review conducted, the data gathered will be confirmed and verified through interviews with key informants.

Interview with key informants will be conducted to validate and complete the data on the factors affecting legislative oversight decision making and the dynamics of oversight activities

gathered from the document reviews in the archived records or publications of the EDCOM and AGRICOM, COCE, and COCAF. The pre-identified key informants include Commission and Committee chairpersons, committee members, political staff, committee secretariat and concerned agency officials selected by way of their participation in the congressional commissions and committees. Interviews would be done through prepared questionnaire and personal interview.

C. Multi-case Studies

Case studies will be to evaluate three major laws enacted based on the recommendations of EDCOM and AGRICOM for the *ex ante* delegation. Under the Mechanism part of the CMO configuration, the degree of *ex ante* delegation of discretion by the Principal (Congress) to the Agent (government agency), based from the statutory language of the law will be determined in the case studies for Republic Act 7722 or the Higher Education Act which created the Commission on Higher Education (CHED), Republic Act 7796 or the Technical Education and Skills Development Authority (TESDA) Act of 1994, and Republic Act 8435 or the Agriculture and Fisheries Modernization (AFMA) Act of 1997. As mentioned in the literature review, the longer the law, the more detailed is the delegation of discretion and there may be the possibility that oversight is no longer necessary (McGrath 2011).

Included in the case studies is the review of the approval of each law based on archived plenary deliberations. The content of the discussions in crafting the laws based from the documents and the wordings of the three laws, including the IRRs, will be assessed to determine the extent of delegation by the Principal to the Agent.

Period Examined

The research covers the last seven full Congress terms: the 10th Congress (1995-1998), 11th Congress (1998-2001), 12th Congress (2001-2004), 13th Congress (2004-2007) and the 14th Congress (2007-2010), 15th Congress (2010-2013) and 16th Congress (2013-2016). A Congress-to-Congress analysis will be done with regard to enactment into law to determine the length of time needed in legislating a law.

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