A STUDY OF CHINESE CAPITAL FLOWS TO SIX COUNTRIES: **PHILIPPINES**

Mitigating Governance Risks From Investment in Southeast Asia

CENTER FOR INTERNATIONAL PRIVATE ENTERPRISE

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TABLE OF CONTENTS

FORWARD & INTRODUCTION

Forward

CIPE works at the intersection of economic development, democracy and human rights, a unique position from which to address governance challenges posed by high-risk capital flows. In recent years, CIPE and its partners have witnessed an alarming trend: large amounts of capital invested by authoritarian regimes flowing through opaque channels into emerging markets. In these markets where governance is already weak and corruption is already rampant, high risk capital creates political and economic distortions which often do more harm than good in the recipient country. CIPE coined the term corrosive capital to describe state-backed financing that lacks transparency and accountability flowing from authoritarian states into new and fragile democracies.

CIPE's approach to combatting the effects of corrosive capital centers on identifying specific governance gaps in countries where democratic processes are at risk. Then, working with local partners, we design and implement projects that help close these gaps, fostering collaboration and information sharing among civil society, the private sector, and lawmakers. Because the adverse governance impacts in countries that receive this capital are well-documented and the global flows of such capital are growing

exponentially, CIPE is currently expanding both its policy research and programming on corrosive capital.

This report is unique in a number of ways: (1) it presents invaluable local perspectives on how Chinese investments are being documented, perceived, and implemented in countries around the world; (2) it identifies governance gaps which permit capital inflows to exploit or exacerbate weakness in young democracies; and (3) it provides recommendations for local stakeholders to address these gaps and make the most of Chinese investments. This publication is a demonstration of CIPE's commitment to the principles of local ownership, inclusion, learning & innovation, and accountability which are essential for emerging economies to enjoy sustainable and inclusive growth.

The report represents a group effort by CIPE and its partners. The effort grew out of a long-running dialogue on Chinese investment in Southeast Asia. CIPE partners cited a lack of data and consistency in the existing literature on the governance effects of Chinese state-backed debt and investment in emerging Asian markets. This report aims to fill that information gap and illuminate the governance distortions engendered by corrosive capital.

The first step in this effort was a set of deep-dive country-specific assessments. CIPE partnered with five think tanks and three independent researchers based in Southeast Asia to systematically study the issues. In addition, CIPE commissioned the Rhodium Group to collaborate with our partners in the development of a comprehensive dataset to track Chinese direct investments flowing into Southeast Asia.

It is CIPE's hope that this publication equips donors, implementers, policymakers, and advocates with information that makes their work more effective at managing the risks of corrosive capital. By mitigating the risks of corrosive capital, the targeted investments of CIPE's ongoing program can achieve a larger scale and aggregate impact on the resilience of markets and democracies in the face of capital flows from nondemocratic countries.

Andrew Wilson

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Introduction

Chinese outward investments have increased substantially in recent years, especially after 2013's introduction of its Belt and Road Initiative (BRI). BRI is the most ambitious infrastructure investment effort in recent history. The effect of BRI in Southeast Asia has been a tremendous volume of capital rushing in over a very short period of time. Chinese capital (including foreign direct investment, aid, and commercial loans) offers many benefits. It contributes to economic growth, job opportunities, and better-connected infrastructure networks in local economies. However, a growing volume of evidence indicates that many forms of capital emanating from authoritarian nations have a corrosive effect on democratic institutions and private enterprise in recipient countries.

The genesis of this publication was a CIPE forum in December 2017 at which CIPE's Southeast Asian partners expressed the urgent need to fill the information gap of the impact of corrosive capital on governance distortions. Local researchers and analysts across the region have identified an absence of evidence in the existing body of work on Chinese investment projects and the impact on the local economies and communities. Additionally, researchers and scholars sought greater clarity on specific gaps in governance through which Chinese capital can flow.

This report analyzes the patterns, trends, and characteristics of Chinese investments in Southeast Asia. Against the backdrop of the rising flood of Chinese investment across the region, the report highlights common issues and shared governance risks across countries, and identifies questions requiring further study. The sizable economic interests and political intricacies of China and BRI make this research sensitive in some countries; as result, some information has been redacted from the final report.

Countering corrosive capital requires working closely with local partners in vulnerable countries. In each case, the specific governance gaps which place democratic institutions at risk must be identified. In cooperation with local partners, CIPE can then design and implement local projects to help close those gaps and reinforce democratic institutions by fostering collaboration and information sharing among civil society, the private sector, and lawmakers.

Objectives, Scope & Methodology of the Report

This report aims to answer an important policy question: How can Southeast Asian economies benefit from the Chinese investment while mitigating the associated risks? This report will provide authoritative

and up-to-date data on Chinese regional FDI and loans in chapter 1; the following seven chapters document different forms of Chinese capital flows and identify governance gaps in six countries. Chapter 2 presents the case of Malaysia which highlights issues of opaque procurement practices associated with Chinese mega projects, as well as the need to improve corporate governance of state-owned enterprises to avoid conflict of interest. In chapter 3, Chinese investments are involved in controversial price fixing in the Indonesian extractives industry. Chapter 4 demonstrates the development of evolved oversight mechanisms to screen infrastructure projects in Myanmar. In Chapter 5, Cambodia provides an illustration of what can happen in a small to mid-sized country that becomes overly dependent on Chinese investment. In Chapter 6, the authors raise environmental concerns in Vietnam. Chapter 7 discusses regulatory capture issues in the Philippines using the online gambling industry as an example. Looking into the fast-growing Fintech industry, chapter 8 showcases risky investments and the data abuse problem in Indonesia. In all the case studies, authors examine the macro-level impact of Chinese investment, identify governance gaps, assess its initial impact. They then develop policy recommendations for key stakeholders such as businesses, governments, civil society organizations and international organizations to address these challenges and develop a streamlined, transparent, foreign investment monitoring and management process.

The scope of this report is primarily Foreign Direct Investment (FDI) from the People's Republic of China. During the research process, some authors discovered that domestic controversy centered primarily on Chinese commercial loans funding large infrastructure projects. The capital discussed in this report therefore encompasses all investments from China. Some authors focus on FDI while others place greater emphasis on other official financing such as aid and loans.

CHINESE FDI IN THE PHILIPPINES: AN EXAMINATION OF ONLINE GAMBLING AND ENERGY

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Executive Summary

This chapter assesses the potentially corrosive effects of private and state-backed Chinese foreign direct investment (FDI) on democratic governance in the Philippines. It examines the Philippine online gambling and energy industries, to serve as case studies of how inflows of Chinese FDI exacerbate governance gaps and loopholes in the Philippine regulatory oversight and policymaking processes.

In the gambling industry, the governance gaps center around the role of the Philippine Amusement and Gaming Corporation (PAGCOR), a Philippine government-controlled monopoly with conflicting and contradictory roles as regulator, market participant, and revenue collector. These conflicts lead to governance gaps that are exploited by unaccountable state-backed money from Chinese investors.

In the energy industry, this review found that authorities routinely disregarded national security reviews concerning the role of the State Grid Corporation of China (SGCC), which has an ownership stake in the Philippines' sole energy distribution agency. In both of these industries, when huge amounts of money flow through governance gaps, the gaps widen, thereby exacerbating the adverse effects of such capital on the rule of law.

This study documents negative externalities associated with the governance gaps present in the Philippines' gambling and energy industries, such as black market activity and the illegal importation of laborers from China. This chapter concludes by identifying particular institutional responses that Philippine policymakers might consider in order to mitigate the corrosive effects of FDI on governance in select industries.

Background

Like many other countries, the Philippines encourages foreign direct investment (FDI) from any source. However, FDI in the Philippines has lagged behind other middle-income states. Unlike other developing countries, the Philippines prefers joint ventures or subcontracting agreements with foreign firms. Constitutional limits on foreign investment in certain sectors, including land, mass media, retail, and marine resources, impact the course of these investments (Camba, 2017a). Most other sectors limit FDI ownership to a 40% stake, favoring joint ventures between Filipino companies and the foreign firm. There are also sectors in which foreign investors are allowed to own 100% of the asset or firm within a limited period, such as the large-scale mining sector through the mineral process services agreement (MPSA) or business process outsourcing (BPO) (Camba, 2015).

Given these conditions, subcontracting agreements in construction, infrastructure, and other more advanced sectors are common among Filipino and foreign firms. However, the high cost of basic goods—energy, food, and transportation—and the government's preference for consortia under majority Filipino control deter foreign investors from pursuing projects in the Philippines. Conflict among political elites, regional political unrest, and criminal activity also increase the cost of investments.

Nonetheless, due to its young, English-literate labor force, the Philippines still attracts investments in key sectors. For instance, the Philippines is the call center capital of the world, and Japanese investors have continued to finance manufacturing projects in the Philippines for the past thirty years. Indeed, Japan and America are the biggest investors in the country, with Hong Kong and China not far behind. As seen in Table 1 (PG. 71), China has been catching up to American and Japanese levels of investment in recent years.

Investment in the Philippines is highly decentralized, and there are several different pathways to invest in the country. Most investment is made through the Department of Trade and Industry and the Philippine Board of Investments. In addition to these central bodies, there are seven major Investment Promotion Agencies (IPAs) that manage

TABLE 1: Average FDI Inflows in the Philippines (USD $Millions)

SENDING STATE	1985-1990	1990-1997	1998-2005	2005-2016
USA	77.5	95.1	209	360
Japan	28.4	195	174	343
UK	104	66	77	56
Australia	38	6.6	2	27
South Korea	1.6	15.2	2	18
China & Hong Kong	N/A	N/A	63	218

SOURCE: Central Bank of the Philippines (2018)

the Philippines' Special Economic Zones, including export-processing zones, industrial parks and agro-industrial zones. In addition to the seven major IPAs, there are more than 40 smaller IPAs across the country that are directly accountable to local government units and able to negotiate, license, and distribute incentives to license foreign companies. Other government departments, such as the Department of Energy and Natural Resources, also have the power to license foreign investments in key sectors (Camba & Magat, 2019). This decentralized investment structure has contributed to the proliferation of online gambling companies based in the Philippines.

Under the Duterte administration, the Philippines has become the primary destination for Chinese online gambling investments because of cheap real estate, a booming service sector, and relative autonomy from Beijing (Camba, 2018). Online gambling began during Joseph Estrada's brief term as president, reemerged throughout the Aquino presidency, and has now resurged during the Duterte administration. Similar to BPOs, Chinese online gambling firms target an external market, which does not threaten Philippine businesses, and instead presents an additional opportunity for profit.

The online gambling sector is currently undergoing an economic boom, for three primary reasons (Camba, 2019). First, customers are located not only in China, but also in the "greater Chinese area" of Singapore, Hong Kong, and Taiwan. Some reports suggest that Chinese across the United States and Europe also avail themselves of these services, making it a mistake to attribute demand for online gambling to residents of China or Macau alone. A careful analysis of companies shows that the investors financing online gambling firms come from China, Macau, and Taiwan. The gambling firm workforce comprises labor from China, division heads from Malaysia or Indonesia, and management from Taiwan.

Second, all of the states of the greater Chinese area have experienced some degree of economic mobility and the emergence of wealthy consumer class. Among these states, the PRC provides the most customers to online gambling firms due to its massive population and the ban on gambling in mainland China. Third, Hong Kong and Macau's online gambling firms were increasingly pushed out by Beijing in 2016. Because online gambling has also served as a channel to launder money out of China, leading to an outflow of U.S. dollars, Beijing has started to subject the industry to tighter regulations.

These three reasons coincided with a major change in Philippine regulations governing online gambling. This change principally affected the authority of the Philippine Amusement and Gaming Corporation (PAGCOR), a government-owned and controlled corporation (GOCC) holding authority over all gambling-related matters in the country. In the early 2000s, Philippine private company PhilWeb entered a 13-year contract with PAGCOR to sell gambling licenses outside of the Philippines' special economic zones. With their monopoly over these licenses, PhilWeb could have pursued greater profit and industrial control. However, PhilWeb demonstrated an unwillingness to sell licenses to Chinese online gambling firms (Guinto, 2016).

The online gambling companies knew that there was money to be made once PhilWeb was out of the way (Lucas, 2018). These firms and their partners supported Duterte in the 2016 election and then used their political influence in the new administration to prevent the renewal of PhilWeb's contract in September 2016.[1] After the end

1 Kim Wong, the Philippine Owner of the Oriental Group and the biggest online gambling firm in the country, is related to the Duterte government's Secretary Vitaliano Aguirre (Punzalan 2017). Duterte has reached out to Charlie "Atong Ang," one of the biggest online gaming owners in the Philippines, to clean up online gambling (Ranada 2018).

of PhilWeb's contract, PAGCOR acquired the authority to sell licenses, leading to an open market for online gambling firms and an increase of Chinese business activities and services in the sector (Cabalsi, 2016). In other words, the influx of Chinese online gambling investments would not have been possible under PhilWeb, due to PhilWeb's close links with the Aquino administration and the possibility of a long legal battle at the Supreme Court (Camba, 2018).

Governance Gaps

PAGCOR

The conflicting roles of the Philippine Amusement and Gaming Corporation (PAGCOR) as market regulator, market participant, and revenue collector create loopholes in Philippine regulations that are exploited by secretive foreign investors offering opaque financial backing. In general, the structure of the online gambling industry reinforces common problems with secrecy and opacity surrounding capital flows from China.

Online gambling firms use a special provision in Philippine law to invest in the country. Specifically, under Presidential Decree 1869 and Republic Act 9487, PAGCOR is empowered to bypass other agencies when it comes to regulatory checks (Office Gazette, 1983) revenue generation, and state capacity. This undermines multiple state agencies in their attempts to properly conduct due diligence regarding foreign investment. The agencies that are bypassed include the Investment Promotion Authority (IPA), the Bureau of Internal Revenue (BIR), and the regulatory offices within the Department of Trade and Industry (DTI).

The Bureau of Internal Revenue (BIR), the Philippine agency in charge of taxation, does not interface directly with the online gambling firms (Ibarra, 2019). In the current system, online gambling firms pay PAGCOR an application fee of USD 50,000 for e-casinos and 40,000 for betting. Following approval, the firms pay a franchise fee ranging from USD 150,000 to 200,000 (Venzon, 2016). PAGCOR continues to collect revenue from these firms through a monthly levy of 5% of the firms' total profits. These revenue streams make PAGCOR the most profitable state enterprise in the Philippines.

The existing system lacks transparency and democratic oversight, making it impossible to know how much firms have earned and whether or not they are paying the correct amount of taxes. Under the current system, online gambling firms only need to report their earnings to PAGCOR by submitting a minimum number of documents before paying the yearly levies (Ibarra, 2019). This system makes it difficult to ascertain how PAGCOR judges the earnings of the online

gambling firms, thereby making tax evasion by firms more likely. While tax evasion is certainly not limited to the gambling industry, PAGCOR's role as both a GOCC and tax agency creates a particularly permissive environment for misconduct.

Another major issue is that the existing system for online gambling facilitates money laundering (Watts, 2019). Money laundering can occur in two ways. The first involves investment in an online gambling firm. Some of these investments are linked to Chinese businesses with known ties to the Chinese Communist Party (CCP) (Author Interview, 2018a). For these businesses, investing in foreign gambling firms provides a channel to move money outside of China (Author Interview, 2018b). Since online gambling is banned in China and Hong Kong, these firms have started to target the gambling sector of Southeast Asian states. The second form of laundering involves the use of auction houses in Metro Manila, where East Asian buyers take advantage of auctions to launder money into the country (Author Interview, 2018c).

In sum, the existing system makes PAGCOR the primary public entity that regulates, taxes, and monitors money laundering vis-à-vis online gambling firms. In other words, PAGCOR's primary function, that of generating revenue, directly contradicts these responsibilities, because the activities of the online gambling firms can maximize tax and fee revenue. These problems directly corrode state institutions. In 2018, the BIR issued Revenue Memorandum Circular 78-2018, which mandates foreign and local online gambling firms register with the tax agency (Asia Gaming Brief, 2019). While this is a step in the right direction, the current system simply mandates the firms to "[register] with the revenue district office having jurisdiction over the place where the head office or branch is located" (Ramirez, 2019). The registration does not repeal the existing tax incentive and can be circumvented by giving power to the local BIR branches.

SECURITY CONCERNS IN ENERGY INDUSTRY ARE OVERLOOKED

The State Grid Corporation of China (SGCC), China's state-owned utility monopoly, is the largest utility company in the world and the second-largest corporation in the world in terms of revenue. SGCC is also a critical component of Beijing's Belt-and-Road Initiative, and its overseas purchases of energy infrastructure could reach USD 50 billion by 2020 (Tabeta, 2017). The worldwide portfolio of strategic assets that SGCC owns on behalf of the Chinese government includes a 40% stake in the National Grid Corporation of the Philippines (NGCP), the largest electricity provider in the Philippines

and one of the biggest benefactors of the Duterte administration.

In 2001, President Arroyo intended to privatize the National Transmission Corporation (Transco), opening the company to a bid (Gatdula, 2003). Eventually, the Monte Oro Grid Corporation (30%) and Calaca Bay's (30%) consortium with the State Grid Corporation of China (40%) won the bid. While numerous political elites attempted to hinder the awarding process because of China's political influence, the SGCC was able to successfully invest. President Benigno Aquino III's nationalistic policies resulted in new challenges. In 2013, Mar Roxas, Aquino's Interior Secretary and a member of the country's ruling elite, informed Beijing that there were security concerns regarding a foreign company's access to power grids.

In response to these concerns, the Aquino government did not renew the visas of 18 Chinese engineers for SGCC (Roberts, 2015). Ultimately, among the Chinese employees, only the board members were granted visa extensions (Xu, 2017). The SGCC proposed several projects, such as the extension of grids in Mindanao, the development of "smart" infrastructure in Luzon, and additional training for Filipino engineers in China. However, Aquino's officials blocked these ventures. In 2015, the Department of Energy and Natural Resources (DENR) imposed a security protocol on the SGCC, expelling specialized power grid technicians, and turning over the control of key operations to Filipino staff members.

However, these safeguards were reversed shortly after President Duterte assumed office in 2016. Duterte promptly sacked Aquino's officials in the DENR, removing the constraints on SGCC's activities. Under the Duterte administration, the SGCC eventually flourished and acquired additional assets in the Philippines. For example, following Xi Jinping's November 2018 visit to Manila, the Philippine government awarded a contract to SGCC to extend telecommunications coverage using Huawei equipment.

Recent conversations in the Philippines have circled around three possible security implications posed by SGCC's high profile in the Philippines. First, even though the two Philippine companies own more shares of the consortium than the SGCC, the Chinese utility has more control over the decision-making process. Second, the technology used by SGCC include state-of-the-art undersea cables, towers, and transmission lines with technical specifications that surpass the knowledge and regulation capacity of current Philippine agencies (Bondoc, 2018). Third, there are concerns that the training of Filipino engineers has largely been dependent on the SGCC sponsorship of exchange programs with China, which could complicate effective

monitoring of foreign-trained engineers (Businessworld, 2017).

Potential Institutional Responses

REFORM PAGCOR'S POWER: EMPOWER THE DTI, BIR, AND DOJ

The current system generates two contradictions: gambling firms pay PAGCOR application and license fees before they apply to the Bureau of Investment (BOI) or the Investment Promotion Agencies (IPA). By the time the application gets to the BOI/IPA, the firms already have the backing of PAGCOR, making it difficult for the BOI/IPA to block the investments. Once the investments have been approved, a certain percentage of their earnings is remitted to PAGCOR, making the GOCC the most profitable state enterprise in the Philippines. As outlined above, the system bypasses either the BOI or the IPA, making it difficult to know whether or not these investments comply with rules and regulations. Furthermore, the current system makes it impossible know how much the firms earn and whether or not they are paying the appropriate amount of taxes.

A possible procedural change would be to require firms to apply directly to the DTI and the IPA concurrently. Only after approval by both agencies would firms be allowed to apply or be referred to PAGCOR. Under this procedure, it would be possible to screen these investments, examine the amount of capital involved, the quantity of foreign labor required, and the potential impact on the local real estate market. In addition, the firms could also register with the Bureau of Internal Revenue (BIR) at this stage. Policy RMC 78-2018 was formulated in 2018 to require firms to register with BIR. In fact, the Duterte administration has used RMC 78-2018 to collect taxes from the local service providers of the online firms. However, the policy has insufficient teeth to enforce tax collection on foreign online firms who have invested in the Philippines.

As such, it is necessary to make firms accountable to the BIR rather than PAGCOR, which can be achieved by repealing PAGCOR's power to license rather than just repealing the tax regulation. Indeed, subjecting foreign online gambling firms to Philippine tax brackets, regulations, and exemptions is the most important policy move. If BIR is given power to tax gambling firms, the BIR can properly tabulate the amount of taxes that these firms should pay, rather than simply levying 5% of their profits. As such, the BIR could assess and collect taxes owed by these firms, as it does in almost every other industry in the Philippines.

Another issue is that companies withhold taxation income from workers, making

it difficult for the government to tax the employees (Reyes, 2018). While the Philippines recently required firms to submit a list of their workers and pay for their taxes (O. de Vera, 2019), these processes require self-reporting and can be circumvented. As such, requiring the workers to register with the BIR should be a prerequisite before the firm can hire employees.

IMMIGRATION CONTROLS

While the Philippines recently made online firms register their workers with the Bureau of Immigration (BI) (Leyco, 2019), the process relies on self-reporting. In other words, it is still difficult to tell whether the firms use illegal workers or not. Black market organizations bypass immigration controls by using tourist companies to process the visits. Currently, companies submit information on tourists-turned-workers through advanced delegation processing (Author Interview, 2018a). However, these applications consist of 50-60 people per tourist trip, making it difficult for immigration officials to properly scrutinize each individual. As the BI processes these applications prior to their arrival in the country, Chinese tourists-turned-workers are able to easily move through immigration controls in various Philippine airports. An interview with a Chinese worker revealed that immigration controls outside the Ninoy Aquino International Airport are lax, largely due to concerns among officials about scaring away Chinese tourists through implementation of a more rigorous security protocol.

Given this problem, several measures can be implemented. First, the "advanced delegation" application for tourist firms needs to be removed, but the visa-on-arrival system should be maintained, as it would continue to encourage Chinese tourists to visit the Philippines. However, immigration officials should be given more power to scrutinize these workers instead of processing the application ahead of time. Since officers are randomly assigned to Chinese tourists, it is easier to prevent collusion and also to catch those tourists-turned-workers. While the Department of Tourism and local governments might balk at these additional safeguards, the retention of the visa-on-arrival system can be a consolation. Furthermore, it is crucial to consider the potential implication of the illegal workers in the Philippine economy, which affects both the Chinese workers and Filipinos.

Second, the Philippine government needs to increase the budget of the BI and hire more immigration officers. In 2015, the Philippine executive and legislative branches allocated USD 17 million to the Bureau of Immigration. Budget limitations mean that BI staff will not receive pay raises, increasing the risk of black market organizations influencing BI officials.

While the Philippine congress and senate have made plans to increase BI's budget, these proposals have yet to be implemented.

SECURITY REVIEWS OF STATE-BACKED FOREIGN INVESTMENT INTO STRATEGIC SECTORS

The following solutions can also be pursued. First, the Philippine government should encourage other foreign investors to invest in Philippine energy grids in order to dilute the SGCC's stake and limit its influence. The Philippine government can acquire aid from Japan and other countries to expand energy infrastructure separate from the SGCC. Investment in alternative technology such as hydro and solar power plants can generate additional electricity for the Filipino population without the need for a supporting grid infrastructure, as some energy systems could have their own smaller distribution facilities.

Second, Filipino companies with outside experts should inspect the SGCC's security grids. Since SGCC manages technology that Filipino firms are not familiar with, using outside experts to determine possible problems is necessary. Similarly, as Huawei's investments in the Philippines seem to be proliferating, independent experts should inspect the telecommunications equipment to manage security risks. And finally, Filipino engineers who have been trained in China should undergo background checks. Non-Chinese companies and countries should be encouraged to provide training for engineers outside the SGCC and China, mitigating the security risks posed by entrusting all technical training in an essential sector to a single foreign state.

INSTITUTING A CENTRALIZED FDI-REGISTRATION SYSTEM AND REGULATORY INSTITUTION

The current system is built around a decentralized investment structure. Investors can go through a number of government institutions to invest, particularly the BOI, the IPAs, local governments, or select state agencies (e.g. PAGCOR for gambling and DENR for mining). This system makes regulatory capture more likely because agreements between the foreign investor and the specific government institution can be made with little transparency. As a result, governance gaps are created due to the opacity of deals signed with foreign investors. A centralized FDI-registration system, following the example of several developed countries, could help to solve the problem of FDI transparency. For instance, The Committee on Foreign Investment in the United States (CFUIS) reviews the national security implications of all major investment deals. In the European Union, there is an

attempt to create a common regulatory framework to govern foreign investments. Indonesia used to have the Philippine model of a decentralized investment structure. In recent years, the Badan Koordinasi Penanaman Modal has become the sole agency to facilitate investments.

Conclusion

This chapter argues that Chinese FDI in online gambling has generated corrosive effects on Philippine institutions. Although increasing quantities of Chinese FDI have likely supported economic growth in the Philippines, Filipinos have also been negatively affected by related negative economic and societal externalities, such as PAGCOR's conflicts of interest, an influx of illegal workers, and rising real estate prices. In response, we suggest that the Philippine government repeal its existing law establishing PAGCOR as the primarily regulator, tax collector, and watchdog of online gambling firms. A new law should be created, definitively placing PAGCOR's regulatory power in the hands of other, competing, Philippine agencies. Apart from suggesting policy responses to specific loopholes in laws and regulations, this article also recommends that the Philippines create an exclusive agency that deals with all Chinese FDI into the country, following the examples laid out by the United States and the European Union. This report also examined Chinese investments in electricity grids, including the corrosive effects of some sectors and suggested policy responses.

Impact of money flowing (in secret) through these governance gaps:

- Government is denied revenue
- Public faith in public institutions can be harmed
- Informality and secrecy —> human rights, other concerns (laborers)

It should be made clear that the author does not oppose Chinese FDI. Indeed, Chinese FDI in other parts of the Philippine economy has generated employment, grown revenue, and spurred a multiplier effect that strengthens the Philippine economy overall. Chinese FDI in the manufacturing sector, which could generate jobs for thousands of Filipinos, can help expand the Philippine economy and prevent xenophobic sentiments against Beijing. The Chinese government can consider the issues in the report, as their activities – no matter how well intentioned – can and will be problematic so long as these corrosive effects continue. Currently, very few Filipinos trust that China has good intentions for the Philippines. More productive and sincere engagements can prevent further deterioration of China's reputation as an economic partner.

References

ABS-CBN (2016). “Pagcor shuts door on PhilWeb license renewal.” August 16.

Asia Gaming Brief (2019). “PAGCOR denies licensing China-facing operators.” March 14.

Ayre, C. (2019). “Cambodia busting truly unlucky online gambling operations.” January 31.

Bloomberg (2018). Chinese Money Triggers a Dizzying Rally in Manila Property. Bloomberg News. Url: https://www.bloomberg.com/news/articles/2018-05-03/in-china-s-newgambling-hot-spot-property-prices-are-on-a-tear

Bentulan, Roland (2018). “In lieu of all taxes may no longer be available.” PhilStar Global, August 15.

Bondoc, J. (2018). “Visayas, Mindanao grids to be linked.” PhilStar, May 16.

BusinessWorld. (2019). “Senator calls for investigation into POGO workers’ registration, tax payments.” March 24.

BusinessWorld. (2017). “NGCP sends technical staff to China for training program.” November 7.

Cabalsi, B. (2016). “Gaming Industry wins tax bets.” PWC, October 13.

Camba, A. A. (2015). From colonialism to neoliberalism: Critical reflections on Philippine mining in the “long twentieth century”. The Extractive Industries and Society, 2(2), 287-301.

Camba, A. (2017a). Inter-state relations and state capacity: the rise and fall of Chinese foreign direct investment in the Philippines. Palgrave Communications, 3(1), 41.

Camba, A (2017b). “The Direction, Patterns, and Practices of Chinese Investments in Philippine Mining,” in J. Morris-Jung, editor, In China’s Backyard: Policies and Politics in China’s Resource Investments in Southeast Asia. Singapore: ISEAS-Yusof Institute.

Camba, Alvin. (2018a). ‘The Philippines’ Chinese investment boom: more politics than geopolitics,’ New Mandala. January 30. Url: https://www.newmandala.org/dutertephilippines-chinese-investment-boom-politics-geopolitics/

Camba, Alvin. (2018b). ‘The Winners and Losers in Duterte’s China Play.’ South China Morning Post, September 30. Url: https://www.scmp.com/weekasia/economics/article/2166070/winners-and-losers-dutertes-china-play

Camba, Alvin (2018c). “Why did the Philippines become the home for Chinese Offshore Gambling.” The Diplomat, November 19.

Camba, Alvin (2019). “Inside a Chinese gambling entity: What happens, who works, how?” Philippine Center for Investigative Journalism, May 9.

Camba, A. and Magat, J., (2019). How do Chinese Investors respond to Territorial Disputes? Evidence from the Philippines and Implications on Economic Strategy. *The Singapore Economic Review*. Forthcoming.

Central Bank of the Philippines (2018). “Direct Investments, Monthly.” Url: http://www.bsp.gov.ph/statistics/efs_ext2.asp

Chenyu, L. (2018). “Report: Chinese in Philippines Forced to Work in Gambling Dens.” August 15.

CNN Philippine Staff (2019). “BIR tracing Chinese nationals in online gaming operations.” February 19. Revenue Memorandum Circular (RMC) 78-2018.

Department of Interior and Local Government (2018). “Guidelines in Streamlining the processes for the issuance of building permits and certificates of occupancy.” Joint Memorandum Circular: 2018-01.

Department of Labor and Employment (2019). "AEP of Chinese Nationals." Bureau of Local Employment.

Gatdula, D. (2003). "GMA presses Transco privatization." PhilStar Global, August 15.

Galupo, Rey (2019). "Agreement vs illegal online gambling signed." Philippine Star, March 22.

Guinto, Joel (2016). "Duterte singles out Ongpin in anti-oligarchy pitch." August 3.

Ibarra, R. (2019). "Let's Talk Tax." BusinessWorld. September 18.

Leyco, C. (2019). "Foreign POGO workers are registered with BIR." March 21.

Lucas, Daxim (2019). "Gaming revenue up, PH jobs secure despite influx of Chinese online workers–Pagcor." Philippine Daily Inquirer, February 15.

Lucas, Daxim (2018a). "China's State Grid to provide solar power for Zambales." Philippine Daily Inquirer, November 29.

Lucas, Daxim (2018b). "Pagcor: Philweb allegation of regulatory bias absurd." Philippine Daily Inquirer, January 17.

Office Gazette. ND. "Presidential Decree No. 1869, s. 1983." July 11, 1983.

O de Vera. "BIR orders Pogo firms to pay P4.4B in Chinese workers' taxes." Philippine Daily Inquirer, May 24.

Padin, G. (2019). "Pagcor remits record P16.17 B dividends." Philippine Star, May 15.

Punzalan, J. (2017). "Bangladesh Bank heist: Aguirre is 'ninong' to Kim Wong, says Ang." ABS-CBN News, May 2.

PSA Consultancy (2018). "Philippines Kidnapping Overview 2018 PSA Philippines Consultancy." Client Confidential Report.

Ranada, P. (2018). "Duterte says he tapped Atong Ang to help PCSO." Rappler, January 24.

Ramirez, J. (2019). "Offshore gaming operators have to register first before starting business – BIR." Manila Bulletin, February 18.

Reyes, PM (2018). "Taxation of offshore gaming and its implications." Business Mirror, September 14.

Roberts, J. (2015). "Philippines expels Chinese power grid technicians." WSWS, March 15.

Tabeta, S. (2017). "China power giant gobbling up foreign players." January 25.

Venzon, C. (2018). "Chinese appetite for Manila condos grows with warmer ties, weaker peso." Nikkei Asian Review, March 29.

Venzon, C. (2016). "Philippines invites foreign gamblers, cracks whip on locals." Nikkei Asian Review, September 14.

Watts, J. (2019). "Virtual Casinos Deliver a Tricky Jackpot to the Philippines." Wall Street Journal, March 19.

Xu, Y. C. (2017). *Sinews of power: The politics of the state grid corporation of China*. Oxford University Press.

Author Interviews

Interview with a Hong Kong businessman, Kuala Lumpur, November 17, 2018.

Interview with the Philippine DOJ Official, money laundering specialists, Metro Manila, November 8, 2018.

Interview with a Hong Kong businessman, Kuala Lumpur, November 17, 2018.

CONCLUSION

Investments from China into Southeast Asia have contributed to economic growth and the development of the private sector in the host countries. For example, in Malaysia the solar panel and glass industries have seen leaps in growth due to Chinese investments. Yet there are also cases in Southeast Asia in which the local private sector received marginal benefit from Chinese investments. For instance, in Cambodia, the report showed that Chinese firms have little interaction with local firms and do not contribute much to the capacity and skill development of the local workforce. As a result, the spillover effect of Chinese investments on local SMEs has been limited.

Local firms in host countries seek to benefit more from investments from China. Several authors pointed out that small businesses are concerned about being unfairly outcompeted by Chinese firms, which are supported by state-led industrial policies and cheap credit from the state.

Foreign direct investments from China sometimes goes into high risk and lightly regulated industries, such as mining, online gambling, and payday lending. In the cases of the Philippines and Indonesia, the authors documented that these investments bypass, ignore, or undermine regulations in the host countries. Problems include importing illegal workers, evading taxes, and exploring military networks which are deeply vested in the economy. Southeast Asia's young democracies have suffered from weak rule of law and lax enforcement. Chinese

investments at times exploit and exacerbate these governance gaps.

Chinese-funded megaprojects raise more concerns than traditional FDI due to a lack of transparency and the opacity of the deal-making processes. The deals are made among the ruling elites of China and the host countries without proper scrutiny or oversight. It is widely recognized that the influx of Chinese capital and contractors help to alleviate the massive infrastructure gap in the region. To better utilize these capital inflows, the governments in Southeast Asia need to strengthen their capacity to mitigate the risks identified in this report, such as weak public procurement regulatory regimes, a lack of information on and robust oversight of BRI projects, weak governance of SOEs, and corruption.

Table 1 (PG. 198-199) lists recommendations to help mitigate risks stemming from large Chinese investment inflows:

TABLE 1: Recommendations to Help Mitigate Risk Stemming from Large Chinese Investment Inflows

PROBLEMS	SOLUTIONS
Lack of transparency in public procurement	• Increase transparency of the public sector and public procurement process • Have clear legal regulations on public procurement • Follow public procurement international best practices, such as competitive and public bidding • Replace low-bid procurement practices with Life-Cycle Cost Analysis (LCCA) to promote quality infrastructure project • Empower civil society and interested stakeholders to advocate for greater transparency on public procurement process
Corruption	• Strengthen anti-corruption work through institutional changes • Lawmakers should exercise oversight of loans that the government undertakes • Implement Freedom of Information act • Publicize government loan terms • Disclose ownership of companies which participate in mega infrastructure projects (especially if these companies are owned by government officials, their families, or close associates). • Provide for third party quality control/independent audit mechanism of the mega infrastructure projects • Implement PPP laws to facilitate investments and monitor PPP projects in hopes to increase transparency and accountability

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PROBLEMS	SOLUTIONS
Weak governance of state-owned enterprises	• Demand greater scrutiny of SOEs by lawmakers • Require disclosure of SOEs' annual reports and detailed financial statements as well as disclosure of remuneration of company directors, any financial liabilities potentially borne by the taxpayer and justification of the entities' activities against public policy objectives • Implement mechanisms for SOEs to reduce conflicts of interest among directors
Illegal worker/ migration	• Implement better management systems for foreign workers • Improve the system of working permits and business licenses for foreign investors
Social tension, environmental degradation, land grabbing and force eviction	• Apply multilateral development bank (MDB) standards (such as financial feasibility, environment assessment, social and governance impact analysis) for Belt and Road Initiative loan projects • Promote Corporate Social Responsibility and corporate governance among Chinese firms
Little contribution to local private sector	• Provide a level playing field for local and foreign contractors by requiring foreign firms to abide by the OECD guidelines on export credit assistance • Ensure any local content requirements focusing on promoting technology and knowledge transfer between foreign and local firms

The countries of Southeast Asia should strengthen their regulatory environment to reduce the likelihood of corruption, increase transparency, enhance oversight mechanisms, and improve their public procurement framework. In addition, civil society organizations can play a more significant role as a bridge between foreign investors and local communities to spearhead inclusive dialogue among governments, local civil society, and foreign investors before megaprojects begin so as to ensure that local voices are heard. Civil society and a free press can also help monitor foreign business behavior and promote OECD guidelines for multinational enterprises in agriculture supply chains, the extractive sector, mineral supply chains, and textile and garment supply chains to advocate for more responsible business practices.

Governments can also use regional platforms such as ASEAN to gain stronger negotiation power when advocating for more responsible investments from China.

For China

Chinese civil society is eager to work with foreign counterparts to encourage Chinese firms to engage in more corporate social responsibility and be more responsive to local communities' concerns. Chinese companies could seek Chinese civil society's assistance to try to act more responsibly and inclusively.

The Chinese government could work with Chinese companies abroad to ensure that they are abiding by guidelines released by Chinese business associations. The mining and construction industry associations from China have published guidelines that are on par with international standards. More broadly promoting and sharing these guidelines would help improve business behavior overseas.

Regarding investments with an international development purpose, China should try to employ the standards of AIIB in all its BRI projects to ensure that this new global power is also advancing development goals by acting more responsibly. Greater transparency in business engagements and MOUs between governments would help improve China's image in the region and counter a reputation of colluding with ruling elites.

Lastly, the report highlights research questions requiring further scholarly attention, including:

- Whether Chinese private firms are driven purely by the profit motive or instead act based on the policy guidelines from the state
- Whether SOEs and private firms from China respond differently to local pressure and incentives
- The extent to which China uses its economic leverage to influence host countries' domestic politics or foreign policy

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