

SITUATING THE BELT AND ROAD INITIATIVE WITHIN THE PHILIPPINE RENEWABLE ENERGY TRAJECTORY

This paper scopes Belt and Road Initiative (BRI) projects in renewable energy in the Philippines within the context of China's interest in Asia's rapidly growing market for clean energy. It takes a closer look at the 300 megawatt South Pulangi 5 Hydropower Plant in the Philippines — one of the many deals signed between the Philippines and China in 2019 — to understand its economic, environmental and social sustainability impacts. It also offers a glimpse of how BRI investments in renewable energy are processed and implemented in the Philippines. The study likewise provides an overview of the overall policy environment that regulates foreign investments in the Philippines, particularly BRI financing in the power sector. Finally, the paper recommends policies that can help promote responsible and sustainable investments in the country.

Situating the Belt and Road Initiative within the Philippine Renewable Energy Trajectory

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INTRODUCTION

During the Belt and Road Initiative (BRI) Forum on International Cooperation in April 2019, UN Secretary Antonio Guterres hailed China's investments in renewable energy as an example of the country's leadership in global climate action.¹ Armed with a massive financial war chest, China is positioning itself as a key player in the global energy market, especially in the rapidly growing clean energy sector. In 2017, it invested USD 125 billion in clean energy, 25% more than in 2016.² Domestically, the country is generating more new jobs in renewable energy compared to the oil and gas industries.³

China's promise of investments in energy, including in the renewable sector, is welcome news to the Philippine government. For the last few decades, the Philippines has been playing catch-up in its bid to attain energy security. In 2016, the Philippines' energy self-sufficiency was pegged at 55.3%, with the balance of energy requirements being met by net imported oil (33.5%), net imported coal (10.8%) and net imported biofuels (0.3%).⁴ The fact that a little less than half of the country's energy comes from imported sources makes the country especially vulnerable to the vagaries of the global energy market. This vulnerability comes at a time when the government is under heavy pressure to meet the growing demand for electricity and power, as energy consumption in the transport, residential, commercial and industrial sector continues to increase every year.

The Philippine government particularly needs to increase efforts toward clean energy transition, in light of its policy and commitment to increase power generated from renewable sources. Under the Department of Energy's Renewable Energy Roadmap for 2017 to 2040, the government aims to increase the country's installed capacity for clean energy to at least 20,000 megawatts by the year 2040. Additionally, as part of its contribution to global efforts to address climate change, the Philippine government committed to reduce greenhouse gas emissions and avoidance by 75% of the business-as-usual (BAU) scenario of 2020-2030. Its Nationally Determined Contribution (NDC) pegs unconditional reduction at 2.71% and 72.29% as conditional or requiring the support of implementation under the Paris agreement. It goes on to reiterate market support for "foreign direct green investments."⁵ BRI funding for renewable energy is considered by the government to offer opportunities to meet these targets.

However, various concerns have been observed and raised in relation to several BRI projects. These include poor quality of infrastructure; lack of transparency and accountability in project contracts; the penchant for using Chinese companies which in many cases bring in Chinese nationals and use materials imported from China to

implement the project; and, high interest rates and project costs, creating debt traps for borrowing countries. Equally important, there are serious issues regarding the actual and potential impacts of BRI projects on the environment and on affected communities in host countries.

There has also been much discussion on the veracity of the “renewable energy pivot,” whether or not the policies or “road maps” charted by government actually secure energy needs while ensuring sustainability and protecting ecological balance. Or if these are just greenwashing.

This paper scopes BRI initiatives in renewable energy in the Philippines within the context of China’s interest in Asia’s rapidly growing market for clean energy. It takes a closer look at the 300 megawatt South Pulangi 5 Hydropower Plant in the Philippines — one of the many deals signed between the Philippines and China in 2019 — to understand its economic, environmental and social sustainability and impacts, as well as to get a glimpse of how BRI investments in renewable energy are processed and implemented in the Philippines. The study likewise provides an overview of the overall policy environment that regulates foreign investments in the Philippines, particularly BRI financing in the power sector. Finally, the paper recommends policies that can help promote responsible and sustainable investments in the country.

The Belt and Road Initiative

Launched by China’s President Xi Jinping in 2013, the Belt and Road Initiative is a massive infrastructure investment program that aims to connect Asia with Europe and Africa. It is a merger of two previous initiatives — the New Silk Road and the 21st Century Maritime Silk Road — both created to transport networks such as roads, rails, ports, and other infrastructure projects aimed at facilitating and strengthening China’s economic ties with the rest of the world.

Packaged as a platform for international cooperation, BRI now has 138 countries — accounting for 2/3 of the world’s population — as members⁶. Its priority regions are Asia, Europe and Africa though it has expressed openness to work with all interested countries. BRI’s influence lies in its massive investment facility. Estimates of total BRI investments range from USD 460 billion to USD 2 trillion,⁷ and from USD 1.2 trillion to USD 8.5 trillion.⁸ BRI has various funding vehicles, foremost of which are the Chinese Development Bank and Export and Import Bank of China. Other funding channels are the Silk Road Fund, which in 2014 had USD 40 billion⁹, and the Asian Infrastructure Investment Bank, to which China contributed USD 50 billion, or half of the bank’s initial capital of USD 100 billion.¹⁰

There are two narratives to explain the rationale behind China’s massive investment drive through the BRI. The first is the China narrative, which draws attention to the economic superpower’s desire to promote connectivity in infrastructure, financing, trade and people-to-people engagements. This was clearly articulated by China’s President Xi Jinping during the BRI Forum in 2017.¹¹ This entails, among other things, playing

an active role in helping fill in today's existing infrastructure gap that is estimated to be at USD 26 trillion in Asia alone.¹² Transport and logistics sector have the highest concentration of BRI investments at approximately US\$330bn while the energy and utilities sector tallies the second most investment at US\$266bn.¹³

The second narrative sees BRI as a vehicle for China to position itself as a global superpower, as well as a reaction to the US government's pivot to Asia strategy. Indeed, Asia is clearly a special location for BRI investment, as 7 countries — Pakistan, Indonesia, Bangladesh, India, Malaysia, Thailand and Vietnam — out of the top 10 BRI investment destinations are in the region.

BRI is also largely viewed as an economic platform through which China can export its industrial over capacity and environmental concerns, while opening up new markets for Chinese products, services and investments.¹⁴

With its breadth and reach, the BRI stands to impact and challenge existing international legal frameworks, both in terms of commercial and political disputes, and foreign policy.

BRI in Energy

China's geopolitical objective is closely intertwined with its desire to continue playing a pivotal role in global supply chains, especially in energy, which is a vital resource for development for all countries. China's overseas direct investments in energy has been on the rise over the last few decades, making the country a highly significant player in the global energy market. In 2013, China accounted for about forty percent (40%) of global public funding for coal-fired power plants.¹⁵ Coal production occupies a significant space in China's energy portfolio, accounting for 60% of the country's energy mix.¹⁶ The country also has interest in oil and gas, including liquefied natural gas (LNG).

In recent years, China has exhibited a growing interest in the renewable energy market, for many reasons. The first is the need to respond to growing domestic concern about deteriorating air quality in many Chinese cities — an adverse byproduct of its industries' heavy reliance on fossil fuels. There is mounting pressure on the government to use clean power to ensure that economic growth is achieved in ways that do not result in intense air pollution or pose health hazards to its population.

The second relates to China's commitment to reduce greenhouse gas emissions and help address climate change. China is the world's biggest carbon emitter since 2004 and was responsible for 28.5 percent of global carbon emissions in 2018 (see Figure 1).¹⁷ As part of its commitment to the Paris agreement, China promised to reduce carbon intensity by 60% to 65% of 2005 levels by 2030.¹⁸ In order to help deliver on this pledge, China needs to undertake a massive shift from using coal towards tapping renewable energy sources to meet its development goals. President Xi Jinping pledged before the United Nations General Assembly in September 2020 that China would

reach peak carbon-dioxide emissions by 2030 and achieve carbon neutrality before 2060. This has been touted as China’s net zero promise.¹⁹ Its 14th Five Year Plan (FYP) released in 2021, which serves as the country’s economic and social policy blueprint, indicates the promotion of a “green” Belt and Road.²⁰

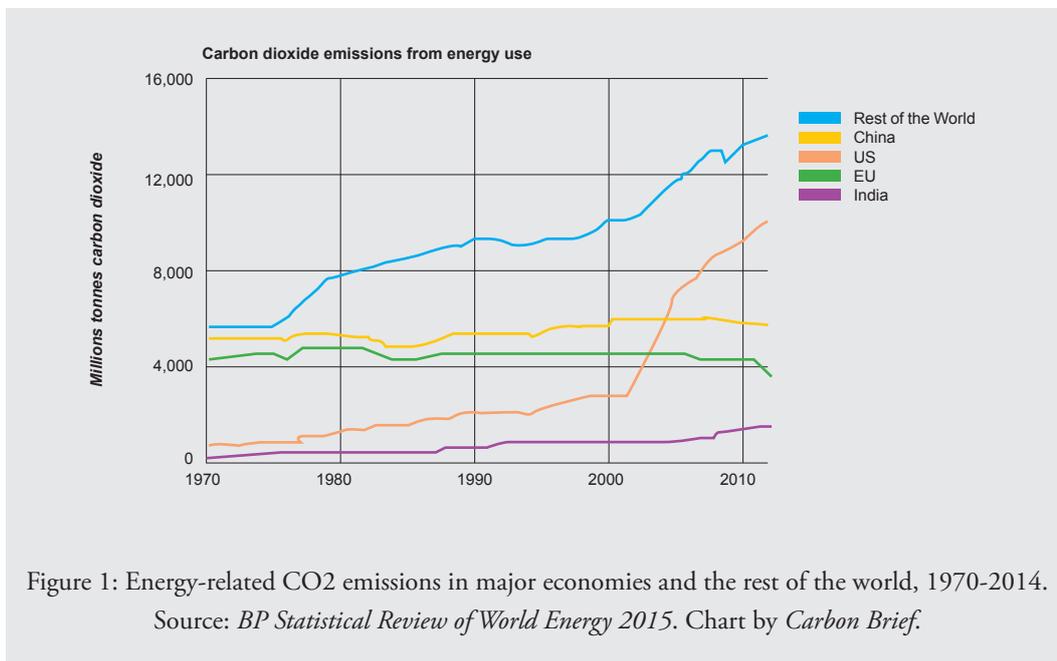


Figure 1: Energy-related CO2 emissions in major economies and the rest of the world, 1970-2014. Source: BP Statistical Review of World Energy 2015. Chart by Carbon Brief.

The third reason is mainly economic. There are massive investment opportunities in renewable energy in light of the global impetus to reduce greenhouse gas emissions. The International Renewable Energy Agency estimates that the investment required to achieve the 2 degree Paris agreement goal is USD 110 trillion, of which 24% or USD 27 trillion is for renewable energy (see Figure 2).²¹ In Southeast Asia, investment opportunities for renewable energy are estimated to be at USD 400 billion from 2016 to 2030.²² Capturing a substantial portion of this market offers huge economic benefits for China.

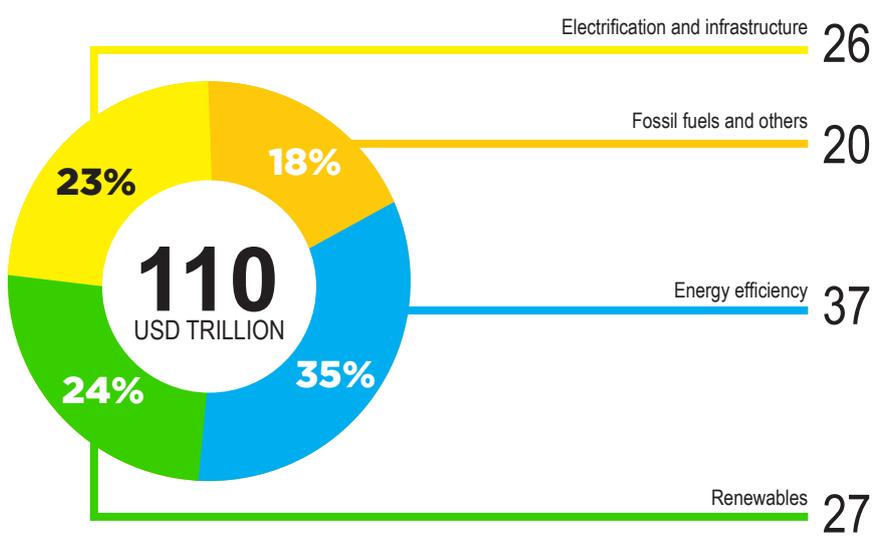


Figure 2: Remap Case cumulative investments, 2016-2050 (USD trillion), IRENA.

Additionally, China is positioning itself to be the “clean energy superpower” and has already made significant headway towards this end. It is now the biggest solar panel manufacturer, controlling more than 70% of global market;²³ it holds the biggest cumulative share of renewable energy patents (29%) by end of 2016 (see Figure 3);²⁴ It is investing heavily in building hydropower plants along Southeast Asia’s Mekong river.²⁵ The Belt and Road Initiative provides China with a formal platform to take advantage of these investment opportunities by offering financing for renewable energy projects.

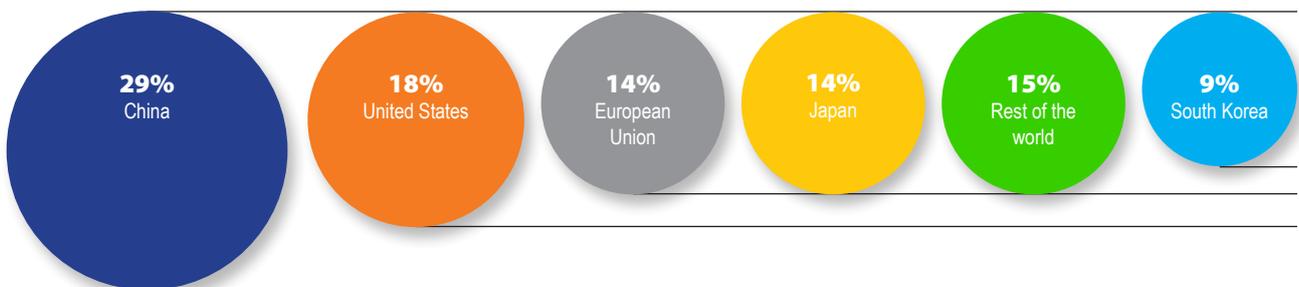


Figure 3: Cumulative share of renewable energy patents end 2016, *World Economic Forum*.

China’s plan is to finance and build power plants in multiple nodes across the globe and then develop a network of grids and supply chains that will link these points, thereby firmly cementing its position as a global energy super power. During the United Nations Sustainable Development Forum in September 2015, President Xi Jinping introduced his vision of building a mega transnational grid that would connect, transmit and distribute clean energy from major power sources, which China would also build across the world.²⁶

The State Grid Corporation of China established the Global Energy Interconnection Development and Cooperation Organization (GEIDCO) to implement this goal.²⁷ GEIDCO’s network spans five continents, with more than 300 members — from the private sector, NGOs, and UN agencies — in more than 80 countries, with investments valued at USD 120 billion from 2013-2018.²⁸ China’s influence in the global clean energy market is evident when the UN publicly declared GEIDCO as an important partner in the realization of Sustainable Development Goal 7, on the promotion of affordable and clean energy.²⁹

Recently, China’s net zero goal has captured the global imagination for its implications on its energy blueprint and how it might come to characterize the BRI. It must, however, be appreciated with cautious optimism and concern. To realize its promise China would need to radically reduce its coal consumption by 96%, natural gas by 75%, and oil by 65% while at the same time increasing its wind use by 346% and solar by 587%.³⁰ A mammoth task, but not impossible. Certainly more than goodwill, China stands to profit from a growing renewable energy market. Currently, it leads in the manufacturing and investment in renewable energy technologies.³¹ It is at a scale, however, that presents the issue of how it is driving the mining industry to cause further adverse impacts on biodiversity.³²

Concern lies with whether China's move is largely determined by geopolitical motivations—it's reputation is marred by recent events such as mounting human rights abuses in Hong Kong and not the least by its role in the covid19 pandemic. Another is whether this plays into China's trade tactics, a negotiation counter to the European Union's carbon border adjustment mechanism, which intends to curtail cheaper imports of carbon-intensive goods from coming into Europe.³³ More so, it is China's current plans and undertakings that invite skepticism: China is reported to have 250 GW of coal-fired power being developed within its borders³⁴ and maintains massive overseas investments in coal and other dirty industries. While its 14th FYP reserved a section to the establishment of a modern technology system for its energy transition with corresponding domestic indicators,³⁵ unless China undertakes divestment from projects that continue to negatively impact the climate, whether in dirty energy or renewables but are of such scale that devastate landscapes, its net zero promise is reduced to a ploy to transfer the burden of climate targets to other countries.

BRI in the Philippines

The Philippines' participation in the BRI is a critical milestone in the Philippines' pivot to China, and is reflective of the growing importance that the Duterte administration places on economic cooperation with the Asian superpower. This pivot to China was carefully nurtured through a series of state visits and carefully planned engagement between the two countries.

In October 2016, Chinese President Xi Jinping invited Philippine President Rodrigo Duterte to China, just a few months after the latter was elected into office. President Duterte's team heralded the trip as a huge success - the Philippine delegation was able to secure a pledge of USD 24 billion investments and credit line from China. Of the USD 24 billion pledged, USD 15 billion were earmarked for 26 projects, which were signed by representatives from both parties during the same visit.³⁶ These investment agreements were expected to create 2 million jobs over a period of five years.³⁷

Two years later, President Rodrigo Duterte and President Xi Jinping signed the Memorandum of Agreement on the Belt and Road Initiative on November 20, 2018, during the Chinese leader's state visit to the Philippines.³⁸

The Duterte administration made no secret of the fact that it views China and the BRI as means to raise much needed financing for his administration's ambitious Build, Build, Build program (BBB), which aims to fill in the country's infrastructure gap, valued at USD 160 to 180 billion in the medium term.³⁹ Through the BBB, the new administration promised to bring about, in the words of Philippine Trade and Industry Secretary Ramon Lopez, the "golden age of infrastructure" in the Philippines.⁴⁰ This entails increasing spending on infrastructure from 5.7% of the country's GDP in 2017 to 7.3% of GDP in 2022.⁴¹ Chinese funding is touted by the Administration to enable it to deliver on this promise.⁴²

The Philippine government views its participation in BRI as one that is economically beneficial to the country. Philippine Trade and Industry Secretary Ramon Lopez

pointed to the substantial increase in Chinese investments in the Philippines as an indicator of the country's gainful engagement with the Belt and Road Initiative.⁴³ In 2018, Secretary Lopez noted that Chinese investments "which used to be very miniscule at about USD 40 to 50 million two to three years ago (was) now close to about a billion US dollars."⁴⁴ In 2019, Chinese investments accounted for 22.75% of total foreign direct investments in the Philippines, outpacing all other traditional country investors, except Singapore.⁴⁵

To further cement this investment-trade relations, the Philippines signed on with the Chinese-led Regional Comprehensive Economic Partnership (RCEP) in November 2020. The trade agreement was signed by ten members of the Association of Southeast Asian Nations (ASEAN) and other key trading nations. The RCEP focuses on, among other things, investment liberalisation.⁴⁶ Under the RCEP, renewable energy trade is presented as a policy solution to the global climate challenge. Under its framework, proposals to increase trade in renewable energy technologies are intended for industries to expand production capacity and to encourage policymakers to further open up renewable energy markets to competition.⁴⁷

This bid to further open the Philippines energy sector to Chinese investments is not without issues. Among others, but particular to energy security, in 2008, the State Grid of China Corp. (SGCC) acquired a 25-year concession for a 40% stake in the National Grid Corp of the Philippines (NGCP) for US\$3.95bn in what is largely regarded as an effective privatization of the NGCP.⁴⁸

SGCC has since had significant role in the operation and maintenance (O&M), planning and engineering (P&E), and system operations (SO) strategies of the NGCP.⁴⁹ By 2020, the contentious issue of determining whether the Philippines has genuine control over its power grids gave rise to a Senate Hearing under its Committee on Energy.^{50,51}

Transparency has also been an issue. As an example, it took the pressure from various groups invoking Freedom of Information (FOI or Executive Order No. 2 series 2016)⁵² before the Kaliwa Dam or the New Centennial Water Source credit loan agreement between the Philippine Government represented by the Metropolitan Waterworks and Sewerage System (MWSS) and the Export-Import Bank of China was made public by the Department of Finance.⁵³ The contract is revealed to contain provisions that could potentially put the Philippines at a disadvantage, among them a clause on the waiver of immunity and that the agreement be governed by the laws of China.⁵⁴ Government instrumentalities often possess dual roles of commercial-development actor and regulator. BRI's large infrastructure projects often challenge the government's primary task of protecting the environment and rights of its citizens, engendering an environment rife for conflict of interest.

The Philippines continues to actively seek out Chinese investments in the energy sector in line with its bid to increase energy supply and meet the country's rising demand for power. The 26 agreements signed during President Duterte's visit to China in October 2016 include several renewable energy projects, one of which is the South Pulangi Hydroelectric Power Plant in Mindanao.⁵⁵

The South Pulangi Project

The South Pulangi Hydroelectric Power Plant is an example of a BRI project in renewable energy in the Philippines. The MOU for the power plant, valued at USD 800 million was signed by Pulangi Hydro Power Corporation and the China Engineering Company Limited during President Duterte's state visit to China in 2016. Since then, it has been considered as part of the roster of BRI projects in the Philippines. The proposed plant has a rated capacity of 250 megawatts, and is flaunted to contribute to the growing demand for electricity in Mindanao.⁵⁶

There are many issues leveled against the project. The first focuses on its impact on the people occupying the proposed project site. In order to build the power plant, the proponents of the project need to create a 143-meter dam and reservoir in the municipalities of Dangcagan, Damulog, Kibawe and Kitaotao in the province of Bukidnon.⁵⁷ The proposed site for the dam and reservoir cover 7,000 hectares of indigenous land presently occupied by the Manobo people, and is home to 30,000 people, according to a 2015 census.⁵⁸ Creating the dam means submerging these areas into water, thereby displacing the 20 indigenous communities that live there, including the Manobos who consider the lands as part of their ancestral domain.⁵⁹ It also means depriving the people of their main source of food and livelihoods, as the communities in the area depend on their ancestral lands for growing food and medicinal herbs.

The second issue relates to the process of getting consent from the people who will be affected by the project. The local communities assert that the project proponents did not consult them regarding the power plant, as required by law. Worse, community members who raised their voices against the building of the power plant experienced harassment and were under pressure to keep silent by rising militarization in Mindanao.⁶⁰ Support groups such the Kalikasan People's Network for the Environment and other local environmental organizations, which are looking into the potential impact of the dam on local ecology, were also threatened by the strong military presence in the area.⁶¹ The fact that Mindanao was placed under martial law for 31 months further exacerbated the communities' concerns about the military's expanded power and ability to subvert people who oppose the project.

The third concern stems from results of the environmental impact assessment conducted for the project. According to the assessment report, despite mitigation measures, the project still poses residual risks to the environment such as: damages related to the destruction and disruption of aquatic life and the degradation of aquatic habitats and decline in species; possible minimal soil erosion despite soil erosion controls; possible minimal oil spill and leakages despite appropriate storage and management; possibility of landslide on account of the project site being in area that has a high landslide susceptibility.⁶²

The fourth concern is related to the lack of transparency and accountability regarding the project contract. Like many of the projects under BRI are negotiated bilaterally, or government to government (G to G). However, the terms and details of the contracts are not made available to the public, making it difficult to monitor the project and check

for accountability, progress and impact. Under normal procurement protocols, the Philippine government must go through a bidding process to choose the party that will be awarded contracts and projects. This is to ensure that the process does not unfairly favor selected contractors, and that the government gets the best and most cost-effective deal from companies who will implement the project. However, in the case of South Pulangi Hydroelectric Power Plant, as with the other projects covered by the MOUs signed during President Duterte's visit to China in October 2016, there is no clarity on the process of how the companies that joined the state visit and signed the MOUs were chosen. There is also little publicly available information on project feasibility, costs and timelines among other parameters. The lack of transparency regarding the terms of projects under the BRI makes the country particularly vulnerable to a host of accountability issues and hazards, for instance the possibility of over-pricing of project costs; choosing less qualified companies; inequitable sharing of project risks, inferior or lack of standards for assessing project output and delivery, among others.

The fifth issue is closely related to the fourth — the danger of being caught in a debt trap. The lack of information regarding the project financing details raises concerns regarding the stakes involved in entering into a loan agreement with China, especially for projects related to basic utilities such as energy. Simply put, there is fear that China will take over the facilities that they financed if borrowing countries are not able to pay their loan. This fear is based on the experiences of several countries such as Sri Lanka, where the government was forced to turn over the control of its port and the 15,000 acres of land around it to China for a period of 99 years, after it failed to meet its debt obligations.⁶³ One report argues that the port is merely leased out to China by Sri Lanka, and that the latter is still paying off its loans to China.⁶⁴ Nevertheless, the fact remains that the control of the port has now passed from the Sri Lankan government to the Asian super power. Another case is that of Ecuador, which had to mortgage 90% of its future production of crude oil up to 2024 to China, as it tries to meet obligations for its USD 6.5 billion debt.⁶⁵ Ecuador's financial difficulties can be traced in part to the declining prices in crude oil as well as the failure of its development projects, such as the hydroelectric power plants to meet its income targets.⁶⁶

However, Philippine officials sought to allay the fears of a debt trap by pointing out that the loans China extends to the Philippines are not collateralized.⁶⁷ Philippine Finance Secretary Carlos Dominguez explained that the Philippines is borrowing very prudently, and has offered no collateral for the loans from China.⁶⁸ Still, this does not preclude the possibility of China exerting pressure and gaining undue influence over other aspects of its relationship with the Philippines, such as its claim and interest in the West Philippine sea, or other economic interests, such as the easing up of travel restrictions for Chinese nationals to the Philippines. In September 2020 in light of the tight travel restrictions imposed due to the COVID-19 pandemic, the Philippines created a fast lane for Chinese nationals who will be entering the Philippines for Chinese funded Build Build Build projects.⁶⁹

Underlying all these is the fundamental question of whether or not there is a need to generate more energy, for what and for whom. According to its recent data, the average gross reserve or excess in the Mindanao grid is around 1,100 MW to 1,200 MW. In 2020, it had 4,530 MW total rated capacity with its dependable capacity

running between 2,800 MW to 3,000 MW, in other words, above the demand.^{70,71} Moreover, often those who are closest to the dam stand to be conversely affected by its touted benefits, “communities living in close proximity to large dams often do not benefit from water transfer and electricity generation revenues.”⁷² The resistance of the indigenous communities who stand to be affected by the Pulangi project is not unique; it is the same with other communities that struggled against similar projects, most of whom already suffered loss.^{73,74}

Policy Scoping

Chinese-backed loans do not come with safeguards and policy conditions, making these lending facilities even more attractive to many governments. China justifies this position on the grounds that it respects the sovereignty of borrowing nations and that it adheres to a principle of non-interference. For China, the policies of borrowing governments serve as the main safeguards and standards for any project.

In this context, it is important to scope the Philippine policies that are relevant to the South Pulangi project in order to see if these can indeed substitute as safeguards, and whether or not they provide recourse for the issues raised earlier regarding the project.

There are four policy areas relevant to the project, below:

Rights of Indigenous Communities

Philippine Republic Act 8371 or the Indigenous Peoples’ Rights Act (IPRA) provides the general policy framework protecting the rights indigenous communities. It defines the concept of ancestral domains, including ancestral lands. It mandates that free, prior and informed consent (FPIC) of indigenous communities should be secured for any plans or projects that will affect them.

FPIC is an important principle, as well as a practical tool with which indigenous communities can exercise their power to decide on projects that will affect them and encroach on their ancestral domain. The guidelines for FPIC processes are defined in further detail in Administrative Order 3 Series of 2012 of the National Indigenous Commission of the Philippines. The said administrative order provides for the process of seeking FPIC, including the sharing of information about the project, the creation of the FPIC team and the procedures for the conduct of consultations with communities, among others. It also discusses the steps to be followed after the communities decide on the project.

In the case of the South Pulangi power plant, communities are invoking the need for FPIC as mandated by law in challenging the project. The communities point out that their concerns and opposition to the project — rooted to the fact that it will lead to their displacement, and the flooding of their homes and lands from which they source their food and means of livelihoods — are not duly noted and considered.

From a legal perspective, RA 8173 provides communities with a legal recourse. However, the reality is that the militarization in Mindanao and the harassment experienced by community leaders as well as support groups open the possibility of a manufactured consent as communities are pressured into silence and acceptance of the project. In this light, a mechanism that requires or allows for a third-party validation of the FPIC process in BRI projects may be essential to ensuring that the rights of indigenous people and affected communities are always protected.

Protection of the Environment

One of the most basic and earliest policies intended to protect the environment from the potential and actual negative impacts of plans and projects is Presidential Decree 1586. This policy provides for the conduct of an environmental impact assessment for projects that pose potential significant impact to the environment. The implementing rules and regulations for PD 1586 are embodied in Department of Environment and Natural Resources Administrative Order No. 2003-30. The said administrative order prescribes the type of information that must be generated by the assessment as well as the process of undertaking the assessment. It also mandates public hearings and consultations regarding the project.

The environmental impact assessment for the South Pulangi power plant was conducted from July to September 2018.⁷⁵ The assessment included various technical surveys, as well as a series of public presentations and a public scoping that were attended by municipal and barangay officials, and peoples' organizations, including tribal leaders and elders, women's groups, community heads, among others. However, as can be observed from the report, the process of engagement with the communities is not one of consultation but of presentation. Hence, the report does not reflect the position of the affected communities regarding the project, which defeats the very rationale for requiring public consultations and hearings in the EIA rules and regulations.

Additionally, the assessment report contained a matrix on the adverse impacts associated with the project. It acknowledges that some of these project impacts are expected to remain even if mitigation measures are undertaken. However, the report remains open-ended, and does not highlight these residual risks as critical concerns in the evaluation of the project.

Again, a third-party validation of the EIA, possibly as part of a process and in the context of applying environmental safeguards or standards, will help ensure that these concerns are addressed.

Transparency and accountability in BRI contracts

In 2016, the Philippine government passed Executive Order No. 2, which affirms people's right to information from public offices on all transactions imbued with public interest. However, the said executive order also provides for exemptions. The list of exempted information is contained in a Memorandum issued by the Executive Secretary to heads of government agencies on November 26, 2016.⁷⁶ It includes, among other things, privileged information relating to international relations, and information that

will undermine “the interests or position of investor states” in the context of investment agreements. These exemptions can be used to justify the non-disclosure of contract details in BRI projects. For instance, though the MOU for BRI and other investment agreements were made public, the terms of the contract for these projects and initiatives were not disclosed.

The need for transparency in projects backed by foreign loans is very important because these can have long term impacts on the country’s financial sustainability and stability. Opening the terms of the contract to public scrutiny puts pressure on governments and on the contracting parties to make sure that the contract terms are above board, rational and defensible. Without transparency and the possibility of public scrutiny, the incentives for financial prudence in securing loans for projects decreases. Leaders in government will be tempted to borrow for programs that may not be economically viable, especially since the responsibility of paying for loans will fall on the next administration. This temptation is particularly high in the Philippines, where the Constitution prohibits a sitting President for governing for more than one six-year term.

The bidding process for the procurement of goods and services is another means through which the government aims to promote transparency, accountability and good governance in selecting contractors, suppliers and partners for its projects and programs. Republic Act 9184 or the Government Procurement Reform Act is essentially designed to create a rules-based mechanism for making procurement decisions for government projects. The bidding process is intended to ensure that (i) the information regarding the project is made available to all interested parties, thereby giving government a broad selection of options of suppliers; (ii) the companies participating in the bidding are qualified and has the capability to deliver the output required by the project; (iii) government is able to obtain the best deal possible, which means securing the lowest price for the best quality, in the most timely manner, and finally, that (iv) there is a common understanding of deliverables between the contracting parties. However, as mentioned earlier, this bidding process was not followed in the case of the South Pulangi Hydroelectric Power Plant, and with other BRI projects. Most of the companies from both China and the Philippines seemed predetermined or pre-selected as these were the ones who were invited to join the meeting between China and the Philippines during state visits.

Energy

Republic Act 9153 or the Renewable Energy Act of 2008 laid down the general framework for increasing power generation from renewable energy sources in the Philippines. It identifies the RE sector as a priority investment sector, and as such provided a host of incentives to encourage the exploration, development, generation, distribution and consumption of clean energy from various sources such as solar, hydro, wind, biomass, geothermal and ocean energy sources, among others. It also provided for the creation of the Renewable Energy Market, and mandated the setting up of government bodies and structures that would lead in mainstreaming the use of renewable energy in the country. Drawing its mandate from the said law, the Philippine Department of Energy developed the Renewable Energy Roadmap for 2017-2040, which aims to increase the Philippines’ RE installed capacity to 20,000 megawatts.⁷⁷



While there is pressure to generate investments to meet the country's renewable energy targets, it must be emphasized that the law recognizes that this should not be at the expense of the environment nor of the rights of communities. RA 9153 explicitly requires RE projects to comply with existing environmental regulations and to secure an environmental compliance certificate. This provision is particularly important in the case of South Pulangi project, in light of some of the concerns related to the project's impact on the environment and rights of stakeholders, particularly of indigenous communities in the affected area.

Recommendations

Drawing from the scoping above, below are key policy recommendations to help address the issues raised with respect to the South Pulangi power plant and other BRI projects in renewable energy:

1. Development of BRI safeguards

As mentioned earlier, China looks at the national laws of borrowing countries as the basic standards and safeguards for projects. As such, it sees little need to set up its own safeguards policy. However, there are many instances where there are challenges in the implementation of existing laws, much less of ensuring human rights policies, such as the possibility of manufactured consent in FPIC processes as a result of harassment, or the downplaying of risks in environmental risks assessment (especially if the proponents of the projects are the ones paying for the review). All these tend to undermine the implementation of existing laws and dilute their intent. In this regard, it is important that there is a third-party process that will ensure that these concerns are addressed. The creation of a BRI safeguards policy, which should be implemented and monitored by an independent body, can help ensure that these third-party, independent valuations are conducted.

The safeguards policies can serve as useful starting points in the development of the same for BRI financing. Consultations with NGOs and other development organizations can help further develop and refine these policies so that BRI projects are evaluated from a holistic perspective, integrating social, environmental and fiscal considerations, to name a few.

2. Transparency and accountability in BRI contracts

It is essential that the Philippine government adopts policies aimed at ensuring that the terms of BRI contracts are made available to the public, and that the process of choosing the companies to implement the project undergoes a bidding or public vetting process. In particular, some of the information that needs to be made available to the public are: the criteria for choosing companies; project feasibility; terms of reference which should detail project deliverables and timelines; standards for project output and penalties for non-delivery, among

many others. Promoting transparency and accountability in BRI contracts can help ensure that the country is not borrowing more than what it needs, and that the loan it secured for the projects are used in the most prudent, efficient and effective way possible. This will help the Philippines avoid the possibility of debt traps experienced by other countries that borrowed from China.

3. Ensuring that renewable energy projects are sustainable

There is no denying that clean renewable energy projects are important in our bid to move away from fossil fuels and to produce power that does not contribute to climate change. However, there is a need to ensure that the very process of generating clean energy should in itself be clean, in the sense that it does not lead to displacement of communities especially indigenous people who depend on their ancestral lands for their livelihoods; it does not result to the destruction of the environment⁷⁸; and it does not contribute to fiscal imprudence and instability. This means that renewable energy projects, as all BRI projects, should be evaluated from a sustainability perspective. The creation of a sustainability evaluation tool, which can be part of the BRI safeguards policy is critical in ensuring that all BRI projects promote rather than undermine the Philippines and other BRI countries' meaningful development and ecological balance.

Moreover, a rethinking of large-scale energy generation as a model must be considered. Projects under BRI largely fall under this category. The business as usual prioritization of scale has to give way to the urgent and long-term considerations of sustainability. Sustainability must also be considered under equitable parameters. A meaningful pivot supporting and ensuring energy sovereignty is overdue. The framework of energy sovereignty encourages decentralized and community-based projects that help ensure the right of people to choose affordable, renewable and sustainable energy sources. It frames energy primarily as a right rather than a commodity.

4. Prioritization of environmentally-sound-climate-change-related technologies

Technological advances are integral to propel and support renewable energy transition. Investment/support models should pivot towards more environmentally-sound-climate-change-related technologies that have clean and safe systems. This must include technology transfer to enhance broader energy democratization. This means accessibility that goes beyond the simple purchase of or investment in (new) technologies, but incorporate research, development and skill-share to develop local capacities. Corollary, this must also be supported by a robust national policy that pursues the development of technologies that are more attuned to local needs and ecologies.



Conclusion

The South Pulangi Project presents us a preview of how the BRI and renewable energy can take shape at the community level. It maintains the characteristics of a traditional infrastructure project: mega in scale, centralized in operation, and employs traditional technology. Broadly, such energy projects invite scrutiny of foreign investments and their implications on national energy security, of whether or not the energy policy structure ensures safeguards, transparency and accountability, and of rights of communities and environmental issues. Particularly, it is an opportunity both for reflection and action on how the bid towards renewable energy transition can be implemented with community welfare in mind.

There is an urgent need to move away from dirty energy and the pivot towards renewable energy technologies is welcome. It must, however, be done in a just manner that takes cognizance of peoples' right to meaningful development and healthful ecology. The current renewable energy projects envisioned under the BRI, primarily large-scale with their accompanying risks both environmental and social, must be reconsidered. These large-scale energy infrastructures will leave significant and irreversible impacts on ecosystems and community lives. Transition to renewable energy must also be more than a change in technology. It must be taken as an opportunity to address failures and disparities in the prevailing energy system that have long been characterized by largely economic and commercial drivers.

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