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The Geopolitics of Foreign Land Acquisitions in the Philippines



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Abstract

The thesis examines how foreign acquisitions of land in the Philippines is made possible by Filipino policymakers' geopolitical reasoning based on the opportunities in the Philippines' geopolitical context, and the geopolitical representations that both legitimize their policies, and also affect their cognition. The thesis argues that duplications and contradictions in the Philippines' legal context, the normalization of extralegal practices in Philippine politics, as well as colonial mentality have together led to opportunities for foreign corporations to acquire land in the Philippines. The thesis argues for the inclusion of domestic geopolitical relationships to studies of Geopolitics, since, as the case of the Philippines demonstrates, not only global geopolitical relationships made foreign acquisitions of land in the Philippines possible, but also the domestic geopolitical relationships through the dominance of elite Filipino families in the Philippines. Although foreign land deals appear to potentially erode national sovereignty, land deals in the Philippines take place at a scale that policymakers' control, so land deals endanger the territorial control of rural communities living on lands targeted for land deals and not national sovereignty.

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CHAPTER 1

INTRODUCTION

1.1. Background

In recent years, the dramatic increase in foreign direct investments (FDI) in arable land has occurred parallel to an upsurge in foreign acquisitions of land in developing countries (Wolford et al., 2013; White et al., 2012; Cuffaro & Hallam, 2011). Through land deals that approve the lease or sale of agricultural land, foreign corporations, I argue, are granted usufructs by national governments, which mean that foreign corporations are allowed user rights on certain areas of agricultural land in the target countries of FDI. Land deals are taking place on a global scale including in Africa (Von-Braun & Meinzen-Dick, 2009; Hall, 2011; Cotula et al., 2009; Vermeulen & Cotula, 2010), Asia (Borras & Franco, 2010; Salerno, 2010), Latin America (Borras et al., 2012), and to a lesser extent, Eastern Europe (Visser & Spoor, 2011). The Land Matrix, an online database that collects information on the foreign land acquisition phenomenon has reported that it has information on a total of 3,764,369 hectares worth of concluded land deals all over the world at the time of writing (Land Matrix, 2014). Although estimate of the number of deals are always indefinite due to the problems associated with collecting data on land (Borras & Franco, 2010), initial evidence is pointing to a trend that is likely to continue given that the drivers of the phenomenon such as population growth and increasing demand for food are all continuously increasing (Cribb, 2010).

These developments are changing the political geography of power in sovereign countries to include new actors, namely, international business. There are various types of direct investors involved in the new foreign land acquisition phenomenon: (1) national governments seeking arable land for food production to supply the demand from their populations (Robertson & Pinstrup-Anderson, 2010), (2) private agribusinesses, who observe that agricultural land could be entrepreneurially profitable, and (3) investors from the financial sector, who have shifted from seeing investments as a risky enterprise towards seeing farmland as an attractive class of asset (Cotula, 2013; Robertson & Pinstrup-Anderson, 2010;). Although

national governments and private companies have sought business opportunities in foreign countries for centuries – hence, the recurring comparisons between the current foreign land acquisition phenomenon with colonial land grabbing – the particular restructuring of land rights that the phenomenon is taking place in is arguably unprecedented.

There is a gap in academic knowledge concerning the nexus between land deals as potential erosion of sovereignty over a piece of national territory. The main debates regarding the so-called foreign land acquisition literature has centred either on (1) whether the phenomenon of foreign land acquisition through FDI is a ‘development opportunity (World Bank, 2010)’ or is instead a ‘land grab,’ (GRAIN, 2008) or (2) how the phenomenon can be managed in order to provide more benefits to the rural poor through a ‘code of conduct (Cuffaro & Hallam, 2011; De Schutter, 2011),’ or more ‘food sovereignty (Rossett, 2011),’ however; my research sidesteps the whole discussion about what is motivating foreign land acquisitions and what ought to be done. Instead, the research seeks to bring insight into how policymakers are geopolitically reasoning to make foreign land acquisitions possible in their country despite the possible threat of these acquisitions to national sovereignty.

The contradiction between land deals and national sovereignty has yet to be fully explored and is instead often mentioned only in passing. Zoomers (2010), for instance, has coined the term, ‘foreignisation of land,’ although she does not describe how land is ‘foreignised’ exactly, but focuses instead on the international processes driving the phenomenon. In other academic works on the foreign land acquisition phenomenon, scholars have acknowledged the increasing trend of the sale or lease of user rights for ‘land to foreigners (Abbink, 2011),’ but a systematic exploration of how land is ‘foreignized’ within a specific social and legal context has yet to be attempted. Using a political ecology theoretical framework, Wolford et al. (2013)’s contribution has been to study the pivotal role of the state in facilitating land deals with foreign investors, and to be one of the first to suggest that extractive land deals may be fundamentally redefining the nature and meaning of sovereign power over national territory. Wolford et al., use a different methodology, however, in that with regards to the nexus between land deals and sovereignty specifically, they collected three case studies that described how land deals were unfolding in three particular countries, and from this collection of case studies, they derived the thesis that there is a ‘restructuring of governance’ underway and that sovereignty is currently being redefined. Wolford et al. (2013) observe that selling or leasing large-scale areas of land for timescales that span decades has significant meaning for state sovereignty because of the power that foreign corporations acquire through land deals. They argue that land deals are essentially also selling or leasing the power to influence law and policy by the foreign corporation’s assumption of power in a given context. Wolford et al. (2013)’s work is a useful starting point since their work exposes this contradiction.

There are also other scholars outside the fringes of the literature on the foreign land acquisition phenomenon that can provide insight into this research’s theme of increasing foreign land control in sovereign countries. Although he does not relate it to the foreign land acquisition phenomenon specifically, Peluso & Lund’s (2011) exploration of ‘new frontiers of land control’ comes close by exploring the subject of ‘territorialisation powers.’ According to Peluso & Lund (2011), ‘territorialisation powers’ is the ability to make a claim and acquire a bundle of rights including the ability to draw boundaries around the objects and people within those boundaries. This could be related to the discussion on foreign corporations’ acquisition of land in sovereign countries. Specifically, I am interested

in finding out who it becomes a possible and acceptable practice for such corporations to acquire territory in sovereign countries.

1.2 The Philippines

Several factors make the Philippines a remarkable country case study. On the one hand, you have what is allegedly one of the most willing governments to offer land for sale or rent to foreign investors (Ordinario, 2013), and on the other hand, the Philippines also supposedly has one of the most uniquely iron-clad constitutionality clauses disallowing foreign ownership of land¹. Despite the conflict between the sale of land control over sovereign land to foreigners through land deals and the constitutionality clause in the Philippine Constitution, somehow signing land deals are perceived by the policymakers that advocate them to be a legitimate and desirable action, yet little is understood about how this reasoning comes about. Moreover, Philippine politics is often uttered in the same breath as the word ‘corruption,’ which hints at the possibility of a more complex reasoning for policymakers’ decision to make foreign land acquisition in the Philippines possible, other than what is offered to the public about the purported benefits of foreign investments. Such ‘corrupt’ motivations and the secretive back-door politics is notoriously difficult to study, yet in order to understand how foreign land acquisition is made possible within the unique Philippine context, it seems imperative for the role of Philippine back-door politics to be understood. Both the legal and the socio-economic context of the Philippines have special characteristics that contribute to making foreign land acquisition in the Philippines possible, and my research will try to explore this legal and social context in more depth.

Like in other target countries in the global foreign land acquisition phenomenon, the Philippines’ agricultural sector has performed very poorly (Philippine Development Plan, 2011), and policymakers in the Philippines are actively pursuing more FDI in Philippine agriculture. Philippine agriculture was neglected by several governments, which led to a myriad of problems, including “inadequate irrigation and infrastructure, unabated conversions and reclassifications of land, the gaps in the implementation of the agrarian reform program, natural calamities, and the insufficiency of regulations in trade liberalization that has made agricultural investments a not too profitable enterprise (de la Cruz, 2011, 4).” In order to attract FDI, policymakers have gone on missions to investor countries, hosted conferences inviting investors (Salerno, 2010), pursued the liberalization of the Philippine economy², and supposedly have been tackling corruption in order to improve the Philippines’ investment climate (Aquino, 2014a). In 2013, *The Business Mirror* reported that the 2013 World Trade Organization Report had generated data claiming that the Philippines was one of the top three countries, “with the largest tracts of farmland that were ceded to foreigners globally” (Ordinario, 2013). According to the report, only the Democratic Republic of Congo and Indonesia preceded the Philippines in terms of the scale of land that foreigners were given access to. Thus, as the “third-largest ‘seller’ of farmlands to foreigners (Ordinario, 2013),” as the title of the report suggests, there are strong indications that the policy elite in the Philippines agrees and encourages with foreign use of Philippine agricultural land through foreign investments.

¹ Author’s interview with Undersecretary Serrano of the Department of Agriculture, Quezon City, 7 May 2014.

² Author’s interview with Undersecretary Serrano of the Department of Agriculture, Quezon City, 7 May 2014.

As was mentioned previously, however, foreign ownership of land is disallowed by the Philippine Constitution. If the constitution is the quintessential symbolic representation of national sovereignty, and somehow foreign investors are able to get around a constitutional clause explicitly disallowing foreign ownership of land in the Philippines, I want to understand how this is made possible. If the very right of states to sign contractual agreements with foreign investors is based upon the idea of state sovereignty, why is the Philippines' policy elite showing willingness to enter into agreements that restructure power relationships in the Philippines in such a way that gives foreign entities control over land? Why is the Philippine's policy elite showing willingness to allow foreign entities to significantly influence law and policy surrounding a piece of national territory?

1.3 Why Critical Geopolitics?

The theoretical lens of Critical Geopolitics is used in this research in order to understand the contradiction between the Philippine government's 'willingness' to enter into land deals and sovereignty. Broadly speaking, Geopolitics is a method of foreign policy analysis that examines the effect of geography on international politics. Within the broad, overarching theoretical framework of Geopolitics theory, there is opposition between the Classical Geopolitics theory and the relatively more recent paradigm shift towards Critical Geopolitics theory, which was re-conceptualized by a socially constructivist view of reality. Critical Geopolitics is the "practice of identifying the power relationships within geopolitical statements (Ó Tuathail & Agnew, 1992)." That is to say, it is the study of the 'situated knowledge,' that are instrumentally used for geopolitical purposes, and of hegemonic power over geographical knowledge (Slater, 1995). In order to explain how the theoretical framework will be useful to the research, an overview of the key antithetical ideas in the two opposing interpretations of Geopolitics will be briefly discussed, and then the key concepts of the theoretical frame will be divided between a discussion of (1) sovereignty, (2) practical geopolitical reasoning and (3) geopolitical context.

1.3.1. Classical Geopolitics vs. Critical Geopolitics

Classical Geopolitics is arguably too limited in scope to understand phenomena that challenges state-centric understandings of power. Geopolitics, as it was classically understood, is "the practice of states controlling and competing for territory" (Flint, 2012, 31), and the notion that the conduct of states could be predicted based upon the "dependence of all political events on the enduring conditions of the physical environment (Bassin, 1987, 120)." Therefore, the points of interest were the geographical factors that made a state decide to invade another state. However, the theory did not hold when the status quo changed and new actors started gaining influence. Classical Geopolitics could not explain the authority of supranational organizations and the consequences of economic and technological interconnectedness. Classical Geopolitics's state-centric and cartographic view on geography, territory and sovereignty did not take into account that these perspectives could change depending upon one's location on a map. The emphasis in Classical Geopolitics was on 'hard truths' about structures, so it was taken for granted that mapping itself was an objective exercise. Classical Geopolitics theorists did not consider that all borders are arguably contentious representations rather than objective facts. Indigenous communities who do not possess official titles and have been accustomed to a customary system of land ownership in the Philippines, for example, might draw a different interpretation of borders as opposed to Filipino state officials since Filipino state officials, who are more likely to draw their maps based upon officially titled

lands. In contrast, Critical Geopolitics theorists seek to expose the political foundations of geographical knowledge.

Critical Geopolitics arguably has a broader view of power relationships, so it is also more equipped to analyse new phenomenon such as the contemporary foreign land acquisition phenomenon. Critical Geopolitics isn't as constricted by arguably outmoded definitions of crucial concepts such as sovereignty. Critical Geopolitics essentially examines the effect of, "the imaginary spatial positioning of people, regions, states and the shifting boundaries that accompany this positioning (Müller, 2008, 323.)" By admitting that assumptions behind geographical statements can be imaginary social constructions, Critical Geopolitics theorists sought to activate audiences to see past the statements that justify actions. A Critical Geopolitics theorist would not claim that these socially constructed ideas do not constitute a social reality of their own, but would point out that these geographical statements are not irrefutable truths.

To illustrate, Critical Geopolitics theorist David Slater (1993) argued that the views upheld by international development agencies about what is considered civilized and modern are not so much objective geographical facts, but biased representations of certain places and people that enjoy a kind of hegemony. Although there are various subjective understandings of reality, he is saying that there are certain discursive statements that are more influential than others. Slater (1993) explained that policymakers in international development agencies had been passing policies based upon a geopolitically imagined division between the world's 'civilized/developed' and 'uncivilized/undeveloped.' This imagined division therefore caused these development agencies to pass policies that catered to Western definitions of progress and modernization. Critical Geopolitics asks what the assumptions are behind certain statements such as "underdeveloped," but also statements such as "dangerous rebel area," "rogue state," and "axis of evil," and furthermore, what practices these representations are legitimizing.

Nevertheless, despite the emphasis on broader, more comprehensive and deeper understandings of power relationships intrinsic to understandings about territory, borders, and sovereignty, a crucial weak point of the Critical Geopolitics paradigm in Geopolitics theory is that the studies that put the theory into practice are still too narrow. Consider Ó Tuathail & Agnew (1992)'s redefinition of Geopolitics, which includes the notion of "the spatialization of international politics by core powers and hegemonic states (Ó Tuathail & Agnew, 1992, 192)." Again, the focus is on hegemons at the global stage such as American hegemonic power, or the World Bank's rule-writing power. Over and over again, despite showing awareness of the power of non-state geopolitical agents to influence policymaking, the influence of hegemons within a state has been overlooked. For example, in other strands of academic literature, several authors and journalists have pointed out that there exists a powerful elite class of dynastical families in the Philippines, which are able to influence state policy through election into office or extralegal means (Mendoza et al., 2012; Querubin, 2011). If the goal were to understand how a state policy is decided, then surely the contribution of these families in influencing state policy (including foreign policy, trade policy and investment policy) requires more attention from Critical Geopolitics theorists.

The academic debate between Classical Geopolitics and Critical Geopolitics can be situated within the ontological debate between Structuralism, Individualism and Constructivism in social science. Classical Geopolitics theorists subscribed to structuralist assumptions and geographic structures such as states and borders were understood to be fixed, timeless, and universally understood geographic entities. From the point of view of Classical Geopolitics theorists, states' foreign policy was decided based upon these fixed structures. On the other hand, Critical Geopolitics theorists denied that these markers were fixed, timeless nor universal. Instead, they subscribed to constructivist assumptions, and believed that these structures were instead arenas of contestation that were constantly being negotiated and essentially 'constructed' by discursive practices. For example, instead of studying how fixed geographic structures affect the manner of an imperialist state's territorial expansion as in Classical Geopolitics, Critical Geopolitics theorists are activated to question the knowledge constructs that legitimize that state's pursuit of territorial expansion. Previously, the influence of political dynasties on state policy was briefly touched upon. What knowledge constructs affect these elites' decision-making processes and how do they, in turn, create knowledge constructs that can be used for them to pursue their goals? What is their role as both producers and products of structures? The academic debate between Classical Geopolitics and Critical Geopolitics carries on in the following discussion of practical geopolitical reasoning.

1.3.2. Sovereignty

Classical Geopolitics and Critical Geopolitics have contradicting definitional ways of seeing sovereignty. In Classical Geopolitics, the units of analysis were solely states, so sovereignty was seen as an absolute right of states and as an implicit fundamental truth behind every geopolitical statement. Critical Geopolitics theorist John Agnew's 'territorial trap' publication challenged notions of absolute sovereignty by provoking geopolitical theorists to see how power might be expressed outside the state (Agnew, 1994). Arguably, rival sources of power are able to exercise authority, and can challenge national sovereignty by overlapping with the state's authority. Externally, for instance, the state's supreme authority can be challenged through global market pressures and supranational organizations, and internally, through internal class conflicts and subnational movements. When foreign corporations are exercising 'land control,' which is defined by Peluso & Lund (2011, 668) as, "practices that fix or consolidate forms of access, claiming, and exclusion for some time," on spaces that overlap with national territory, this places Classical Geopolitics' definition of absolute national sovereignty into question.

The Critical Geopolitics framework's view of sovereignty is arguably better equipped to deal with this phenomenon than the Classical Geopolitics framework, since Critical Geopolitics understands sovereignty as something that can and often is contested by various agents with the authority to rule over the same space of territory. That national sovereignty can be weakened contradicts with Classical Geopolitics' absolute view of state sovereignty. In contrast, Critical Geopolitics' constructed view of sovereignty opens more opportunities for understanding the contradiction of extraterritorial spaces. Thus, if I could understand how this social construction took place by analysing how the laws, culturally accepted practices, and discursive representations of reality changed foreign acquisition of land from an unacceptable, to an acceptable procedure in Philippine society, then I can understand how Filipino policymakers geopolitically reasoned to make foreign acquisition of land possible, despite national sovereignty.

1.3.3. Practical Geopolitical Reasoning

1.3.3.1. Geopolitical representations

Ó Tuathail & Agnew (1992)'s first wrote about analysing practical geopolitical reasoning, and their method is a good basis for the methodology of my research, but it is insufficient to meet the objectives I set out. Ó Tuathail & Agnew (1992) basically juxtapose American *geopolitical representations* of America, and of the USSR, and they argue that American presidents used these representations in their speeches to justify the practices and actions pursued in American foreign policy. I define *geopolitical representations* as the descriptions of geographic areas that shape how agents decide to act. Crucially such *geopolitical representations* are not only instrumental descriptions used to mobilize support for a policy. *Geopolitical representations* can also become regularized and shape how agents understand the world, and thereby also inform the actions and policies of agents. Ó Tuathail & Agnew (1992) analysed the geopolitical reasoning in American foreign policy by illustrating how the geopolitical “representations of ‘America’ as a place are pervasively mythological (Ó Tuathail & Agnew, 1992, 196).” They illustrate how the idea of ‘America’ is based upon a popular imagination of a ‘New World’ that symbolically represents the ‘universal,’ and ‘civilized,’ principles of the ‘free world,’ as opposed to American representations of other areas of the world such as the USSR as ‘oriental,’ or comparing the ‘Red Flood,’ to a natural calamity and as Ó Tuathail & Agnew (1992) argue, as a ‘potential rapist,’ due to the various descriptions of the USSR that invoked the image of penetration.

Ó Tuathail & Agnew's (2012) method also showed that by looking at the metaphors used in the *geopolitical representations*, it was possible to trace the mental deliberation or the “geographically-infused reasoning (Ó Tuathail & Agnew, 1992, 191)” that went on inside the policymakers' mind, because these *geopolitical representations* show the discursive structures that affected these foreign policy makers' decisions. Ó Tuathail & Agnew (1992) argue that these metaphors that American policymakers used in speeches, for example, show the role of politically biased geographical knowledge that constituted American policymakers' socially constructed understanding of the world.

1.3.3.2. Geopolitical context

I argue that the considerations when creating a policy can also partly be traced from studying the *geopolitical context* in conjunction with the *geopolitical representations* that policymakers make. I adopt the definition of *geopolitical context* as the rules that govern society, which are made up of “[...] a set of rules (formal as in legally enforceable laws) and norms (culturally accepted practices) that partially determine what can and cannot, could and should not, be done (Flint, 2012, 37).” From these insights, I then explored the specific geopolitical context of the Philippines by studying both the discursive structures within *geopolitical representations*, and non-discursive structures such as laws and norms in the *geopolitical context*.

Ó Tuathail & Agnew's (1992) method can only show me how a certain policy was legitimized, and not how the policy was arrived at. I could not only analyse *geopolitical representations* if I want to understand why Filipino policymakers decide to make foreign acquisition of land possible, because just

because these images shape their perception does not mean that they have free reign over what action to pursue based on these perceptions. The *geopolitical context* provides opportunities and challenges that define Filipino policymakers' options for action. Hence, I also have to investigate if there are ways for foreigners to acquire land through legal means, or through the 'norms' or culturally accepted practices in the Philippines. Using this method, I may not have omniscient knowledge about the personal reasons that all Filipino policymakers have for pursuing the policy that allows foreign ownership of land, but I argue that I could nevertheless get a good idea of a few central considerations that affect most Filipino policymakers' *practical geopolitical reasoning*.

1.4 Puzzle and Relevance of Theory to Analysis

The discussion above has led to the main puzzle of this research: "how do Philippine policymakers geopolitically reason in a way that facilitates foreigners' acquisition of land in the Philippines, despite the potential threat that foreign land acquisition poses to national sovereignty?" By 'national sovereignty' it is not legal sovereignty as epitomized in law that is the point of interest, but sovereignty as the nation's absolute control over its territory. Foreign acquisition of some hundred hectares of land may not automatically mean that a state is losing all control over the country, but there is nevertheless a significant shift in accepted practices of land ownership in a country when foreign corporations are allowed to lease and buy land and basically acquire national territory for their own. By definition, the state requires "territorial specificity as the basis for its sovereignty (Flint, 2012, 128)," but in the case of the foreign land acquisition phenomenon, national governments are essentially willing to give up areas of the national territory, and my goal is to understand how contractual agreements leasing or selling large-scale land to a foreign entity are made possible and acceptable from the point of view of the policymakers.

1.4.1. Theoretical Relevance

Since, as was mentioned beforehand, previous works based upon a Critical Geopolitics framework have yet to explore the effects of internal geopolitics on international affairs, the research puzzle provides an opportunity to demonstrate how such an adjustment to the theoretical lens could help in understanding a phenomenon better. The Critical Geopolitics framework remains relevant because the geopolitical agents that are the units of analysis of this research are not new to the Critical Geopolitics framework, and the premise of Critical Geopolitics of critically examining the discursive practices of these geopolitical agents does not change. The theoretical lens should also not study domestic power relationships and international power relationships exclusively because as I will demonstrate throughout the course of this thesis, the hegemonic power of certain elites within a society has a significant effect on the state's chosen policy trajectory. In previous literature, Critical Geopolitics theorists underlined how the way that an international organization sees people from certain areas of the world affects their policy. How about how the way domestic elites see people from certain areas of their country and how this affects state policy? How about the way foreign geopolitical agents see these domestic elites and how this affects state and foreign policy? These questions will be relevant to this research.

1.4.2. Practical Relevance

The puzzle can also help lead to better understanding of the larger foreign land acquisition phenomenon by studying an under-researched perspective in the foreign land acquisition phenomenon, namely, the policy elite. So far, the majority of the literature on the foreign land acquisition phenomenon has focused on describing the global trend and the global drivers behind growing interest in arable land. This puzzle instead studies the geopolitical reasoning of the policy elite. When academics make assertions about the role of state policy in facilitating foreign land acquisition, they often view state policy as a finished product and ignore the processes that lead up to that policy. Furthermore, when describing the motivations behind the state policy of allowing foreign acquisition of land through foreign investments in target countries, academics tend to fallaciously recite the official reasons given by the state such as 'poverty alleviation' or 'economic development.' This could arguably be a Fallacy of False Cause in some cases and hence, deserves more attention.

1.5. Methodology

1.5.1. Objectives and Scope

Considering the discussion of the background, theoretical frame and puzzle above, the objective of this research was to use the Philippines as a case study in order to pursue the following objectives: (1) explore how the geopolitical context (the formal and informal rules that make up society) creates structural opportunities that can be exploited to make foreign land acquisition possible, and (2) explain how Filipino policymakers geopolitically reason to make foreign acquisitions of land possible. In the interest of maintaining a high calibre of analysis with regards to the examination of policymakers' geopolitical reasoning, the analysis will be limited to a selected few of the most critical considerations made by Filipino policymakers that the author regarded to be the most compelling, and those few that bring the most interesting insights into the Philippines' geopolitical context. These objectives do not aim to describe every possibility of how foreign land acquisition is made possible in the Philippines, but instead seeks to provide insights into how foreign land acquisition is made possible in the Philippines through the specific angle of getting insights from the policy elite's perspective.

1.5.2. Sub-questions

Based upon the before-mentioned objectives of this research, a few relevant sub-questions have been formulated accordingly in order to unpack the greater, overarching puzzle. With regards to Objective 1, these are:

- What are the laws that disallow foreign ownership of land?
- What Philippine laws cite exceptions to the constitutionality clause that can be construed to allow foreign corporations to acquire land in the Philippines?
- What specific situations that are not explicitly forbidden by Philippine laws can be used to allow foreign acquisition of land?
- What features of the Philippine socio-political context have made the extralegal practices that foreign investors use in order to acquire land in the Philippines possible?

- What specific extralegal practices have made foreign acquisition of land in the Philippines possible?

Additionally, given that policymakers make their decisions based upon the opportunities that arise from the geopolitical context, the following open-ended question has been posed:

- What values are behind Filipino policymakers' decision to make foreign acquisition of land possible?

1.5.3. Methodology

The research was conducted over a 10-week period in the Philippines in 2014 using a mixture of primary and secondary research. Secondary research was important in order to contextualize the puzzle and to find out about the pre-existing knowledge and opinions surrounding the topic, and gather existing information on known cases of foreign acquisitions of land where relevant, provide insights into the socio-political context within which these land deals are taking place. There were also cases when secondary research was necessary in order to verify if informants' assertions were based on empirically observable events. This included analysing academic literature (with particular emphasis on collecting Filipino academics' insights), media and NGO reports that describe either reported extralegal practices of foreign corporations and political dynasties, commentary on land disputes, discussions of indigenous rights, and case studies of foreign land acquisition, which are otherwise known as development projects. This helped the author identify the pre-existing geopolitical structure of Philippine politics prior to the phenomenon and analyse whether these pre-existing power relationships clues to how foreign land acquisition is made possible.

The primary research was largely based on a documentary analysis method, but was also supplemented with interviews. The documentary analysis first analysed the *geopolitical context* of the Philippines by first studying the formal rules (laws) including a review of all relevant law documents such as the Philippine constitution, land laws, trade laws and foreign investment laws. Analysis of these laws helped aid the author's understanding of the legal context of foreign land acquisition in the Philippines and the opportunities and challenges that interested investors are faced with, as well as helped the author identify possible loopholes that may arise in the legal context, particularly with regards to loopholes that could make foreign ownership of land lawful. Then the norms of the *geopolitical context* was analysed by observation of day-to-day interaction, analysis of reports, and analysis of informal conversations with members of elite families in the Philippines, which will be elaborated upon in more detail in the next section.

The method of analysing *practical geopolitical reasoning* as developed by Ó Tuathail & Agnew (1992) was then used to draw out the *geopolitical representations* that made foreign acquisition of land possible by collecting policy statements and political speeches from the most relevant policymakers. Relevant documentation included transcribed speeches by the President or other relevant government officials, and the Security and Exchange Commission's published Opinions with regards to foreign investment

disputes. Two in-depth interviews³ were recorded with key government officials, who were purposefully sampled because they were in charge in their respective departments of foreign investments in land specifically, in order to gain insights into the 'situated knowledge' of policymakers that might not have been discernible in the academic literature, documentary research, or media reports.

One of the main difficulties was the fundamental premise of the research that there are powerful groups and individuals in Philippine society, who have an interest in keeping their power and practices hidden. Indeed, having hegemonic power over knowledge goes hand in hand with the ability to hide this power, so knowledge about these practices are often unavailable in academic publications, media reports, and the internet. Few details about the land deals and how they are deliberated and negotiated are made public (Kugelman, 2009). Therefore, in order to study these practices, it was essential to gain critical insights from informants in particularly well-informed and well-connected positions. In order to be privy to the so-called 'back-door politics' within Philippine bureaucracies, informants from within the ranks of the policy elite and agrarian ruling class themselves needed to open up truthfully about these secretive practices. In light of these informants' social standing and close ties with other influential members of Philippine society, these informants wish to remain anonymous, but have agreed to share their knowledge about Philippine 'conventional knowledge' and the unofficial practices in Philippine bureaucracies and agrarian politics. These informants' disclosure of information took place in the form of un-recorded informal conversations, which allowed them to talk freely and made them comfortable to mention important pieces of information as they came to mind, as opposed to a structured and regimented interview.

As an example, my informants advised me to look into the role of political dynasties, and many informants expressed the view that the Philippines' elite families probably play a significant role in making foreign acquisition of land possible, but they could not give me evidence, so I reviewed the Board of Investments' records of registered projects in agricultural land and other relevant sectors such as crops, plants, planting materials, feeds, and agri-farm services, and checked if the owners of the company were part of a political dynasty, and collected case studies that verified if there were empirical evidence to support these assertions. Afterwards, I tried to gather as many academic publications or media reports about the family to verify if the owner really was a member of the political dynasty, since many Filipinos have similar family names, but are not necessarily from that family. These critical insights were extremely valuable in order to supplement the other sources gathered, which may only be demonstrating the official motivations behind policymakers' support of foreign land acquisition in the Philippines.

1.5.4. The epistemology of the research

It will be necessary at this point to elaborate on how access to these invaluable informants, and not to mention government documents and records was possible. The home base of the research in the Philippines was the office of a particularly influential politician with close ties to the author, whose name and reputation opened access for the research that would have been impossible to reach otherwise. The

³ One of these interviews was scheduled with Director Arcansalin of the BOI, but BOI Investments Specialist Francis Penaflor was present and answered questions during the interview, so the statements made by these two separate informants were cited separately, but took place during the same interview with Director Arcansalin.

team working in this office was comprised of knowledgeable specialists in law and politics, as well as office workers with a high level of experience in Philippine bureaucracies. A written introductory letter from this politician and a series of phone calls from this office essentially made it possible to gain one-on-one interviews with politicians that I purposively sampled as the highest-ranked officials that were specifically in charge of foreign investments in land. Since the government recently decided to “rationalize” the number of agencies in charge of foreign investments⁴, I purposefully sampled the top decision-makers in the most relevant agencies: the Department of Agriculture and the Board of Investments. I did not purposively sample the highest-ranked officials in each department, because those officials were in charge of a wide range of policies that all come under the umbrella of that department's authority. Instead, the officials sampled were those whom the highest-ranked official in the department would have called upon to be in charge of foreign investments in land. With the help of the team from my research's home base, I was able to access otherwise inaccessible politicians, which in turn also made it possible to request documentation and guidance from government agencies.

Although it may be argued that it would be epistemologically near impossible, if not impossible, to truly know all the ins and outs of the secret dealings of the powerful classes in Philippine society, the insights gained from even sporadic and anecdotal evidence are arguably still very valuable, since they still demonstrate empirical evidence of different ways that foreign corporations can acquire land in the Philippines. Furthermore, these insights are valuable in that they generate findings that may perhaps not be universally generalizable, but nevertheless findings that could also be applied to other places. Other countries experiencing foreign land acquisition are also faced with the possible threat to their national sovereignty. In other countries where foreign acquisition of land is made possible, the governments of the target countries show ‘willingness,’ and yet the geopolitical reasoning of the policy elite is under-researched. Although the Philippines as a case study may be unique in that in no other place will foreign land acquisition be made possible in exactly the same way, the Philippines as a case study can still be embedded within the existing debates surrounding the ‘foreignisation of land’ that occurs during foreign land acquisition phenomenon and the debate within Geopolitics theory.

It may be argued that the hospitality that interviewed politicians showed and their efforts to be ‘truthful’ were disingenuous and more fuelled by fear of the politician, who had the power to place their position in office in question. If they were fuelled by fear, this would arguably make it more likely for them to hide the true state of affairs in their organization. Documentation that politicians sent as proof of their statements could also be fraudulent. The informants who themselves belonged to influential political families and agricultural magnates may arguably have every reason to hide the practices that allow them to retain power. Despite all this, there were instances in the interviews and informal conversations where the emotion showed and frustration with the system seemed to be genuine. Moreover, there were also instances where it was genuine naiveté that was behind the answers of the informants. There may be nothing objective or scientific about human intuition, but I argue that in social scientific research, it nevertheless plays a valuable role. Human intuition can provide clues to motivations that documents cannot. Analysis of the human interview subject occurs continuously and includes observations past only the subject's choice of response to a question. At times, the openness of the informant to admit to even the shortcomings of the administration and elaborate about disastrous projects that could be cross-

⁴ Author's interview with Director Arcansalin of the Board of Investments, Makati City, 12 May 2014

referenced with media and NGO reports was not always flattering and did not benefit the informant, which may be an indication that at least some of the interview was sincere. As for documentation, it would be equally possible to argue that there is no proof that the data presented was fraudulent. Finally, the informants from influential families who disclosed information about the unofficial practices in Philippine bureaucracies had close ties with the author, and these exchanges of information were also carried out anonymously, which arguably makes it more plausible that their input could be honest.

1.6. Thesis Statement

After having gathered the research materials listed above, the research ultimately led to the conclusion that, first of all, Philippine policymakers do not all have the same set of motivations that have led them to the conclusion that foreign acquisition of land through FDI is an acceptable and desirable course of action. However, there are five central considerations that influence Philippine policymakers' choice to make foreign acquisition of land in the Philippines possible and these are that:

- (1) There are exceptions and loopholes in the Philippine legal context that open opportunities to interpret the laws in support of a model of Foreign Direct Investment (FDI) that allows foreign acquisition of land;
- (2) The historical presence of powerful geopolitical agents (political dynasties) have normalized extralegal practices, and of alternative ways of ensuring, despite resistance, that foreign acquisition of land is possible;

With limited choices based upon the above geopolitical context, policymakers' geopolitically reason to make foreign acquisition of land in the Philippine possible because:

- (3) Colonial mentality causes at least some policymakers to seek affirmation from the West, and frustrated by foreigners' perceptions of the Philippines as a backward country, especially compared to its Asian neighbours, make policymakers more amenable to pressure from the international community to make foreign acquisitions of land possible through FDI.

CHAPTER 2

LAW AND POLICY

2.1. Introduction

In this chapter, the component of the theoretical framework that will be explored is the part of the Philippine's *geopolitical context* that deals with official rules – the legal context. Some questions addressed in this chapter include: where in Philippine laws does the Philippine's legal context disallow foreign ownership of land, and where in Philippine laws can exceptions to the law disallowing foreign ownership of land be cited, so that foreign corporations' acquisition of land could be made possible? A Filipino policymaker is compelled to take into account the limitations and opportunities available to the policymaker in the laws during the policymaking process, and hence, Filipino policymakers are limited by their *geopolitical context*. As Flint (2012) states, *geopolitical agents* do not have complete freedom of choice, but they do have choices, and as *geopolitical agents*, this statement applies to Filipino policymakers. However, if there were to be loopholes in the laws that could be interpreted to make foreign acquisition of land possible, then this would also open up opportunities for those policymakers who believe that foreign corporations, for whatever reason, should be allowed to acquire land in the Philippines. I will not elaborate upon every related law to land deals, but have chosen the most critical laws that can bring light to how foreign acquisition of land through land deals could be made legal. To understand how the Philippines' legal context could be interpreted to allow foreign ownership of land, I will begin with the supreme law that decides the fundamental principles of all other laws in the country: the 1987 Constitution of the Philippines.

2.2. The 1987 Constitution of the Philippines

In the supreme law of the land alone, the 1987 Constitution of the Philippines, there are already both limitations and opportunities to foreign acquisition of land. According to Section 2, Article XII of the *1987 Constitution of the Philippines*:

all lands of the public domain [...] and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated. The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. The State may directly undertake such activities, or it may enter into co-production, joint venture,

or production-sharing agreements with Filipino citizens, or corporations or associations at least sixty per centum of whose capital is owned by such citizens. Such agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law. (1987 Constitution of the Philippines)

On the one hand, the Philippine Constitution specifically states that all public lands must remain under state control. On the other hand, the Constitution also specifically states that agricultural lands can be alienated, and the Constitution authorizes the government to act as the main authority over foreign investments. This means that the government is empowered to sign land deals in accordance with national goals and priorities, which the government is also authorized to set for itself. The clause popularly known as the '60:40 rule,' which states that at least sixty percent equity of the partnership must be Filipino, but within this limitation, a foreign corporation can enter into a partnership with a Filipino corporation through joint ventures or production-sharing agreements, and this would make their acquisition of land legal.

2.2.1. Joint-ventures

Joint ventures essentially make the a foreign corporation's acquisition of land legal, because the sixty percent Filipino portion of the partnership makes the joint venture no longer a purely foreign initiative. The Marcos regime also passed Republic Act No. 5186, which is also known as the *1967 Investment Incentives Act*, which declared that it was to be the policy of the state,

to welcome and encourage foreign capital to enterprises that are capital intensive and would utilize a substantial amount of domestic raw materials, in joint venture with substantial Filipino capital, whenever available (1967 Investment Incentives Act).

The Philippine government has been fulfilling this legal provision by going on missions to potential investor countries (Official Gazette, 2013a) and through the President's speeches advertising Philippine farmland to foreign investors (Aquino, 2014b). The loophole regarding joint-ventures is now commonly used to facilitate foreign acquisition of land, as is evidenced by the several joint-investment projects that have been forged today. I do not mean to say that the Filipino corporations are "dummies" and only pretend to be in a joint-investment with foreign corporations, but simply that these joint investments are forged and make foreign acquisitions of land possible. To name a few examples of joint-investments in agricultural land in the Philippines that have attracted the most attention from international media, there is the Japanese-Filipino consortium of Green Future Innovations Inc. (Gatdula, 2011; Balana, 2012; International Fact Finding Mission, 2012), the Bahraini-Filipino consortium of RP Harvest (GMA News, 2010; The Business Mirror, 2013; Trade Arabia, 2010), the Chinese-Filipino consortium Beidahuang Philippines (GMA News, 2014; Go, 2011; Daily Times, 2007).

2.3. Laws promoting development through FDI

2.3.1. The 1987 Omnibus Investments Code

After the People's Power Revolution in 1986, which toppled the dictatorship of President Ferdinand Marcos, the *zeitgeist* (spirit of the time) was that there was an imminent need for reconstruction and modernization, and passing laws promoting agribusiness and foreign investment was seen as the solution to fulfilling these needs. This principle of promoting the Philippines' development by making the Philippines more attractive to FDI is evident in the seminal, modern foreign investment law of the Philippines: the 1987 Omnibus Investments Code. Article 2, Chapter 1 of the 1987 Omnibus Investment Code states that:

The State shall encourage private Filipino and foreign investments in industry, agriculture, forestry, mining, tourism and other sectors of the economy which shall: provide significant employment opportunities relative to the amount of the capital being invested; increase productivity of the land, minerals, forestry, aquatic and other resources of the country, and improve utilization of the products thereof; improve technical skills of the people employed in the enterprise; provide a foundation for the future development of the economy; meet the tests of international competitiveness; accelerate development of less developed regions of the country; and result in increased volume and value of exports for the economy. (1987 Omnibus Investments Code)

The Code essentially codified the imperative for policymakers to promote development, because this is argued by the Code to lead to job creation, to increasing land productivity, and to the exposure of Filipino farmers to foreigners' technical skills by attracting foreign investors to the Philippines. Attracting foreign investment and encouraging foreign acquisition of land may not be the same thing, but foreign ownership of land was deemed acceptable by policymakers because attracting foreign investment became the paramount goal in the Philippines' investment laws.

The Code made it clear that making the Philippines as attractive to foreign investors as possible had to be a priority of policymakers. To meet this goal, the Code also created the Board of Investments to oversee what Article 7, Chapter 2 of the Code states as "the regulation and promotion of investments in the Philippines" (1987 Omnibus Investments Code). In Chapter 2 of the Code also initiated the Investment Priorities Plan, which listed areas of preferred activities for foreign investors and which included agriculture (1987 Omnibus Investments Code). In Article 38, Chapter 3, the Code also devised protection rights for foreign investors' investments (including the right to the repatriation of liquidated investments and the right to remittance of earnings among others) (1987 Omnibus Investments Code), as well as established incentives that foreign investors were entitled to upon registration with the Board of Investments in Article 39, Chapter 3 (1987 Omnibus Investments Code), and even authorized the Board of Investments to make another exception to the nationality requirement that could be made for ASEAN projects. In Section 13, Article 7, the Code outlines one of the duties of the Board of Investments as such:

"To the extent that such activities are allowed by the Constitution and relevant laws, to recommend to the President of the Philippines, the suspension of the nationality requirement provided in this Code in cases of ASEAN projects, or investments by ASEAN nationals, regional ASEAN or multinational financial institutions including their subsidiaries in preferred projects and/or projects allowed through either financial or technical assistance agreements entered into by the President [...]"

(1987 Omnibus Investments Code)

Hence, suspending the nationality requirement can be done at the discretion of the very body that was delegated to promote investments in the Philippines.

2.3.2. The Foreign Investments Act of 1991

The Foreign Investments Act of 1991 restates the same goal in the Code, but adjusts it to ensure that Filipinos are benefitting from the government's or Filipino corporations' arrangements with foreign entities. Section 2 of the Foreign Investments Act of 1991 declares that,

It is the policy of the State to attract, promote and welcome productive investments from foreign individuals, partnerships, corporations, and governments, including their political subdivisions, in activities which significantly contribute to national industrialization and socioeconomic development to the extent that foreign investment is allowed in such activity by the Constitution and relevant laws. Foreign investments shall be encouraged in enterprises that significantly expand livelihood and employment opportunities for Filipinos; enhance economic value of farm products; promote the welfare of Filipino consumers; expand the scope, quality and volume of exports and their access to foreign markets; and/or transfer relevant technologies in agriculture, industry and support services. [...] (1991 Foreign Investments Act)

In the 1991 Foreign Investments Act's version of the state's policy, foreign investments must lead to social development for Filipinos such as increasing job opportunities, promoting the welfare of Filipino consumers and exposing Filipinos to modern technologies and therefore allowing Filipinos to learn valuable skills. In Section 8, the Foreign Investments Act of 1991 also included Negative Lists A and B (1991 Foreign Investments Act of 1991), which specifically nationalized certain sectors. By nationalized, I mean that the Negative Lists set apart a list of investment areas reserved for Philippine nationals such as defense-related activities and the media. The Foreign Investments Act of 1991 also included limitations in Section 11 such as a requirement that all industrial enterprises regardless of nationality must protect and conserve the environment (1991 Foreign Investments Act), and in Section 14 authorized the Philippines' Securities and Exchange Commission (SEC) to issue administrative sanctions such as fines and the cessation of benefits granted under the Foreign Investments Act of 1991 upon the violation of the limitations outlined under the Foreign Investments Act of 1991 (1991 Foreign Investments Act). Thus, although Philippine laws do require government officials to attract foreign investors, this 'willingness' must meet certain qualifications.

2.4. Exceptions and Loopholes

2.4.1. 'Leasing' not 'Owning'

Even though foreign investors are acquiring land through usufructs, they often do not own the land. By usufructs, I mean the practice of granting user rights to entities other than the owner. Even without formal title as 'owner' of the land, foreign investors are allowed by the 1993 Investors' Lease Act to go into contractual agreements for long-term 'lease' of agricultural land and this allows them to utilize the land for all intents and purposes as though they own it. Crucially, in Section 5 of the 1993 Investors' Lease Act foreigners who are not investing in the Philippines continue to be disallowed land ownership

(1993 Investors' Lease Act). Foreign investors are allowed to demarcate a territory and decide how the land is used, how to police the territory, and to how to expel 'trespassers,' among other territorial rights. Foreign investors are fundamentally acquiring what Peluso (2011) called 'territorialisation powers,' and 'land control' (Peluso & Lund, 2011) through contractual agreements with the state. Hence, despite not 'owning' the piece of territory, foreign investors' acquisition of land under Philippine territory becomes legitimate in the policymakers' perspective.

2.4.2. Grower's agreements

Another way in which a foreign corporation can have user rights on agricultural land without owning the land is through grower's agreements, which is also known as contract farming⁵. Foreign corporations can enter into an agreement with a small-scale farmer who is the titled owner of the land and together they can agree for the farmer to supply the foreign corporation with produce. Foreign corporations such as Del Monte and Dole who have been involved in FDI in the Philippines prior to the enforcement of the 1987 Philippine Constitution are exempted from the provisions in the Constitution, but they are severely limited when it comes to leasing more land, so they enter into grower's agreements with farmers⁶. It is more beneficial for foreign corporations to lease and invest in agricultural land however, since, "Filipinos are the world champions in 'pole-vaulting,'" as Undersecretary Serrano explains:⁷

It's when you made an arrangement with a company, you have a pre-arranged price, they supply you with the inputs, the technology, everything... but when you are about to harvest, you see that the other one is offering higher prices. You sell it to them. That's pole-vaulting.⁸

'Pole vaulting' is when a farmer enters into a grower's agreement, receives an advance from the foreign investor for the seeds and the equipment required, and then sells their produce to the higher bidder anyway, whether it be the original investor or another corporation. This leads to a higher risk for foreign investors' return on their money, so leasing and investing in land through joint-investments is the more popular option with foreign investors.

2.4.3. Creating legally acquirable categories of land

Since 'lands of the public domain,' are illegal for foreign entities to take ownership of, there are cases where the government has reformulated the policy to literally create new spaces that are possible for foreign corporations to acquire. For instance, Salerno (2010)'s study on joint-ventures between the Kingdom of Saudi Arabia (KSA) and the Philippines discovered that the KSA is allowed to lease land that Filipino policymakers mark as 'unproductive farmland.' Another example is in the RP Harvest land deals with China, where the terms of the agreement used the phrase, 'lands lawfully owned by the Philippines' rather than 'lands of the public domain,' since Philippine legal jurisdiction only recognizes 'land of the public domain' (de la Cruz, 2011, 9). Moreover, some lands are categorized in Philippine laws to be

⁵ Author's interview with Undersecretary Serrano of the Department of Agriculture

⁶ Author's interview with Undersecretary Serrano of the Department of Agriculture

⁷ Author's interview with Undersecretary Serrano of the Department of Agriculture

⁸ Author's interview with Undersecretary Serrano of the Department of Agriculture

'alienable' or 'disposable'. In Act No. 2874, otherwise known as, *The 1919 Public Land Act*, it states that,

Section 7. For the purpose of the government and disposition of alienable or disposable public lands, the Governor-General, upon recommendation by the Secretary of Agriculture and Natural Resources, shall from time to time declare what lands are open to disposition of concession under this Act. (1919 Public Land Act)

Thus, as long as the Secretary of Agriculture and Natural Resources defines an area of public domain to be alienable, then this area can be 'disposed' of. However, there are limitations on what can be classified as alienable lands. The Act specifies the forms of concession that are permissible by law with regards to agricultural lands.

Section 11. Public lands suitable for agricultural purposes can be disposed of only as follows, and not otherwise:

- (1) For homestead settlement
- (2) By sale
- (3) By lease
- (4) By confirmation of imperfect or incomplete titles
- (5) By judicial legalization
- (6) By administrative legalization (free patent) (1919 Public Land Act)

Hence, given the limitations placed on foreign ownership of lands of the public domain, lawmakers essentially created new categories that literally created new spaces and changed the geopolitical understanding of what the land is and what it can be used for.

2.4.4. Ecozones

Ecozones also constitute another exception to the rule of disallowing foreign ownership of land in the Philippines. Special economic zones, or ecozones, were put in place by the *1995 Special Economic Zone Act of 1995*. Ecozones are spaces that have been demarcated especially for the purpose of being offered to foreign investors. It is therefore a space that is created specifically in order to attract foreign investments and make foreign acquisition of land possible and legitimate through long-term lease contracts. Within this space, the Philippine Economic Zone Authority (PEZA) is authorized by the *1995 Special Economic Zone Act* to permit foreigners to do business (Meija, 2003) and gain user rights to land. Crucially, there are no ownership restrictions on foreigners in ecozones. Examples of ecozones are former U.S. bases such as Subic Naval Base and Clark Air Base (Meija, 2003), the Cagayan Economic Zone (CEZA), the Zamboanga Economic Zone (ZEZA), Bataan Economic Authority, and Tourism Infrastructure and Enterprise (TIEZA), the Aurora Pacific Economic Zone (APECO) (BOI, 2014), which will be explored later on in more detail. In these specified spaces, the 60:40 rule disallowing more than forty percent foreign equity in a corporation owning land in the Philippines does not count.

2.5. From law to policy

2.5.1. Attracting investors as the prime agenda

The way that all these laws translate into practice is that several actors in the government scramble to attract investors. The President, the Board of Investments, the Philippine Economic Zone Authority, Philippine embassies abroad as well as local, municipal governments all court foreign investors by making official statements advertising investment opportunities in the Philippines. Usually, the Philippines either sends delegates to foreign countries, or invites representatives from foreign governments and foreign corporations to the Philippines in a bid to bring more foreign investors to the Philippines. For instance, on September 10, 2013, the Philippines' Secretary of Foreign Affairs Albert F. Del Rosario met with the United Arab Emirates foreign minister His Honorable Sheikh Abdullah bin Zayed al Nahyan (Official Gazette, 2013a). Another example was in October 2008 when a delegation from the Kingdom of Saudi Arabia visited agricultural areas in the Philippines, which eventually led to a land deal comprised of the joint-venture in Mindanao between the Far Eastern Agricultural Investment Company of Saudi Arabia and Aztropex. (Salerno, 2010)

2.5.2. Incentives

As a consequence of the declarations of policy set out by Philippine laws, foreign corporations are spoiled by the Philippine government with investment incentives. Foreign enterprises that register with and obtain permits from the relevant agencies (registration with SEC and BOI, Environmental Clearance from DENR, Incentives Availment with BOI, Tax Identification Number from BIR, Mayor's Permit, Barangay Clearance, and Visas), are able to access the following incentives:

	Incentives offered to investors upon registration
Board of Investments (BOI)	<ol style="list-style-type: none"> 1) Exemption from income taxes if a multinational corporation established a regional headquarters (RHQ) or regional operating headquarters (ROHQ) 2) Income Tax Holiday 3) Duty-free importation of capital equipment 4) Additional deduction for labor expense equivalent to 50% of the wages of additional skilled and unskilled labor force 5) Simplified customs procedures for the importation of equipment 6) Unrestricted use of consigned equipment 7) Employment of foreign nationals in supervisory, technical or advisory positions. Foreign nationals may renew the visa indefinitely for the positions of president, general manager and treasurer (or their equivalent) of foreign-owned registered enterprises. 8) Exemption from wharfage dues and export tax, duty, impost and fees.
Philippine Economic Zone Authority (PEZA)	<ol style="list-style-type: none"> 1) Income Tax Holiday 2) Government support for accessing Official Development Assistance and other sources of financing; 3) Option to pay a special 5% tax on Gross Income earned, in lieu of all national and local taxes

	<ul style="list-style-type: none"> 4) Permanent resident status for foreign investors and immediate family members 5) Employment of foreign nationals 6) Assistance in the promotion of economic zones to local and foreign locator enterprises
--	--

Source: BOI, 2014

Moreover, if a corporation is granted pioneer status, for instance because the corporation is engaged in an unprecedented design, method or system or because the corporation “engages in agricultural activities/services essential to the achievement of the country’s self-sufficiency program (BOI, 2014, 2),” then the corporation can also benefit from an extension of incentives (BOI, 2014). The generosity of the government when it comes to incentives for foreign investors shows how important attracting investors are to the government.

In fact, attracting foreign investors is so important for the government that in the Thai-Filipino Charoen Pokphand Foods Philippines Corp. (CP group) controversy, foreign corporations were granted incentives that were not offered to local farmers, which led to a campaign to rescind the incentives (Diaz, 2014). Undersecretary Serrano of the Department of Agriculture admits that,

We have never grown so big because we have never received those kinds of investments. It’s a difficult political problem and the oppositors have a point. The domestic support system that would have afforded them the ability to expand instead of being conquered by a foreign competitor establishing right in your backyard is something that is difficult for them to accept. And it’s probably something that the BOI law did not contemplate.⁹

Undersecretary Serrano is concurring with the farmers who have voiced discontent, and agrees with the farmers that it is problematic when local farmers are deprived of the incentives offered to foreigners, and then for the foreign corporation to set up shop and create competition for the domestic farmers. To protect farmers and ensure their competitiveness, Undersecretary Serrano argues that there is a need to improve the regulatory enforcement of Philippine laws¹⁰.

2.5.3. The 60:40 rule – from safeguard to national sovereignty to ‘regulatory burden’

Crucially, there are policymakers who have come to perceive that the legal provisions forbidding foreign ownership of land or protecting locals’ rights are an unnecessarily cumbersome hindrance to the greater, overarching Philippine agenda of becoming, “what the President has envisioned, ‘a nation that is desirable to business, one that will level the playing field for investors, and make government an enabler, not a hindrance to business (BOI Annual Report 2012).” Concurring with foreign academics, Filipino publications on the Philippines and its investment climate have voiced their discontent with the stringent constitutionality clause that forbade foreign ownership of land in the Philippines. For example, Meija (2003) suggests that ‘a more balance framework’ must do more than give incentives, as the Omnibus Investments Code state. “First, the Code should be amended to generally allow unrestricted foreign

⁹ Author’s interview with Undersecretary Serrano of the Department of Agriculture, Quezon City, May 7 2014

¹⁰ Author’s interview with Undersecretary Serrano of the Department of Agriculture, Quezon City, May 7 2014

ownership rules embodied in the Foreign Investments Act of 1991 (Meija, 2003, 482).” In a research paper for Philippine Institute for Development Studies as part of the Development Incentives Project, legal restrictions such as the constitutionality clause was single-handedly blamed for why, “foreign competition, which could have been provided by imports, was virtually eliminated,” (Mercado-Aldaba, 1994, 29) in the Philippines. The argument that the legal restrictions on foreign ownership of land is an unnecessary barrier to foreign investment is also supported by proponents of the so-called, ‘Cha-cha (Charter change)’ bill (Bacani, 2013), which proposes to amend the economic provisions in the 1987 Constitution and ease restrictions to foreign ownership of land in certain sectors like agriculture (Romero, 2014). Legal restrictions such as the constitutionality clause, which was formulated – among other reasons – to protect the Philippines’ essential right to national sovereignty, are now being argued by Filipino policymakers to be a regulatory burden that continues to uselessly hamper Philippine development.

2.6. The government’s measured ‘willingness’

For some policymakers, an important consideration is that the Philippine’s ‘willingness’ to allow foreign investors to acquire land in the Philippines for the sake of development through FDI is measured. By measured, I mean that they believe that the risks to Filipinos are regulated and controlled by the government. The process of foreign acquisition of land is portrayed to be under control. By ‘portayed,’ I do not mean to say that this automatically means that policymakers’ portrayal of the circumstantial premises or the *geopolitical context* that informs their decisions are false, but simply that these portrayals are the way that policymakers are portraying the circumstantial premises they are operating within. Policymakers either believe or claim to believe that their policy of allowing foreign corporations to acquire land for the sake of increasing FDI is serving Filipinos and not foreigners. They also argue that there are enough barriers put in place by the law and the policies derived from the law in order to prevent any potential threat to the national interest, such as a potential threat to national sovereignty.

For instance, in order to be allowed to operate in the Philippines, foreign corporations have to be signed off by the BOI, which assesses the planned project’s desirability before approving its permit. Director Arcansalin describes the process of evaluating a project thusly:

As part of their giving back to the incentives that we grant them, we also require them to do some CSR, so Corporate Social Responsibilities. Of course it improves economics... social activities to the society... but in regards to the environment, we encourage them to plant trees, go on tree planting and mitigation of certain areas.¹¹

If the agency believes that a project is “not really well thought of¹²” or is in some way contradicting provisions in Filipino laws¹³, then the project can theoretically be turned down, although the Director of the BOI admits that the BOI does not normally turn foreign investments down.

¹¹ Author’s interview with Director Arcansalin of the Board of Investments, Makati City, May 12 2014

¹² Author’s interview with Director Arcansalin of the Board of Investments, Makati City, May 12 2014

¹³ Author’s interview with Francis Penaflor, Investments Specialist at the Board of Investments, Makati City, May 12 2014

Aside from the predominant arguments like economic competitiveness and economic and social development, some proponents of the Charter Change 'Cha-cha' bill see the proposed constitutional amendment allowing 100% foreign ownership of land as a benefit to the Philippines, because encouraging foreign investments is also a chance to end what is known in the Philippines as the 'big boys club' syndrome (Cabacungan, 2014). The 'big boys club' refers to the concentration of wealth and power amongst the richest Filipinos, whose monopoly over access to business in the country has been argued to be one of the main driving forces behind Filipino industries' lack of competitiveness. The notion of a 'big boys club' or an 'old boys club,' is a well-known, and to a certain degree, normalized socio-economic characteristic of Philippine society, and some policymakers are essentially arguing that it would be better to have increased involvement in the Philippines from the foreign private sector in order to break through the 'big boys club' monopoly, rather than retain the nationalization of certain sectors, but for the 'big boys club' monopoly to continue.

Some policymakers like Undersecretary Serrano of the Department of Agriculture also place emphasis on how this policy is helping the Philippine's food security demands as opposed to emphasizing how the policy helps foreign food security as pundits who are calling out 'land grabbing' for foreigners' sake have done (Akram-Lodhi, 2012; Kugelman, 2012; McMichael, 2012). He argues that it is not only important to meet the demand for food in the Philippines, but that it is important to meet those demands self-sufficiently and independently of other countries, but the Philippines is not technologically equipped to produce enough to meet national demand¹⁴. He tells that Philippine economists recommend that the Philippines produce 60 to 80 percent of its own food demand, but that the Department of Agriculture would prefer to be seeing 95 to 100 percent¹⁵. At the moment, the Philippines imports rice and other food communities from Vietnam, Thailand, India, Pakistan, Myanmar and Cambodia, but when climate change impacts make themselves felt, Undersecretary Serrano argues that the Philippines needs technology that can help the Philippines meet its national demand for food despite climate change. In his own words: "We may have a lot of foreign exchange and dollars to buy food, but where are you going to buy it?"¹⁶ On top of this, Undersecretary Serrano further explained that, since the Philippines is an archipelago made up of many small islands, the Philippines in actuality has comparatively very little arable land compared to other producer countries in Asia.

We have to be able to invest in technology to conquer the disadvantages of an archipelagic geography. [...] We are the jewel on the ring of fire, and we are the buckle on the typhoon belt. It's not as if it's a romantic title, but it gives you an idea of the natural challenges that we face, but all of these are not insurmountable. We are spending very little on technological change or innovation. It's something that we want... hopefully we'll change.¹⁷

Thus, policymakers are justifying their support of land deals based on the fact that there is a genuine need for technological innovation in the Philippines, and that foreigners' access to natural resources is not

¹⁴ Author's interview with Undersecretary Serrano of the Department of Agriculture, Quezon City, 7 May 2014.

¹⁵ Author's interview with Undersecretary Serrano of the Department of Agriculture, Quezon City, 7 May 2014.

¹⁶ Author's interview with Undersecretary Serrano of the Department of Agriculture, Quezon City, 7 May 2014.

¹⁷ Author's interview with Undersecretary Serrano of the Department of Agriculture, Quezon City, 7 May 2014.

being allowed to take place unchecked. Instead, policymakers are arguing that there are genuine gains for Filipinos from the policy of encouraging FDI.

Another way that policymakers show that their 'willingness' is measured is through the strictness with which the constitutionality clause is upheld during the process that foreign investors have to go through in order to apply to operate in the Philippines. Prior to a foreign corporation's registration, the Securities and Exchange Commission assesses whether the planned project is consistent with Philippine laws. In a letter to the Securities and Exchange Commission, a lawyer named Atty. Santos-Centeno requested a legal opinion on the predicament of a foreign corporation called the Philippine Land Group Inc., which was indeed a sixty percent Filipino-owned corporation, however, the catch was that at its head, the corporation's president was Australian (SEC-OGC Opinion No. 12-01) The Securities and Exchange Commission having determined that one of the primary purposes of the corporation was to acquire land, flagged the issue of foreign ownership and decided that:

Foreigners can be elected as directors in proportion to their participation or share in the capital of corporations engaged in activities that are reserved to Filipinos, but are prohibited from being elected in management positions such as the President. (SEC-OGC Opinion No. 12-01)

The Securities and Exchange Commission explained that the rationale behind the prohibition on election on foreign ownership was to prohibit the circumvention of the nationalization laws (SEC-OGC Opinion No. 12-01). By nationalization laws, what is meant are the laws prescribing a certain percentage of Filipino equity in certain sectors, and one of these is the 60:40 constitutionality clause disallowing more than forty percent foreign equity in a company owning agricultural land. In the case where a joint-venture is sixty percent Filipino, but is headed by a foreigner, the corporation is still foreign-owned from a certain perspective and therefore could not be allowed from the perspective of the Securities and Exchange Commission.

The threat of foreign acquisition of land to national sovereignty is perceived as a non-issue since the constitutionality clause appears to be upheld so strictly. When land deals are negotiated, the Department of Agriculture claims that it indeed sees a problem when foreign investors come looking for thousands of hectares of land. As Undersecretary Serrano emphasizes, "it's never 100% unlike in other countries.¹⁸" Philippine policymakers have a policy of allowing the lease of the land for 25 years, which is renewable for 25 years at the most¹⁹. Within these constraints, however, policymakers are happy to accommodate interested foreign investors. Therefore, although there is a significant movement pursuing more openness to foreign investors, the current policymakers continue to place limitations on the scale of the foreign acquisitions in agricultural land, so policymakers either believe or claim to believe that foreign acquisitions of land in the Philippines are, for the large part, harmless to Philippine national sovereignty.

Some policymakers also believe or claim to believe that the existence of government bodies that are specifically required by law to regulate these investments are equipped and willing to safeguard the Philippines' national interest. When asked what the Board of Investments could do if a foreign

¹⁸ Author's interview with Undersecretary Serrano of the Department of Agriculture, Quezon City, 7 May 2014.

¹⁹ Author's interview with Undersecretary Serrano of the Department of Agriculture, Quezon City, 7 May 2014.

corporation was found to violate the rights of rural farmers, Director Arcansalin replied that that part of implementing the policy was not his department's responsibility, but that when it comes to the possible negative consequences of their policies, the National Commission on Indigenous Peoples or the Philippine authorities, would "deal with it".²⁰ He either believes or claims to believe that violations by foreign corporations will be taken care of through the relevant institutions put in place by Philippine laws.

In contrast, Undersecretary Serrano admits that in Philippine politics, it can sometimes be difficult regulate the implementation of certain policies, because it is difficult to derive a clear and consistent message from the laws given their duplications and contradictions, as well as the consistent problem of how to ensure that the laws are implemented when the departments responsible for enforcing the law are amenable to "foolishness²¹," meaning bribes and other corrupt practices²². What the motivations policymakers have for ignoring this fact in their public reasoning would be difficult to establish convincingly, but the point is that, for whatever reason, Filipino policymakers argue that the measured fashion with which Filipino policymakers show their 'willingness' to allow foreign corporations access to land through FDI is enough to foil risks such as the possible threat to national sovereignty.

Policymakers like Undersecretary Serrano also claim that oppositors' perception of the amount of foreign investments in the Philippines are misguided, and that all over the world, perhaps particularly in the Philippines, investments by Filipinos, and particularly investments by small Filipino farmers still exceed those of foreign corporations.

The collective investment of small farmers will dwarf your foreign direct investments. All of those millions of farmers invest in themselves. All of those millions of farmers invest in the technology that they think is affordable and is workable for them, so... and the fruits of that investment no matter how small produces that portion of the national economy. That never goes away. It never goes away even if it is cheaper in other countries. If it's cheaper in Vietnam, all of those investors are going to fly away. They're going to leave those very cheap computers and other equipment. They're going to go with the satchels of their... the fruits of their investment here and invest where it's cheaper. They're going to vote with their feet. Or they're going to vote with their wings because they have to fly to go to Vietnam. But agriculture remains here. The investments of small farmers – hopefully government, stays here, diba?

Undersecretary Serrano argues that encouraging foreign investments is a non-issue because small-scale Filipino farmers' investments will supersede the scale and success of foreign investments in agricultural land. Local small-scale farmers, according to his point of view, have more of a stake in the state or agrarian development in the Philippines, and are not as capricious as corporations who may be prone to capital flight if it were to be cheaper and more profitable for them to invest in other countries. The BOI's records backs his assertion up. The BOI's 2012 Annual Report states that a mere 12% of investments from 2010-2012 were foreign, in contrast to domestic investments, which made up 88% (BOI, 2012). This belief is an important reason why Filipino policymakers zealously pursue policies that are purported to make countries more attractive to foreign investors. If the scale and involvement of foreigners is

²⁰ Author's interview with Director Arcansalin of the Board of Investments, Makati City, 12 May 2014

²¹ Author's interview with Undersecretary Serrano of the Department of Agriculture, Quezon City, 7 May 2014.

²² Author's interview with Undersecretary Serrano of the Department of Agriculture, Quezon City, 7 May 2014.

controlled and regulated by the government, however, then why do activist organizations continue to protest against land deals?

2.7. No unified land use law

Undersecretary Serrano of the Department of Agriculture believes that the lack of confidence that some sectors have in the government's ability to regulate land deals is attributable to the confusing mix of legislation in the Philippines. There is a plethora of duplications and contradictions in Philippine laws, and the ambiguity inherent in the legal context makes the simultaneous enforcement of all of them problematic.

We're probably one of the very, very few countries in the world with no unified land use law. We have tried this for the past... I mean when I was kicked upstairs to this office 15 years ago, we were already advocating this. Last year, we nearly made it until we got ambushed by the real estate people. But I would like to commend the House of Representatives, normally perceived as very, very parochial and less professional in the way it tackles very substantive national issues like this but we passed it in the House, we got ambushed in the Senate. [...] We've been doing this for the past 15 years, for God's sake!²³

Undersecretary Serrano is explaining that for years, there has been a movement towards a unified land use policy that harmonizes the different laws and clarifies who truly owns certain lands, and how certain lands are to be used. He argues that since powerful geopolitical agents such as the housing and real estate industry saw that "there were provisions that they thought would be prejudicial to the housing and the real estate industry²⁴," the land use policy bill was blocked. As a result, if one were to look at the whole body of laws in the Philippines altogether, there are cases where the laws overlap and it is possible to argue that the foreign corporation's acquisition of land was legal, and on the other hand, it is also possible to argue that the foreign corporation's acquisition of land was illegal. The same area of land could be covered by agrarian reform, ancestral domain, and also targeted land for FDI, so for instance, if a land is marked as an ancestral domain and an area targeted for FDI at the same time, then the case could be seen either way as legal or illegal.

2.8. Conclusion

The Philippine's legal context contains both opportunities and limitations for foreign investors to acquire land in the Philippines, but crucially, even the limitations paradoxically contribute to making foreign acquisition of land possible. Regulatory limitations such as the 60:40 rule in joint-ventures or administrative sanctions only serve to appease fears of creating risks for Filipinos according to some Filipino policymakers. On top of that, opportunities such as the legality of joint-ventures, and the legally codified imperative to make the Philippines more attractive to investors is wholly consistent with a policy allowing foreign investors to acquire agricultural land in the Philippines through FDI. Foreign investors may not be the owners of the land, but they still effectively legitimately acquire land by acquiring control and territorialisation powers through the land deals. Policymakers' can therefore observe that there are legal pathways for foreign investors to acquire land. At the same time, policymakers also observe that

²³ Author's interview with Undersecretary Serrano of the Department of Agriculture, Quezon City, 7 May 2014.

²⁴ Author's interview with Undersecretary Serrano of the Department of Agriculture, Quezon City, 7 May 2014.

there are laws that provide ways of regulating land deals, so policymakers either believe that their 'willingness' is measured enough or can project themselves as having done enough to reduce the risks to Filipinos.

Because of the strict controls on the scale and the foreign equity of corporations allowed to acquire land in the Philippines however, as well as the long well-established legal practice of granting usufructs, land deals in fact do not contradict national sovereignty. The national interest and national sovereignty is not endangered by foreigners, only peasants and indigenous communities who happen to live on lands that are marked by several different laws are endangered by the policy. Thus, although the foreshadowed problem was the possible threat of land deals to national sovereignty, the true contradiction is in fact between land deals and farmers' land control over their land.

CHAPTER 3

THE SOCIO-POLITICAL CONTEXT

3.1. Introduction

This chapter explores the second important component of the Philippines' *geopolitical context*, namely, the *norms* or the unofficial, non-codified, and yet culturally accepted practices that allow foreign investors to acquire land in the Philippines. In the previous chapter, it was explained how Philippine laws could be interpreted to make foreign land acquisition possible, however, whereas there are legal ways for foreign investors to acquire land in the Philippines, there are documented cases where peasants' resistance was suppressed through extralegal means. There have been few sources that attest to foreign investors using extralegal practices, but if foreign investors' uses of extralegal practices in order to acquire land are documented rarely, this is probably also because these instances are indeed rare, given that there are perfectly legal ways for foreign investors to acquire land in the Philippines. There are still documented instances when extralegal practices have been used however, and must be included in the analysis if the aim of my research is to understand how foreign acquisition of land owned by rural communities is made possible. Essentially, the Philippines' socio-political context makes foreign acquisition of land possible because (1) one of the most crucial characteristics of the agrarian socio-political context in the Philippines is that there is a powerful agrarian elite class that enters into partnerships with foreign corporations; and (2) this powerful agrarian elite has normalized extralegal practices that have allowed them to stay in power, which foreign corporations can take advantage of by using some of these extralegal practices to squash resistance to their land acquisition.

3.2. The historical background of the agrarian socio-political context

3.2.1. Colonial roots of power

The socio-political structure of Philippine society is rooted in the historical significance of agriculture to the hierarchy of power in the Philippines. Critically, agricultural land is the source of the powerful landed elite's power. According to (Kasuya, 1995), the Spanish colonists transformed communal lands into the large *haciendas* (plantations) that, as I will explain why, remain the source of power for a few, powerful Filipino families today. The Spanish regime employed locals to manage local political affairs on their behalf, and eventually this led to an elevated class of *mestizo* (light-skinned) elites who became known as the *principalia* families (Querubin, 2013). When the US government arrived and introduced local elections in 1901, partly also to pacify the U.S.'s critics, the *principalia* families were able to formalize their political and economic power, because elite Filipino families' unofficial status as local bosses became

consolidated when members of elite Filipino families entered into political office (Querubin, 2013). When the Americans tried to hand back lands to Filipinos by passing the *1902 Land Registration Act*, the system only confirmed existing recorded titles, so it only benefitted the few Filipino elite families who had already documented their rights during the Spanish period (Kasuya, 1995). In addition, instead of confiscating and redistributing lands, the American colonial rulers used a market-based approach, where they purchased the Church's lands in cash and re-sold the lands at prices where only wealthy Filipinos and American corporations could afford the land (Borras & Franco, 2005), so power remained in the hands of the Filipino agrarian elite.

Since the colonial era in the Philippines, the agrarian elite had devised several different methods of elite political resilience, which eventually led to their continued geopolitical dominance until today. Angeles (1999) studied strategies of political resilience and political entrepreneurship in the Philippines and summarized the strategies she found that agrarian elites pursued:

- (1) *The establishment and maintenance of kinship networks, especially through intermarriage, and non-kinship ties between and within oligarchic families;*
- (2) *Diversification into non-agricultural economic activities, such as real estate, logging, mining, and other industrial enterprises, primarily by establishing family-owned banks that generate loans and subsidies from government banks and other state institutions and create ties with foreign and local capitalists;*
- (3) *The control of political parties and state patronage (primarily electoral) machinery by using personal wealth and political party funds to launch candidacies for political office and by dispensing political patronage to non-rival oligarchies, business power brokers, and political ward leaders to secure votes, appointments to public office, access business franchises and protection, and other political favours; and*
- (4) *The use of political power to obstruct progressive legislation, particularly concerning land reform and taxation.* (Angeles, 1999, 671)

Hence, by marrying into other elite families, diversifying into other business sectors and by entering politics, the agrarian elite was able to survive and became not just the agrarian elite, but also became a business elite and a political elite.

Often, elite Filipino families are referred to as 'political dynasties' (Mendoza et al., 2012; Querubin, 2013) since, as a result of elite Filipino families' involvement in Philippine politics, the political landscape of power in the Philippines has come to be characterized by politics in a certain city or region being dominated by one or a few rival elite Filipino families, who transfer power from one family member to the other. To put the pervasiveness of political dynasties in Philippine politics into perspective, the share of legislators with dynastic links have been reported to be 50% (Querubin, 2010), and 70% (Mendoza et al., 2012). Ultimately, as a result of the Spanish and American colonial legacy, as well as a result of elite Filipino families' several different strategies of political resilience, elite Filipino families rooted in the agricultural sector continue to politically dominate the Philippines today.

Not all elite Filipino families originate from the traditional *principalia* families, however. The traditional agrarian elite families also intermarried into poor, but talented and ambitious families outside the traditional agrarian elite (Wurfel, 1988). Philippine society transformed "due to capitalist penetration, proletarianization, increased population growth and mobility, access to education, diversification of

sources of wealth, and entry of middle class elements into the entrepreneurial class (Angeles, 1999, 672).” As a result, the dominating elite Filipino families today are more of mix of these new and old elites, but the origins of the socio-political context as a system of power that is organized into elite Filipino families is rooted in the Spanish and American colonial legacy.

Agricultural land is therefore of pre-eminent importance in understanding the landscape of power in the Philippines. Tied to this land is the allegiance of the rural communities that live around it, which is directly related to one important Filipino value: *utang na loob*. This phrase contains a very powerful sentiment in that it means both obligation and gratitude simultaneously. Perhaps the closest English translation to this concept would be the idea of a ‘debt of gratitude.’ The peasants and other rural communities living around the properties of the agrarian elite are tied to the land by a sense of gratitude and obligation to their patrons, because the Philippines has no mature welfare state, and many Filipinos perceive the government to be so corrupt that turning to these elite families for help when they require money, work, or aid to resolve local disputes is preferable²⁵. The agrarian elite benefits from this loyalty considerably since members of these families tend to go into politics and therefore require the votes of these rural communities.

Because of the importance of land control to these elite families, they cultivate their relationships with the rural communities with care. The relationship between landlord and peasant is not always characterized by overt abuse by the elite as one might assume simply because the agrarian elite is the dominant side. I do not argue that the relationship between patron and rural farmworker is not asymmetrical and characterized by structural inequality, but that sometimes this structural inequality is hidden by such practices because not only do these practices partially pacify peasants, many elite families are also convinced that, by their charity, they are ultimately doing good for these impoverished peasants²⁶. One common practice is that when a benefactor is asked for a favour and the time comes to pay him back, he can decline and thereby procure for himself a favour that can be cashed in indefinitely from the beneficiary²⁷, but equally importantly, the favour he granted creates a positive self-image. Grand gestures of generosity also resonate with peasants significantly, such as when a wealthy patron buys out an entire market, and thus solves the market sellers’ financial problems for a whole month²⁸. Because of the care that the agrarian elite puts into cultivating their relationships with the peasants, the agrarian political landscape is characterized by power being concentrated in the hands of a few dominant elite families in a certain region, whose power is reinforced by reciprocal patron-client relationships. Not all peasants remained content with the structural inequality inherent in agrarian power relationships however, and eventually peasants began to protest.

²⁵ Author’s informal conversation with Mrs.C, who is a family member in an elite Filipino family

²⁶ Author’s informal conversation with Mr.W, who is a family member in an elite Filipino family

²⁷ Author’s informal conversation with Mrs. C, who is a family member in an elite Filipino family

²⁸ Author’s informal conversation with Mr. W, who is a family member in an elite Filipino family

3.2.2. The Comprehensive Agrarian Reform Program

After cycles of violent peasant upheaval, and after the previous administration under Marcos instilled the concept of land reform (Borras, 2001), the successor Aquino government was forced to finally address the historical injustice of skewed land ownership which was the underlying cause of peasant unrest. This was the goal of the Comprehensive Agrarian Reform Program (CARP), which was implemented in 1988 (Kasuya, 1995). The Department of Agrarian Reform (DAR) was tasked to redistribute 8.064 million hectares of private and public land to roughly 4 million rural poor households, including farmworkers, tenants, and other legally landless communities (Borras & Franco, 2007). CARP was meant to structurally change the skewed land-ownership distribution and finally grant the poor access to land, but the success of CARP is disputed since although some argue that many tenant farmworkers were successfully transformed into land beneficiaries (Otsuka, 1991) and that these rural authoritarian enclaves have been somewhat eroded (Borras, 2001), others argue that many of the Philippines' elite families were able to evade redistribution (Borras & Franco, 2005).

Filipino elite families were able to avoid the expropriation of their land a number of ways. Voluntary Land Transfers (VLT), which sought to transfer land to peasants under mutually agreed upon terms between peasants and landlords, have been argued to have been carried out in connivance with some DAR officials (Borras, 2001). Furthermore, the retention limit placed on landowners was also sometimes evaded by registering lands under the names of other family members (Otsuka, 1991). In some cases, force was used against farmers. When former President Cory Aquino initiated land reform, her own family, the Cojuangcos evaded the redistribution of their Hacienda Luisita property by giving away stocks instead of land (Mendoza, 2009), so the farmers promised land not only had no control over the land in practice whatsoever, they were also subjected to a massacre by the police and the military (Kwok, 2009; Carranza, 2005; Frerichs, 2011). Agribusiness companies and landlords also mounted a powerful lobby to exclude commercial farms from land reform, and indeed, although not all landlords were able to do so, the more well-connected landlords – the Lorenzo family to name one example, were able to legally secure their exclusion from expropriation through a legal decision from the government (Borras & Franco, 2005). Moreover, the country's financial difficulties, on top of anti-CARP members of the Congress's slashing of the CARP budget stymied the project (Borras, 2001). Hence, what was meant as a radical structural shift in the Philippines' land ownership structure to correct the historical injustice to Filipino peasants was foiled by a plethora of methods circumventing land reform.

3.3. Partnerships between foreign investors and Filipino elite families

There are documented cases of elite Filipino families' businesses entering into joint investments with foreign corporations, and there are observable benefits to foreign investors when allying with elite Filipino families. Foreign investors can benefit from entering into a partnership with an elite Filipino family through joint-investments, and because by a single stroke, foreign investors are entering into a partnership where they gain partners with whom they can enter into a joint-venture with, and powerful allies that are probably well-connected in government. It is equally plausible to expect that when foreign investors come to the Philippines to invest, they need local contacts to help them navigate around legal, bureaucratic, and social hurdles, and these powerful contacts they have found in members of political dynasties.

For elite Filipino families, it had long been a normalized practice to affiliate themselves with other powerful geopolitical agents such as other powerful political families or creating ties “with local and foreign capitalists” (Angeles, 1991, 671). Angeles (1991) studied the dominant political families in Bukidnon and found that one of the main strategies of political resilience that benefitted the Fortiches, the Tabios family and Jose Ma. Zubiri’s family continued dominance in Bukidnon was that they forged partnerships with local and foreign businesses through the opportunities created by FDI and joint ventures. “Since the 1970s, a number of big agribusiness corporations such as Nestlé and San Miguel have joined Del Monte in exploiting the province’s natural resources,” she explains, “These mammoth agribusiness corporations participate in initial capitalisation, technical, marketing, and financial arrangements, equipment supply, and other forms of joint venture with Filipino capitalists” (Angeles, 1991, 674). Thus, at least since the 1970s, long before the contemporary foreign ‘land grabbing’ discourse became a hot topic since the 2007-2008 Global Food Crisis, elite Filipino families and foreign corporations had been joining into partnerships that contribute to elite Filipino families’ political resilience.

3.3.1. Examples of alliances

There are joint investments that are forged between foreign corporations and local elites’ businesses. One example is that of the Davao Agricultural Ventures Corporation, which is a forty percent Liberian, and sixty percent Filipino enterprise. The Chairman of the corporation is conspicuously the patriarch of one of the richest families in the Philippines (Flores, 2009): Antonio Floirendo Sr. The product registered with the Board of Investments is fresh pineapple, but Antonio Floirendo is better known as the ‘banana king’ for transforming vast tracts of raw land in Mindanao into fruits-for-export plantations (InterAksyon, 2012), and eventually becoming the biggest banana-exporting business empire in the Philippines. In the early 1950s, Floirendo was granted 1,200 hectares of what was perceived to be ‘unproductive swampland’ in Davao by President Quirino, and then it was discovered that the land was in actuality extremely fertile, leading to the Floirendo family amassing its wealth (Balana, 2012). It has been claimed that Antonio Floirendo Sr. also benefitted as a crony of the former President Marcos (InterAksyon, 2012), and Antonio Floirendo Sr.’s second son and namesake Antonio ‘Tonyboy’ Floirendo Jr. served as congressman in Davao del Norte (Balana, 2012). The Floirendo family is thus an example of an elite political family with considerable power in the Davao area due to their vast properties in agriculture, who have links in government, and who have entered in a joint-venture with a foreign corporation.

A review of the Board of Investments records link more conspicuous names to foreign corporations through joint-ventures. A few examples are the Chinese-Filipino billionaire John Gokongwei, Jr. of the JG Summit Holdings Inc., who ranks 325th on Forbes’ ‘World’s Billionaires’ list (Forbes, 2014). Another famous name is Inigo Zobel, who is recorded in the BOI’s records for one of his less famous companies, the Filipino-Japanese Diamond Star Agro Products, Inc. Inigo Zobel is president of the airline Air Philippines (Alcuaz, 2012), the biggest shareholder of the San Miguel Corporation (Agustin, 2014), and his family, the Zobel de Ayala family. A third example is the Filipino-Spanish-American joint venture of Central Azucarera Don Pedro (formerly known as Phoenix Sugar Corporation), which produces refined sugar and molasses. The Chairman of the corporation is the sugar

baron Pedro E. Roxas, who is also vice chairman of the ASEAN Sugar Alliance between the sugar industries of Thailand, Indonesia and the Philippines (Manila Bulletin, 2012). All these examples show that foreign acquisition of land through FDI is at least in some cases partially made possible by joint-ventures between elite Filipino families and foreign corporations.

Partnerships are also sometimes forged between foreign investors interested in an ecozone and the dominating elite Filipino family in that ecozone instead of through a joint investment. One controversial case is that of the 12,923 hectare Aurora Pacific Economic Zone and Freeport (APECO) project (Rappler, 2014). APECO was envisioned to “foster national socio-economic growth and advancement of an innovative, eco-friendly and cost-efficient economic zone” (APECO, 2014) by inviting foreign investors to develop agriculture among other sectors in the Casiguran province of Aurora. The ecozone also overlaps with an area dominated by the Angara family, which has created opportunities for foreign investors by first of all, former Senator Edgardo Angara and his son Senator Juan Edgardo Angara’s writing of the bill that led to the creation of APECO, and then by Bellaflor Angara-Castiallo, the sister of the elder Angara’s representation of the Aurora province in the House of Representatives as well as her position as vice-chairperson of the APECO board (Rappler, 2014).

The case is so controversial for a number of reasons. First of all, as a consequence of this partnership, land reform beneficiaries are dispossessed of their newly acquired land. According to *Anakpawis* party-list Representative Rafael Mariano, among the lands covered by the APECO are farmland acquired by agrarian reform beneficiaries through CARP (Asian Peasant Coalition, 2012). This includes both small farmers who were awarded Certificates of Land Ownership and indigenous communities awarded Certificates of Ancestral Domain (Task Force Anti-APECO, 2012). Second of all, anti-APECO groups blame the Angara family for the dispossession of agrarian reform beneficiaries’ lands. A statement by the *Pamalakya* vice chairperson and Resist Apeco convenor Salvador France released the following statement directed to the Taiwanese companies investing in APECO:

We don't need Apeco and we don't need your money. It is only Aquino, Senator Edgardo Angara, his sister Governor Bella Angara-Castillo and his son Rep. Sonny Angara who want this project. (Biglang Awa et al., 2011)

Third of all, the case is also controversial, because the Commission on Audit also discovered that 23.8 million pesos in unliquidated cash advances was unaccounted for in APECO’s records (Commission on Audit, 2013). Oppositors of the APECO project claim that the anomalies in the Commission on Audit are hinting at graft (Task-Force Anti APECO, 2012).

3.4. Methods of land acquisition

3.4.1. Ignoring indigenous communities right to ancestral domain

Some elite families in the Philippines have historically ‘grabbed land’ from rural communities and indigenous tribes and this has led to the normalization of taking land from rural communities – not in the sense that it is considered acceptable in Philippine society, but in the sense that there is widespread awareness that wealthy Filipino families have in the past, and possibly still forcibly take land from rural

communities in the Philippines, and that this is an institutionalized practice that is impossible to do anything about²⁹. Indeed, if you mention the term 'land grabbing' to a Filipino national, they are more likely to associate it with 'land grabbing' by nationals rather than the 'new global land grab,' that NGOs like GRAIN (2008) allude to, whereby they mean the 'land grab' initiated by foreigners. In one particular case, it was reported that the Higaonon tribe experienced consecutive 'land grabbing' by Filipino nationals (Quijano, 2012). Although the Higanonon repeatedly went back to reclaim the land, the integrity of the tribe's *land control* as defined by Peluso (2011) had been so compromised because they had been displaced for so long that it was possible for the government to go back on a promise where the government recognized the Higaonon tribe's right to till the land, and lease the disputed land out to the American A. Brown Company anyway. (Quijano, 2012) This is illegal because the Higaonons have the right to ancestral domain, but since they have been dispelled from the land by consecutive 'land grabs' by nationals, the true owners of the property becomes ambiguous enough for a foreign corporation to acquire land.

3.4.2. Approaching leaders, not owners

When a foreign corporation's access to land has been made difficult by an indigenous community, one way that foreign investors have gone around this obstacle has been to conduct its dealings with representatives of the community, that were more amenable to negotiations, rather than the owners. In the case of A. Brown Company, the foreign corporation obtained the support of the local government and also the support of hand-picked representatives of the Higaonon tribe, who gave their consent in return for "comfortable deals" that they were offered by A. Brown Company (Quijano, 2012). In Bohol, the local government acted as a broker between the foreign corporations and the local landowners, despite the way that the corporation laid claim to more than 100 hectares of land in contrast to the mere 5 hectares allowed by the Comprehensive Agrarian Reform Law (de la Cruz, 2011). By excluding the actual owners of the land from negotiations but nevertheless extracting consent from representatives of the targeted area, foreign corporations are able to acquire the targeted land.

3.4.3. Coercion

There have also been reported cases where foreign investors acquired land forcibly by using private security forces in conjunction with forces from the national government's law enforcement agency, the National Bureau of Investigation (NBI) against an indigenous community (Quijano, 2012). A report by an International Fact-Finding Mission that was held in the provincial *baranggays* (smallest administrative division in the Philippines) of Tingalan and Bagooboc, discovered that private security forces hired by the American A. Brown Company in conjunction with the NBI had been trying to drive out farmers from the Higaonon tribe from their land. According to the report, "incidents of harassment and violence, including destruction of crops, burning of houses, strafing, and death threats, commenced immediately after A. Brown started operations (Quijano, 2012, 7)." Some farmers were also arrested and then charged with direct assault without the presence of a lawyer and placed in jail for two weeks (Quijano, 2012). In the case of A. Brown Company, the farmers were harassed until the foreign corporation could acquire the land.

²⁹ Author's informal conversation with Mrs. C.

3.4.4. Misleading by withholding information

Another way of coercing farmers without using violence is by withholding information from the legal owner of the land and ensnaring the owner to give up his property. When indigenous communities are asked for their consent, the government sometimes does not provide timely, adequate, and useful information to these communities before they are offered a contract for their land (Manahan, 2011). In some cases such as in San Mariano, Isabela, an International Fact Finding Mission discovered that the foreign corporations and the local government did not engage affected communities in effective public consultations (IFFM, 2011). De la Cruz (2011) reports that agrarian reform beneficiaries in the poor province of Biliran were approached by government officials, who convinced them to sell their land for PhP 5,000 (85 EUR) a year, per hectare for a period of ten years, and with PhP 50,000 (844 EUR) upfront. For most of these farmers who live under the poverty line, these sums were more money than they have ever seen, but in actuality, the value of the land was much higher. The farmers are not informed of the true value of their land, however, and consequently signed the contractual agreement. De la Cruz (2011) also added that after signing agreements, farmers were made to pay high amortization fees and upon failing to pay, the peasants were driven out. What essentially happens is that despite holding a certificate of ownership for his land, the farmer nevertheless loses *land control* as defined by Peluso over his land for a period of 10 years, for a sum that could not even sustain him for these 10 years.

3.4.5. Issuing anomalous Certificates of Land Ownership

The International Fact Finding Mission (2011) in Isabela also documented cases where government agencies authorized Certificates of Land Ownership that did not match the geographic location or the names of the beneficiaries of the Certificates of Land Ownership. In effect, this means that the peasants became legally landless, despite the land they were promised and entitled to by law. Moreover, according to the International Fact Finding Mission (2011), peasants lands were then marked as 'idle and available,' which was not the case. During the process of issuing Certificates of Land Ownership, farmers would be promised free land-titling services, but then charged high processing fees, only for the farmers to receive their titles under the wrong names (IFFM, 2011). Ultimately, farmers thus lost the land.

3.5. Undermining agrarian reform

As a consequence of foreign acquisition of land in areas distributed to rural communities by CARP is undermining the progress of agrarian reform is underlined (Manahan, 2011). In some cases, such as when foreign corporations approach representatives of the owners of land such as a clan leader or a local official, or when farmers are duped into signing usufructs that do not benefit them, the issue is a political one, because "instead of addressing the root causes of rural poverty, it takes advantage of it in order to further the profit-driven objectives of the investor, and results thereby in a scenario exactly the opposite of what agrarian reform contemplated. (de la Cruz, 2011, 11)" In other cases, such as when the right of an indigenous community to ancestral domain is ignored, or when peasants are coerced and harassed off of their land, then the issue is both a political and a legal one. In effect, the rural communities who benefitted from CARP and acquired land are dispossessed of lands and lose *land control* as defined by Peluso (2011) over their property. Instead of protecting rural farmers' property rights, agrarian reform beneficiaries are reverted to tenants or workers on the land that they were awarded.

3.6. Conclusion

Like the official *rules* of the *geopolitical context*, so too do the *norms* in Philippine society play a great role in making foreign acquisition of land possible. The presence of powerful elite families in the Philippines, who have historically forged links with local and foreign businesses, provides an opportunity for potential partners for foreign corporations to enter into joint-ventures with. Additionally, although land deals themselves are legitimate contractual agreements, when the targeted land overlaps with areas set apart for peasants by CARP, then the legality of foreign acquisitions of land in the area becomes more vague. On these specific areas, there are also examples where foreign corporations have used extralegal means in order to ensure their acquisition of land. For instance, there are cases where foreign corporations have benefitted from the ambiguity of land ownership in an area where the indigenous community was driven out of their land by consecutive land grabs by nationals. There are also cases when foreign corporations have chosen representatives of the owners of the land instead of speaking to the owners directly. Furthermore, there are cases when farmers are coerced and harassed out of their land by foreign corporations using private security and the aid of the Philippine authorities. Finally, foreign corporations are also able to acquire farmers' property by keeping farmers in the dark and duping them into selling their land. In consequence, agrarian reform beneficiaries are dispossessed of their newly acquired land.

Who is really eroding national sovereignty in the Philippines? The research began with the foreshadowed problem that the ability of foreign corporations to acquire land in the Philippines, despite some media reports' claims that, "these land deals are unconstitutional," (Bicol Today, 2011), but as the previous Chapter demonstrated, the policymakers themselves argue that the land deals are unfolding in a measured fashion and that foreign corporations are contractually committed by Filipino policymakers to exercise corporate social responsibility. Yet it is often not foreigners that use extralegal means against the peasants, but other powerful geopolitical agents such as some members of elite Filipino families or some government officials. Some elite Filipino families, by having some members in government, can even pass legislation that literally changes the legal context of the Philippines to integrate new laws that create contradictions with other laws. The way that some powerful geopolitical agents can block progressive legislation or blatantly be able to avoid the expropriation of their assets as stipulated by a legally mandated policy like land reform also shows a rival authority to the rule of Philippine law. Thus, if there are agents that have eroded the Philippines' national sovereignty, given the insights in this chapter, it seems as though national sovereignty was more challenged internally by domestic elites than by the foreign corporation. The pre-existing challenges to the rule of the law by domestic elites then created opportunities for foreign corporations to acquire land in the Philippines through normalized extralegal means, given that these practices were regularized by domestic elites.

CHAPTER 4

THE ROLE OF GEOPOLITICAL REPRESENTATIONS

4.1. Introduction

For some policymakers, supporting FDI comes as a genuine attempt to bring development to the Philippines. In the previous chapter, it was explored how Philippine norms give rise to opportunities which ultimately help foreign investors acquire land. In this chapter, it will be explained how colonial mentality has led to some Filipino policymakers' aspirations toward Western ideals of progress and modernity. Filipinos, it has been argued, are plagued by what Filipinos call, 'Colonial mentality,' (David & Okazaki, 2010) meaning that part of the colonial legacy left behind by the Spanish and the Americans was an intrinsic inferiority complex that leads Filipinos to perceive everything foreign as superior to their own culture, products, and ideas. Through Filipino policymakers' geopolitical representations of themselves as adhering to these Western ideals, it demonstrates that Filipino policymakers are "looking toward the West for intellectual affirmation. (Laurel, 2005)" Foreign knowledge authorities have asserted that making developing countries more open and desirable to business ought to be the prime objective of governments (World Bank, 2008), and the policy elite is mirroring the values they have inherited from the West. Additionally, the Philippines has seen its agricultural sector lag behind those of its Asian neighbours, many of whom are now either 'Asian tiger economies' or 'rising Asian tiger economies.' The policy elite is therefore keen to create *geopolitical representations* of themselves as having turned a corner and now belonging to the geopolitical category of 'rising Asian tiger' states.

4.2. Colonial mentality

4.2.1. Defining colonial mentality

Simply the existence of Western ideals as represented by international agencies and the international media does not explain why policymakers choose to follow these recommendations, and I argue that this gap can be bridged by a concept that is referred to in Filipino society as 'colonial mentality'. Colonial mentality can essentially be defined as a social psychological complex referring to the "notion that superiority, pleasantness or desirability are associated with any cultural values, behaviours, physical appearance, and objects that are American or Western (David & Okazaki, 2010, 850)". It is

essentially “internalized oppression, in which the colonizer’s values and beliefs are accepted by the colonized as beliefs and truths of their own; the colonized come to believe that the mores of the colonizer are superior to their own.” (Nadal, 2011)

Colonial mentality can be seen in a variety of everyday interactions. Filipinos who speak good English are still associated with higher social classes, and are viewed as more ‘civilized’ and educated, which is a result of the English language being utilized in Philippine schools by the American colonists (Nadal, 2011; Kobari, 2006). As Laurel (2005, 534) stated, “No doubt, English is the language of the elite.” Colonial mentality is also visible in the Filipino preference for the *mestizo* or *mestiza* (light-skinned) aesthetic of beauty, which originates from the perceived superiority of mixed-race Spanish-Filipinos (Nadal, 2011). According to Quimpo, (2003) the Spanish colonists relentlessly traced racial lineage and differentiated between *españoles-peninsulares* (full-blooded Spaniards born in the Iberian peninsula), *creoles* (full blooded Spaniards born in a colony like the Philippines), and *indios* (native, indigenous people), which was placed on a hierarchy of races where the *indios* were at the bottom. These categories based on race, skin colour and social class have carried on governing interactions in contemporary Philippine society.

Another example is how the contemporary concentration of government bodies and economic hubs in the capital of Manila as a result of Manila being the “center of colonial domestic networks” has led to a cultural divide (Kobari, 2006) where those who are *taga-Maynila* (from Manila) are seen as the more Western type of Filipinos and in contrast, those who are *taga-probinsya* (from the province) are associated with a pejorative tone denoting backwardness. There are other big cities outside Manila, but Manila is regarded as the center of the Philippines with everything else at the periphery being regarded as a province to be ruled over by Manila. Second of all, when Filipinos describe someone as coming from the province, they are not referring to the place that person is coming from but to the fact that they behave in an uncivilized and unmodern way (Kobari, 2006). If a person from Manila were called a *probinsyano* (man from the province), then it implies that they are uncouth, uneducated and ignorant of contemporary trends. Critically, these perceptions are fundamentally geopolitical since they legitimate certain culturally accepted treatment and socially appropriate regard based on the geographic origins of certain groups.

At the same time that colonial mentality venerates the foreign, colonial mentality is also inverted and turned into resentment of the opposite characteristics of the foreign values that are strived for. Thus, parallel to this adoration of the foreign, the concept of colonial mentality also includes the “perception of ethnic or cultural inferiority that is [...] a specific consequence of centuries of colonization under Spain and the U.S (David & Okazaki, 2006, 241).” In everyday interactions, Filipinos tend to denigrate themselves and their culture (David & Okazaki, 2006) with statements bemoaning ‘typical Philippines’ or ‘typical Filipino’ characteristics which are associated with unmodern, and inefficient characteristics. This is observable when Filipinos complain about ‘typical Filipino’ bumper-to-bumper traffic due to the lack of government funds for improved transportation infrastructure³⁰, or the ‘typical Filipino’ government’s failure to provide opportunities for young Filipino scholars due to thieving politicians stealing the funds

³⁰ Author’s informal conversation with Mrs. C

for education³¹. At the same time, such denigrations also often go hand-in-hand with a statement like: “*ganyan naman talaga ang Pilipino* (that’s just really the way Filipinos are)” as though inefficiency and corruption really is just part of the Filipino identity.

The way that Filipinos associate negative traits with their Filipino identity (David & Okazaki, 2006) mirrors the negative traits that foreign media have expressed about the Philippines. For instance, The Economist wrote that:

IT WAS sadly typical for the Philippines. When it played host at the beginning of May to the annual meeting of the Asian Development Bank, the biggest single news story the event generated overseas was a negative one: that boardings had been erected so delegates would not see some unpleasant slums. (The Economist, 2012)

Thus, there is an overlap between what Filipinos view as ‘typical’ of their culture and what foreign media sources like The Economist view of Philippine culture. The consensus between foreign media sources like The Economist and how Filipinos view themselves is fundamentally geopolitical because there is a certain understanding about a certain place and the ‘typical Filipino’ traits of the people who live in that place that has become hegemonic, and these ideas about ‘typical Filipino’ traits are having consequences on what is perceived as permissible in Philippine society. In the next section, I will explain how Filipino policymakers are trying to recast the Philippines’ international reputation by demonstrating how they aspire to Western ideals of progress and modernity.

4.3. Policymakers’ geopolitical representation of the Philippines

4.3.1. No longer like the Keystone cops

Filipino policymakers are trying to change the way the Philippines is perceived by the international community. The Philippines is rarely mentioned in international headlines – and the Philippines is mentioned in favourable terms even less so³². Filipinos are used to being associated with problematic topics such as poverty, prostitution, illegal aliens, corruption and natural disasters³³, and Filipino policymakers are showing discontent with their international reputation. In a meeting with The Economist, President Aquino outright told The Economist about his “bone to pick” with the international news agency. The article described the meeting thus:

TO OUR pride, Benigno Aquino, president of the Philippines, is a loyal reader of The Economist. But greeting us for an interview in Malacanang, the palace complex in Manila where he lives and works (but finds “oppressive”), he had some blunt opinions to offer on our coverage of his country: we either ignore it; or treat it “like the Keystone cops”. He seems to think this unjust. [...] He may be on to something with the “Keystone cops” jibe: that, even now, his country is not taken entirely seriously. [...] This week Manila played host to the regional edition of the World Economic Forum. Mr Aquino’s colleagues seemed to see the event, attended by the global business elite, as a chance to stake their claim to a place in the sun, and to get the credit they deserve for four years of painstaking, nitty-gritty reform. (The Economist, 2014)

³¹ Author’s informal conversation with Ms. G

³² Author’s informal conversation with Ms. G

³³ Author’s informal conversation with Ms. G

This passage shows that President Aquino has explicitly said that he takes issue with the way The Economist has reported about the Philippines in the past. Moreover, The Economist argues that through the governments' initiation of reforms and gestures like hosting the World Economic Forum, Filipino policymakers like President Aquino are actively trying to change the way that the Philippines is geopolitically perceived by the international community.

4.3.2. Towards Western ideals of progress and modernity

In policymakers' statements, there is a tendency to emulate Western ideals of progress. An example of this is the tendency in Filipino policymakers' statements to geopolitically represent themselves as conforming to the ideal of having a liberalized economy that is open to FDI as put forward by international organizations. For example, according to the Organisation for Economic Co-operation and Development's (OECD) Foreign Direct Investment for Development Report:

"(...) a preponderance of studies shows that FDI triggers technology spillovers, assists human capital formation, contributes to international trade integration, helps create a more competitive business environment and enhances enterprise development. All these contribute to higher economic growth, which is the most potent tool for alleviating poverty in developing countries (OECD, 2002, 5)."

The message of this passage is that FDI is an evidence-based policy backed by 'a preponderance of studies,' and that these evidence-based policies show that FDI can help improve the lives of the poor through economic growth. Filipino policymakers are mirroring this idea in government publications. For instance, in the 2012 BOI Annual Report, it states that:

The three-year total foreign investments in the Philippines reached Php119.62 billion, a huge vote of confidence on the government's efforts to attract more foreign capital, crucial in achieving long-term economic growth and stability. (BOI, 2012)

The BOI, which is responsible for implementing the declared policies in Philippine law essentially allow foreign acquisition of land for the sake of FDI. Thereby, BOI policymakers are essentially reflecting the same values put forward by international organizations such as the OECD. This demonstrates that no matter whether or not Filipino policymakers truly believe these sentiments, they for whatever reason want to emulate the ideals put forward by international organizations such as the OECD.

4.3.3. The new role of the state

Filipino policymakers also emulate the ideal kind of state that creates progress in developing countries that the World Bank has envisioned. As the World Bank has prescribed, the 'new role for states' ought to be that states in developing countries become involved in:

"(...) providing core public goods, improving the investment climate for the private sector – and in better natural resources management by introducing incentives and assigning property rights (World Bank, 2008, 23)."

Here, the World Bank is encouraging governments to make it their prime goal to increase the efficacy of foreign investments. The notion that it is 'better natural resources management,' to be as hospitable to foreign investors by introducing incentives is represented as a fact, and as unremarkable common sense. Similar sentiments are also represented in the Fourth United Nations Conference on the Least Developed Countries (LDC) Briefing in 2011:

"[...] LDC governments need to foster an enabling policy and regulatory framework that will attract FDI. [...] With proper safeguards, governments could also promote contract farming between transnational agribusinesses and farmers to enhance farmers' predictable income and productive capacities and allow them to benefit from global value chains."

In this section, the World Bank is encouraging contract farming between transnational agribusinesses and Filipino farmers, which, as was demonstrated in previous chapters, the Philippine government has been doing. Hence, foreign acquisition is partially made possible because of Filipino policymakers' relentless pursuit of a Philippine investment climate that is more attractive to foreign investors as prescribed by international agencies such as the OECD, the World Bank and the United Nations.

4.3.4. The Philippines is investment grade

When developing countries such as the Philippines follow prescriptions by international agencies, and attain progress according to international standards, the governments in those developing countries are lauded, and the Philippine government as one of those national governments strive towards this affirmation. When the Fitch Ratings Agency, Standard & Poor and then Moody's awarded the Philippines with its first investment grade rating, it was celebrated by the government as a sign of finally reaping the fruits of the government's reform policies and the shift in their policy trajectory to become more welcoming to foreign investors such as passing laws that create loopholes that were extrapolated upon in Chapter 2 in order to attract more foreign investment. This is a departure from the Philippines' protectionist trade policy before the Marcos era (Mercado-Aldaba, 1994). As President Aquino proudly proclaimed at the third Euromoney Philippine Investment Forum:

Just 15 days after our last encounter, the Fitch Ratings Agency gave the Philippines its first investment grade rating from a major credit rating agency in its history. A little more than a month later, Standard & Poor's followed suit; and later in the year, Moody's did the same. So, in the short span of time since I saw you last, it has become unanimous: The Philippines is investment grade.
(Aquino, 2014a)

The Philippines becoming 'investment grade' is significant because it is a validating badge of honour for Filipino policymakers. The investment grade rating is an accolade that legitimizes the policy trajectory that they have chosen. From the Asian country that was lagging behind its 'comparable' Asian counterparts (The Philippine Development Plan, 2011). The Philippines is moving towards an internationally validated geopolitical representation of itself as a country that is making great strides towards Western ideals of progress.

4.3.5. No longer the 'Sick Man of Asia'

Filipino policymakers like President Aquino are now geopolitically representing the Philippines as a cured 'Sick Man of Asia'.

Indeed, the Philippine economy has been revitalized. Our fundamentals have been given a clean bill of health by not one, but all three major credit ratings agencies, as the Philippines achieved investment grade status for the first time in history last year. (Aquino, 2013)

By depicting the Philippines as once sick, President Aquino is also crucially geopolitically representing the Philippines' 'sickness' of "unsatisfactory" economic and social progress (Philippine Development Plan, 2011) as something that is curable and non-permanent. Because the 'sickness' is curable, the image of the Philippines as the 'Sick Man of Asia' becomes possible to re-constructed in order to make way for a more favourable geopolitical representation of the Philippines.

The days when we were called the Sick Man of Asia are becoming a distant memory. Now, we are seeing so many international organizations and publications expressing optimism about our future, and they have already referred to us as "Asia's Bright Spot," or as the "New Asian Tiger." (Aquino, 2013)

Instead of the 'Sick Man of Asia', Filipino policymakers like President Aquino are supporting a new geopolitical representation of the Philippines as a 'New Asian Tiger'. After the Philippines was awarded investment grade status, there was a domino effect in the way that the media followed suit and the Philippines' international reputation began to be seen in more favourable terms. The acclamation from the international community can therefore be argued to propel the momentum that the Philippine government had already initiated with regards to increasing the Philippines' attractiveness to foreign investors using all means possible, including finding ways of circumventing the laws regarding foreign ownership of land.

4.3.6. Following the right 'Daang Matuwid' path

Part of reconstructing the Philippines' reputation is projecting the Philippines as following the *Daang Matuwid* (the straight and narrow way or the right way), where Filipino policymakers geopolitical represent themselves as following the good governance ideal. The Secretary of Transportation and Communications, Joseph "Jun" Abaya, announced during the opening of the Mactan airport in Cebu that:

By sticking to bidding rules and refusing to be influenced by external factors, we are showing the world that the country now has an excellent investment climate. Gone are the days when big-ticket contracts would be awarded despite being tainted with irregularities. As promised, bidding at the DOTC is conducted on a level playing field, because we follow Daang Matuwid. (Abaya, 2014)

Similarly, Secretary of Finance, Cesar V. Purisima declared that:

Truly, good governance—tuwid na daan—is bringing structurally sustainable growth for the Philippines! (Purisima, 2013)

Notably, during my interview with Director Arcansalin, he also felt compelled to add that:

So that is part of our advocacy to the public, that they are... We are going to be efficient and we are going to be transparent, and of course the fees that we collect... it should not be more than what we do, and what are only necessary fees to be collected.³⁴

The pervasive geopolitical representation of the Philippines as a nest of corruption is so pervasive that Filipino policymakers have to acknowledge and project themselves as actively combating corruption as a prerequisite to escaping their geopolitical category as the 'Sick Man of Asia.'

4.3.7. Land of opportunities

Instead of the 'Sick Man of Asia', some Filipino policymakers want to change the international hegemonic understanding of the Philippines as a place of opportunity instead. At a Business Opportunities Forum with Malaysian businessmen, President Aquino made the following statement:

As Malaysia and the Philippines open a new chapter in our relations—a chapter built on mutual trust and a shared commitment to working together for greater stability and trade opportunities within our region—you are in the perfect position to take advantage of the opportunities presented. It is with great confidence that I tell you: the Philippines is where your next success lies (Aquino, 2014).

Part of moving past the reputation of being the 'Sick Man of Asia' is improving the Philippines' investment climate by addressing the conflicts between the country that have dissuaded foreign investors from investing in the Philippines in the past. President Aquino also singled out the Mindanao area in particular:

Mindanao, for example, has land so fertile, that a patch of it left unattended for short while becomes overgrown. Now that lasting peace has come within reach, perhaps investing this early in Mindanao is an opportunity that is presenting itself to businessmen now. (Aquino, 2014)

The choice of Mindanao as an example is crucial because Mindanao is the epitome of everything that Filipino policymakers such as President Aquino have regarded as a lost opportunity for the Philippines and an obstacle to economic growth through FDI. It is an area that is geopolitically represented by Filipino policymakers like President Aquino as 'so fertile' and 'idle' (Salerno, 2010), as an area that is one of those in most need of development due to the high rates of poverty, but additionally, also an area that has been unoccupiable by investors because it has been ridden with conflict (Salerno, 2010).

³⁴ Author's interview with Director Arcansalin of the Board of Investments, Makati City, 12 May 2014

4.3.8. The imperative to become the next rising Asian tiger

During the policymaking process, one of the most crucial factors that affect policymakers' decisions is the Philippines' economic competitiveness and reputation in comparison to its neighbours in the ASEAN. Speaker Belmonte Jr., who filed the Cha-cha bill, was quoted in *The Philippine Star* saying he was inspired by a trip to Vietnam.

"For a guy like me who has travelled around Southeast Asia starting for instance in 1987 when I first went to Vietnam. It really dismayed me, it really makes me feel very unhappy that a country so downtrodden at that point could possibly in effect equal or surpass us even in such a short period of time. Why? Because of massive investments that they have been getting from abroad (Romero, 2014)."

Vietnam was an Asian country that, like the Philippines, was characterized by similar ills like corruption and an underdeveloped agrarian sector, and yet, through increasing FDI, Vietnam was able to progress out of this category into a geopolitical category of rising Tiger cub economies. Washington SyCip, the founder of the financial auditing SyCip Gorres and Velayo expressed his dismay at the Philippines' laggard agricultural outputs. He bemoaned that although Filipinos used to teach Thais agricultural practices,

"now, Thailand – [despite], all our graduates in Los Baños³⁵ – are so far ahead of us in agriculture. They used to grow no sugar. Now we're growing 2 million tons. They are growing 4 million tons (GMA News, 2012)."

SyCip is making the point that whereas he perceived that the Philippines used to have superior knowledge over agrarian management techniques compared to countries like Thailand in the past, now Thailand's agricultural sector has surpassed the Philippines. There seems to be a higher sense of economic rivalry between countries who are closer in proximity with each other, and even more particularly so with countries who geopolitically tend to be compared with each other by international bodies and the more influential Western states.

Notably, the consistent emphasis that Filipino policymakers place on comparing the Philippines to its Asian neighbours also highlights the type of countries that Filipino policymakers argue that the Philippines should be at par with. Notably, Filipino policymakers do not even bother to compare the Philippines to Western countries, but within Asia, Filipino policymakers have made statements saying that they want to become more competitive in this area. There are a few examples of these comparisons with other Asian countries in the 2011-2016 Philippine Development Plan:

Viewed by majority of Filipinos, the record of economic and social progress up to now has proved unsatisfactory for three reasons: first, its pace has been slow when measured against the achievements of the country's neighbours; (Philippine Development Plan, 2011, 18)

Compared to other countries in the region, income inequality in the Philippines is high. (Philippine Development Plan, 2011, 22) [...]

In contrast, investment in Malaysia and Thailand soared to over 40 percent of GDP, and

³⁵ 'Los Baños' refers to the well-renowned University of the Philippines Los Baños, which is famous in the Philippines for its eminence in the field of agricultural education.

although they have dipped since the Asian crisis, their levels are still way above that of the Philippines (except for Malaysia). (Philippine Development Plan, 2011, 22.) [...]

Despite the export potential of these commodities, however, particularly the emerging crops, the country's share (8.3%) and value of agricultural products (US\$3.2 billion) to total exports is among the lowest in comparable ASEAN countries. (Philippine Development Plan, 2011, 107)

By repeatedly comparing the Philippines to its neighbours, the Philippine Development Plan is placing the Philippines in a geopolitical category with its Asian neighbours because those neighbouring countries' reputation in the West used to be the same as the Philippines' but whereas other Asian countries have climbed out of the geopolitical category of 'backward' and 'uncivilized' countries into a new geopolitical category of 'rising Asian Tigers' characterized by 'rapid progress', the Philippines has lagged behind the other Asian countries that Filipino policymakers perceive to be the Philippines' peers.

Malaysia, South Korea and Thailand have surpassed the Philippines to the extent that they have also begun sending investors to the Philippines. Malaysia sent a trade and investment mission to the Philippines in 2013 (Official Gazette, 2013b). In 2011, the Philippines signed a Memorandum of Understanding signed by the Secretary of Agriculture, Proceso Alcala and South Korean Agriculture Minister Suh Kyu-yong (GMA News, 2011). Finally, Thai conglomerate Charoen Pokphand (CP) Group also recently signed a land deal with the local government in the Philippine province Ilocos Sur (Yamzon, 2014). In consequence, Filipino policymakers are mimicking its Asian neighbours 'williness' to FDI based on these evidence-based, cross-country comparisons³⁶.

4.4. Policymakers' geopolitical representations of areas targeted for investment

4.4.1. 'Inefficient' and 'backward' farming

The aspiration towards Western ideals of progress and modernity goes hand in hand with shame associated for the opposite characteristics of these Western ideals. Elite Filipino discourse criticize characteristics and practices that do not fit to these Western ideals of modernity and are perceived, in contrast, to be 'backward', 'uncivilized' and 'inefficient'. Thus, part of what is argued to be an "uncritical preference for anything American, (David & Okazaki, 2010, 851)" or foreign for that matter, is the uncritical rejection of practices that are perceived by the policy elite to be associated with the 'primitive' Filipino such as inefficient agricultural practices. Philippine farming is described to be "inefficient," (Philippine Development Plan, 2011), to be behind in the adoption of new technology "despite the availability of science and technology packages" (Philippine Development Plan, 2011) and to be wasteful due to "resource intensive"³⁷ farming.

³⁶ Author's interview with Francis Penaflor, Investments Specialist of the Board of Investments, Makati City, 12 May 2014

³⁷ Author's interview with Undersecretary Serrano of the Department of Agriculture, Quezon City, 7 May 2014

4.4.2. Farmers are unequipped for this century

The peasant communities that live on areas that are targeted for foreign investment are also geopolitically represented to be unequipped to create a competitive agricultural sector. Undersecretary Serrano argues that foreign corporations can help bring technology to Filipino farmers and help the Philippines “survive in this century.”³⁸ The Philippine Development Plan states that the failure of Philippine agriculture to modernize is attributable to the slow adoption by farmers of technology in conjunction with the “low use of mechanization” (Philippine Development Plan, 2011, 109) because of:

(a) weak links between technology producers and extension workers and farmers/fisherfolk; (b) lack of media and public awareness of the benefits of the technologies; and (c) financial or capacity constraints of intended users. (Philippine Development Plan, 2011, 109)

Essentially, the Philippine Development Plan is demonstrating why FDI is a better alternative to the way Filipino farmers in underdeveloped areas are currently farming the land. The Philippine Development Plan is geopolitically representing farmers in a sympathetic way, but it is nevertheless asserted that due to peasants' underprivileged station in life, they will never be able to provide what the Philippines needs to effectively tap into the country's untapped resources and untapped potential. Since peasants are stuck to their local area and not one the international corporations with access to modern technology producers, since they are 'unaware' of the benefits of technologies, and since their financial means are limited, peasants cannot toil the land effectively and efficiently on their own. The government is thus demonstrating that while they are not unsympathetic to the peasants, peasants nevertheless are ill-equipped with the right contacts, the right know-how and the right level of income to deal with Philippine underdevelopment without the help of investors.

4.4.3. Using geopolitical scales to contain the issue

In some land deals, the cultural match between the foreign investor and the people who live in the targeted area are geopolitically represented by some Filipino policymakers as compatible together. For instance, in the case of the Far Eastern Agricultural Investment Company of Saudi Arabia and Aztropex joint-investment, the peasants were encouraged to accept the land deal because of the idea of a “Muslim connection” and “Muslim charity.” (Salerno, 2010) This is another way that the government is changing the way that a certain space is understood, since the cultural match between the peasants and the foreign corporation makes it less likely for the foreign corporation to be perceived as something alien. Instead, by outlining the common values that the Filipino Muslim peasants and the foreign corporation have in common, the government is demarcating the space as an area where the foreign corporation's involvement is desirable and appropriate. In a way Filipino policymakers are creating an imaginary geographical and social border between themselves on the one hand and the land and people in the targeted area on the other, which is, again, fundamentally geopolitical.

³⁸ Author's interview with Undersecretary Serrano of the Department of Agriculture, Quezon City, 7 May 2014.

Filipino policymakers go back and forth between geopolitical scales in their geopolitical representations of the target areas depending on whether they are rhetorically justifying facilitating land deals or whether they want to highlight the lack of alternatives to the policy facilitating foreign ownership of land through FDI. By geopolitical scales, I mean whether an issue is rhetorically explained as a local issue, a national issue or a global issue. As Kelly (1997) explains, “scales are used as unproblematic categories to understand the dimensions of, and to *contain* a given event (Kelly, 1997, 153).” For instance, as was explained in Chapter 2, Filipino policymakers are arguing against pundits who have flagged problems in the policy allowing foreign ownership of land through FDI, by arguing that their ‘willingness’ is measured and that land deals are only occurring inasmuch as it is still beneficial for the Philippines and Filipinos. Filipino peasants are geopolitically represented to be in control because they have given consent through the contractual agreements, so the issue is geopolitically represented at a local scale. The issue is geopolitically represented as the locals’ business. On the other hand, the global competitiveness or competitiveness within Asia of the Philippines is placed as the prime priority, so the issue is also geopolitically represented at a global scale to demonstrate how there is no choice about the issue because power over the Philippines’ decisions lies with circumstantial conditions outside the Philippines. Finally, when local governments are asked about peasants’ complaints of ‘land grabbing’, they deflect criticism by geopolitically representing the policy at a national scale. The International Fact Finding Mission in Opol visited Opol Mayor Dexter Yasay and described the interaction as such:

In a visit made to Opol Mayor Dexter Yasay, the IFFM team was also able to confirm the mayor’s support for the company, who said that the palm oil industry is being promoted at the national level. “As a public official, I don’t have the capacity to go against the decision of the national government,” he said. (Quijano, 2012)

The way that Filipino policymakers rhetorically flutter from one geopolitical scale to the other makes foreign acquisition of land possible because it allows Filipino policymakers to geopolitically represent the target area in different ways depending on what justifies their policy in that context.

4.5. Conclusion

Policymakers’ goal of changing the dominant geopolitical representation of the Philippines is making foreign acquisition of land possible. Colonial mentality means that Filipinos in contemporary Philippine society have retained a sense of inferiority compared to everything Western. Filipino policymakers both aspire towards Western ideals of progress and modernity, as well as are discontented with the way the West depicts the Philippines in the prevalent geopolitical understanding of the Philippines as ‘backward’ compared to the West and the rising Asian economies. Filipino policymakers’ discontent with their international reputation as the ‘Sick Man of Asia’ has led Filipino policymakers to actively try and recast themselves as at par with the other Asian Tigers by adhering to Western ideals of progress and modernity by introducing laws and reforms that make them more attractive to foreign investors, which thereby also creates possibilities for foreign investors to acquire land in the Philippines.

Foreigners’ rejection of the ‘primitive’ and ‘backward’ practices in the Philippines eventually trickles down to Filipino policymakers’ rejection of the ‘backward’ and ‘primitive’ agricultural practices of Filipino peasants. This then naturalizes the dispossession of peasant communities in the name of economic and social development through FDI and makes it possible for foreign corporations to acquire the land. Peasants are geopolitically represented as part of the policy elite’s ‘We’ group when the policy

elite is representing itself as working in the interest of the peasants' well-being, or alternatively, peasants are geopolitically cast as part of the 'Them' group when the policy elite is justifying why the introduction of the foreign corporation to the area is necessary. It all depends on what suits the policy's pre-eminent need to make the Philippines more attractive to foreign investors better, because ultimately, the cardinal goal for Filipino policymakers is for the Philippines to become at par with its Asian neighbours again and to be able to live up to Western ideals of progress and modernity.

The geopolitical relationship between the 'developed/ Western' countries and the 'undeveloped/ Oriental' countries like the Philippines is creating opportunities for foreign corporations to acquire land in the Philippines. The dominant geopolitical understanding of the Philippines as a 'backward' place has powerful consequences, because without having to use force, the hegemonic power over knowledge that foreign geopolitical agents have, lead Filipino policymakers to enact laws that conflict with previous laws, and in some cases use extralegal practices in order to pursue the goal of increasing FDI in the Philippines. The goal of increasing the Philippines' attractiveness to FDI is set by foreigners, yet because of colonial mentality, foreign geopolitical agents are exercising power over Filipino policymakers' cognition and leading Filipino policymakers to unlock the regulatory blocks to foreign geopolitical agents' goals on those foreign geopolitical agents' behalf. Thus, as much as geopolitical relationships internal to the state such as class conflict can create opportunities for foreigners to acquire land in the Philippines, so too an the geopolitical relationship between the 'developed/Western' countries and the 'undeveloped/Oriental' countries.

CHAPTER 5

CONCLUSION

This research aimed to understand how the policy elite in the Philippines is geopolitically reasoning based upon their geopolitical context to make foreign acquisition of land through FDI possible, despite the apparent contradiction between the potential erosion of national sovereignty and land deals. Throughout the course of the research, it eventually became clear that at the current state that land deals are unfolding in the Philippines' national sovereignty was not endangered as Wolford et al. (2013), foreshadowed – at least in the specific geopolitical context of the Philippines. Instead, the true contradiction was between land deals and peasants' *land control*. An important consideration that led to Filipino policymakers decision to create policies that allowed foreign acquisition of land despite the apparent contradiction between land deals and national sovereignty, is that their 'willingness' to facilitate these deals is measured and is controlled by the policymakers in order to ensure that foreign involvement in agricultural production and the scale of foreign acquisitions of land in the Philippines is occurring at a pace and scale that policymakers control, and only inasmuch as these land deals are still beneficial for the national interest. Thus, whereas the Philippine state's sovereignty over its territory is not endangered by land deals, peasants' land control over their territory is endangered.

The Philippine state's national sovereignty was not so much challenged by the foreign corporations' acquisition of land in the Philippines as much as Philippine national sovereignty was challenged by, first of all, internal geopolitical relationships. To reiterate what I have stated beforehand, I do not mean national sovereignty as legal sovereignty, but as the states' ability to make and enforce their rules autonomously. As the case of the Philippines has shown, elite Filipino families have historically been able to evade legal mandates that do not work in their favour such as the redistribution of their lands when land reform was pursued. Furthermore, because of the tendency of elite Filipino families to have links or family members in government, they are also in a position to change the legal context of the Philippines by blocking legislation or producing legislation that, in effect, sometimes undoes previous legislation by creating exceptions or contradictions to rules mandated by previous laws. The pre-existing challenge to the state's sovereignty that elite Filipino families posed prior to the foreign land acquisition phenomenon that has recently become a hot topic for NGOs such as GRAIN (2008) have thus arguably already partially eroded the state's absolute sovereignty prior to foreign acquisitions of land.

Foreign acquisitions of land are made possible through foreign geopolitical agents' power to make land deals acceptable and desirable. Through colonial mentality, foreign geopolitical agents such as

international institutions or international media have power over Filipino policymakers. Filipino policymakers perceive these geopolitical agents to be knowledge authorities, and this also partially erodes national sovereignty, because these foreign geopolitical agents are able to influence the policy outcomes of Filipino policymakers without coercion. This supports Ó Tuathail & Agnew's (1992) claim that certain geopolitical agents have disproportionate influence and power over how certain spaces are represented. The dominant geopolitical perception of the Philippines as a 'backward' place has become so dominant that it pervades not only the reasoning of the foreign pundits that produce them, but also even the reasoning of Filipinos. I am not claiming that foreign pundits such as international organizations, foreign countries or foreign media aim to define Filipino identity, but simply that the unremarkable "regularized set of geographical distinctions (Ó Tuathail & Agnew, 1992, 190)" that they make influence Filipino policymakers' to a certain extent.

Policymakers both created laws as a result of foreign geopolitical agents' hegemonic power over knowledge, as well as were influenced by the laws that were already there. As a result of foreign geopolitical agents' hegemonic power over knowledge, laws were passed in pursuit of more FDI that created duplications and contradictions with other laws and ultimately led to the consequence of legally landless farmers and rural communities. By legally landless, I mean that certain laws were passed that created double understandings of the use of the space that legally or customarily belonged to certain farmers or rural communities. As a result of this legal landlessness, foreign corporations were able to acquire their land. At the same time, once in place, these laws put in place codified values and policy trajectories that policymakers had to base their decisions on if they wanted to make land deals possible. For instance, many proponents of FDI had limits on how generous they could be to foreign investors due to the 60:40 rule.

I concur with the assertion made by Critical Geopolitics theorists such as Ó Tuathail & Agnew (1992) that descriptions of geography are discursive and that these seemingly common sense descriptions trigger possible actions and policies. In the case of the Philippines, *geopolitical representations* did have significant consequences on the policy outcome that Filipino policymakers came to. Ó Tuathail & Agnew (1992) argued that *geopolitical representations* were both ways of seeing the world as well as legitimations that thereby enabled a certain policy trajectory in American foreign policy towards the USSR. The same could be applied in the case of the Philippines, where *geopolitical representations* both reflected the socially constructed understandings the world that affected policymakers' decisions including their self-understandings and their understandings of Others, as well as enabled Filipino policymakers to legitimize a policy that facilitates foreign acquisitions of certain farmers and rural communities' land based on 'spatializations' of the Philippines as a place characterized by a 'modern,' 'Westernized' elite and a 'backward' rural class.

One weakness in the method of analysis that Ó Tuathail & Agnew (1992) used that this thesis has brought to light is that analysing *geopolitical representations* alone cannot account for all the reasons why policymakers' come to certain decisions. Geopolitical representations can show how a policy was legitimized, but not all the factors that contributed to how a policy was decided. While *geopolitical representations* might partially account for the geographical knowledge that informs policymakers' goals, policymakers nevertheless have to take other structures besides the discursive structure into account. For

instance, to come to a decision about what policy to pursue, Filipino policymakers had to take into account what was permissible in the Philippines' legal context.

With regards to how the socio-political context made foreign acquisitions of land possible, a definitive connection between the socio-political context and the geopolitical reasoning of policymakers could not be established by my research, but this does not mean that the socio-political context did not have anything to do with how foreign acquisitions of land were made possible. From the collection of cases of foreign acquisitions of land in the Philippines that I could gather, I was able to find cases where normalized extralegal or illegal means were used either by foreign corporations, or more often local municipal authorities, in order for foreign corporations to acquire land when faced with resistance. The socio-political context enabled foreign acquisitions of land by creating opportunities to use illegal or extralegal methods when legal methods did not suffice to ensure the foreign corporation's acquisition of land. This was a factor that I would not have discovered if I had not also studied the Philippines' *geopolitical context* in conjunction with *geopolitical representations*. Again, this shows how *geopolitical representations* could only partially show how foreign acquisitions of land were made possible.

The thesis also illustrated how the study of geopolitical knowledge can be applied to affairs internal to the state and not only to conflicts and tensions among states. As Ó Tuathail & Agnew studied *geopolitical representations* in the context of American foreign policymakers' representations of international political space, so too could the study of *geopolitical representations* be studied from the point of view of policymakers towards domestic groups in the national political space. The thesis demonstrated that the state certainly plays a pivotal role, but that non-state geopolitical agents such as rural groups, elite families, and foreign corporations can also be *geopolitical agents*. As was demonstrated by this thesis, geopolitical representations on the international political space trickled down to perceptions about groups in the national political space and thus influenced how land deals unfolded in the Philippines.

Suggestions for further research

- As mentioned before, the phenomenon is occurring in many places of the world, and the methodology used in this thesis could be applied to other target countries in the global foreign acquisitions of land phenomenon. It would be interesting to see how land deals are unfolding in other countries' geopolitical context. For instance, not all countries that are targeted for FDI have experienced colonialism, so in the point of colonial mentality alone, there are already sure to be discrepancies in the geopolitical context of other countries and the way that the geopolitical context of the Philippines made foreign acquisitions of land possible. Some land deals are also taking place in Eastern Europe as Visser & Spoor (2011) have studied. Studying the geopolitical context of countries where foreign corporations are also acquiring land and finding out if there are differences and why could lead to valuable insights.
- Another topic that could be potentially interesting to study is the geopolitical context in which foreign acquisitions of land are unfolding in countries that are both investor and target countries. Why are these countries investing in other countries when they themselves have arable land that foreign investors are interested in?

- Furthermore, foreign acquisitions of land in Asian countries could be studied in the context of the economic integration in the ASEAN. What consequences might this have on the way the opportunities and limitations to foreign corporations' acquisitions of land?

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Appendix 1

Excerpt from interview with Undersecretary Serrano of the Department of Agriculture:

Have previous administrations also encouraged foreign direct investment?

I think every... when the Spaniards started colonizing the country and exploiting its beauty and its resources, we've already dealt with foreign direct investments and during those times, of course, they were the ones that lobbied heavily for the monopolies that subsisted during those times. In fact we still have remnants in the major traditional industries of the country we have... I mean before we entered into the WTO and the Marcos dictatorship, we had monopolies on tobacco and we still have them. We have an agency that does it. Sugar. Rice, we don't have a monopoly because it is patently unmanageable because of the small farms and rice farmers have this tendency to be a little bit more independent minded and rebellious."

So now that you mentioned rebellious farmers, what would you say to activist organizations and peasant organizations such as Kilusang Mangbubukid who say that foreign direct investments are actually a form of land grabbing because their rights get ignored?

"They say that because probably they don't have confidence that the government will be able to regulate and implement the relevant laws that govern investments in agriculture or generally in the economy."

"What I think is the problem, and also what encourages such discomfort or lack of confidence for the part of certain sectors is we have a confusing mix of legislation on investments... on more particularly on land use."

The legislation contradicts itself, or?

"Duplications is probably less of a problem compared to conflicts."

"We're probably one of the very, very few countries in the world with no unified land use law. We have tried this for the past... I mean when I was kicked upstairs to this office 15 years ago, we were already advocating this. Last year we nearly made it until we got ambushed by the real estate people. But I would like commend the House of Representatives, normally perceived as very, very parochial and less professional in the way it tackles very substantive national issues like this but we passed it in the House, we got ambushed in the Senate. We were on second reading, we were about to be listed in the third reading and suddenly they had these questions that they cannot provide us. They said that we need this question, and then we need to answer this question... but that was at the last moment, and they were not even able to provide us because we could have answered them and provided language instantly. We've been doing this for past 15 years, for God's sake!"

Excerpt from interview with Director Arcansalin of the Board of Investments:

Do foreign investors have to talk to local government at all or do they just talk to national governmental agencies?

They go first to the national government, and sometimes they also go to the local government. But they are usually escorted by let's say BOI, PEZA something like that. But sometimes the local government also have... initiate foreign investment promotion. So they also look for foreign investors and sometimes they find the foreign investors also.

FP: In fact, some of them offer a different set of incentives to attract investments into their municipalities. And in addition to the mapping question, there's this convergence initiative from the Department of Agriculture, the Department of Environment and the Agrarian Reform Department. They identify all the available lands for business ventures in the Philippines, and they sort of market it to investors

Normally for project evaluation we are given 20 days to do a project assessment. Of course it starts once the application is officially accepted, then we have to work within 20 days. So that is part of our advocacy to the public, that they are... we are going to be efficient and we are going to be transparent, and of course the fees that we collect... it should not be more than what we do, and what are only necessary fees to be collected.

First, during the application these days, the first thing we require is the ECC as I have mentioned earlier. The Environmental Clearance Certificate. We make sure that they see to it that they adhere to governmental requirements on environmental protection, and then as part of their giving back to the incentives that we grant them, we also require them to do some CSR, so Corporate Social Responsibilities, and normally some of these Corporate Social Responsibilities... of course it improves economics... social activities to the society... but in regards to the environment, we encourage them to plant trees, go on tree planting and mitigation of certain areas.

FP: Going back to your question about transparency. We have a pretty big role in this, because upon crafting of the Investment Priorities List, we invoke our stakeholders. We gather their concerns, and then that will be our guide in crafting the Investment Priorities List. Now once the sector is listed, the guidelines for the application is listed. It's black and white. It's there. It's in the list that Director Nestor will provide you later on. As to responsive governance, I think we have a paradigm shift for the 2014 Investment Priorities Plan. This year, we will be basing our 2014 IPP on the road maps, and know that the road maps is a consolidation of all the industry concerns and targets... so I think that will count under responsive government.

Who are the stakeholders invited?

Every sector. Every identified, key sector. The revenue streams. We have one for agriculture, one for mining... for manufacturing, for services industries.

There were some reports by NGOs who claim to say that indigenous peoples don't get included in these talks. What can you say about that?

Actually, well there may be some groups, but you know there is an institution actually that takes care of the indigenous peoples. NCIP.

Well maybe there are cases where they are not consulted or I don't know but, normally this is usually in the case of mining.

Appendix 2

Sample template for contractual agreements:

AVA Form No. 5

Republic of the Philippines
DEPARTMENT OF AGRARIAN REFORM
 Province: _____
 Municipality: _____

**ANNOTATION OF THE AGRIBUSINESS VENTURE
 ARRANGEMENT (AVA) CONTRACT**

On this _____ day of _____ 20__ at _____ (AM/PM),
 the attached instrument (in five copies) titled, AGRIBUSINESS VENTURE
 ARRANGEMENT (AVA) CONTRACT formally executed by and between
 _____ (Agrarian Reform
 Beneficiary (ARB)/ARB cooperative or association), and _____
 _____ (Investor) was presented for recording
 and annotation by _____ (Name of Provincial
 Agrarian Reform Officer or duly authorized representative).

This Contract is hereby recorded and annotated at the back of Emancipation
 Patent (EP)/Certificate of Land Ownership Award (CLOA) No. _____ for
 the landholding located in _____ at
 the time and date mentioned above.

Entry No. _____
 Page No. _____

Recorded by: _____
 Signature Over Printed Name of Register of Deeds Staff

Noted by: _____
 Signature Over Printed Name of Register of Deeds

NOTE: Copies of this Annotation Certificate shall be given to the AVA TF for
 distribution to the concerned parties and for inclusion in the general file of
 approved AVA Documentation Folders

Distribution of Copies:

Original	Register of Deeds
Duplicate	Individual ARBIARB Cooperative or Association
Triplicate	Investor
Quadruplicate	AVA Documentation Folder
Quintuplicate	AVA Task Force