

# PERSPECTIVE

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## The Impact of China’s Digital Silk Road on the Digital Domain of the Philippines

Julio S. Amador III and Deryk Matthew N. Baladjay\*



One of the first policy directives given by President Ferdinand Marcos Jr. to his government is the “digitalisation of vital government services. Photo: Facebook Page of E-Government Philippines.

*\*Julio S. Amador III is Senior Fellow at the Ateneo Policy Center and Philippine Lead Investigator for the NORM Project. Deryk Matthew N. Baladjay is Research Associate for the NORM Project. This work was supported by the Research Council of Norway as part of the project ‘Shaping the Digital World Order: Norms and Agency along the Digital Silk Road in Southeast Asia (NORM)’, under grant number 325129. For more information on the NORM project, please visit: <https://www.prio.org/projects/1920>.*

## EXECUTIVE SUMMARY

- The Philippines' legal framework for new technologies needs to be properly aligned with developments in the digital domain in order to accommodate investments and economic opportunities in the long run.
- The Marcos Jr. administration's digitalisation efforts are caught in the middle of the geopolitical contests between China and the United States.
- The Philippines' digitalisation thrust is being conducted simultaneous with China's implementation of its Digital Silk Road. The accommodation of Chinese technologies brings with it risks and consequences of concern to the state.
- The Philippines' outdated legal framework is unable to meet the new concerns posed by the *en masse* entry of Chinese technologies.
- Philippine institutions need to be resilient from foreign influence while accommodating investments that can bolster its digital push.

## INTRODUCTION

One of the first policy directives given by President Ferdinand Marcos Jr. to his government is the “digitalisation of vital government services.”<sup>1</sup> However, this mandate is nothing new to the wider global economy. The ongoing process of digitalisation is swiftly reshaping the contours of business and trade, while intersecting with international politics. The evolution of innovative technologies facilitated the emergence of a world without conventional borders, albeit accompanied by a surge in intricate digital challenges. Noteworthy among these challenges are dilemmas associated with managing cross-border data flows, enforcing Intellectual Property Rights (IPR), and safeguarding consumer welfare. These concerns, far from being confined within domestic borders, extend to regional domains and global ones, marking a paradigm shift in the complexity and interconnectivity of contemporary digital issues.<sup>2</sup>

The digital sector, buoyed by robust government support, serves as a substantial driver of the Philippine economy. As of 2020, the estimated value of the Internet economy within the Philippines amounted to USD 7.5 billion. Projections indicate a noteworthy annual growth rate of 30 percent, with expectations set for the sector to expand significantly, reaching an estimated escalation to USD 28 billion by 2025. This trajectory underscores the pivotal role played by government backing in fostering the growth and sustainability of the country’s digital landscape.<sup>3</sup> Bilateral partners also play a significant role in supporting the Philippines’ digital transformation.<sup>4</sup> Of all countries with much stake in the Philippines’ digitalisation, none has matched the promise and ambition of China’s economic presence in the country.<sup>5</sup> Through its Belt and Road Initiative or other informal channels, Beijing and Manila continue to hold economic engagement in high regard. China is flooding the Philippine market with its technologies. To recall, China has been and continues to provide cheap and competitive technology alternatives to Filipinos;<sup>6</sup> its 5G technology is dominating the telecommunications sector;<sup>7</sup> it has begun introducing cloud-based technology<sup>8</sup> and financial technologies;<sup>9</sup> and Beijing has even nearly funded and operated a city-wide surveillance initiative.<sup>10</sup>

While the entrance of Chinese technology into the Philippine digital injects innovation and competition, concerns loom over data security, privacy, and potential economic dependencies. The expanding footprint of Chinese tech giants raises questions about the implications for the nation’s digital sovereignty and the need for a robust legal framework to address these complex issues. Given the Chinese Communist Party’s links with private companies,<sup>11</sup> and the presence of domestic laws that allow the PRC government to request people’s data from private entities, states and peoples have rightly expressed concern over China’s involvement in technology.<sup>12</sup> China’s Belt and Road Initiative (BRI), an ambitious global infrastructure project, and its Digital Silk Road (DSR) extension further complicate the digital landscape in the Philippines. The Digital Silk Road, focusing on digital interconnectivity, introduces the Philippines to the complexities of international digital cooperation, requiring careful consideration of its implications on national security, technology standards, and regulatory frameworks.<sup>13</sup>

Major challenges for the Philippines include a potential lack of institutional capacity to negotiate complex agreements, manage the cybersecurity risks associated with increased digital interconnectivity, and ensure that economic benefits are distributed equitably. As the country seeks to balance between embracing technological advancements and safeguarding its

interests, the importance of strategic planning, international collaboration, and domestic capacity building cannot be overstated.

As the Philippines grapples with the influx of Chinese technology and participation in BRI-DSR, the need for a stronger legal and policy framework becomes increasingly apparent. The existing laws have proven insufficient in addressing the intricate challenges posed by the digital age; what is required is a comprehensive and adaptive legal infrastructure that safeguards national interests, ensures data privacy, and promotes fair competition. In navigating these uncharted waters, the Philippines requires astute policy decisions, legal fortification, and diplomatic acumen. This comprehensive examination of the evolving digital landscape in the Philippines encompasses not only economic and technological considerations but also geopolitical and legal dimensions.

## **THE PHILIPPINES' DIGITALISATION EFFORTS**

The Philippines is embracing the digital age, as signalled by recent policy pronouncements from the Marcos Jr. administration. However, despite a longstanding ambition for a digital presence, it was not until the onset of the coronavirus pandemic that major service sectors were prompted to embrace digital technologies.<sup>14</sup> Spearheading the country's digitalisation efforts is the Department of Information and Communications Technology (DICT), established in 2017.<sup>15</sup> The DICT is mandated to enhance ICT policy and planning, improve public access to technologies, facilitate intra-agency resource-sharing and capacity-building, ensure consumer protection, and foster ICT industry development.

The Philippine government cannot create and implement effective and efficient digitalisation projects and programmes without digital-focused and up-to-date legislation and regulations. From the late 1980s to the early 2000s, the Philippine government took a regulatory and preventive approach<sup>16</sup> when it passed several of its digital-focused legislation, such as the Public Telecommunications Policy Act of 1995,<sup>17</sup> the Access Devices Regulation Act of 1998,<sup>18</sup> and the Anti-Red Tape Act of 2007.<sup>19</sup> Subsequently, the country pioneered legislation relevant to the changing digital landscape, with the Electronic Commerce Act<sup>20</sup> and the Data Privacy Act of 2012<sup>21</sup> being among the first of their kind in the ASEAN region. Soon after, legislation began to focus on the rapid facilitation of digital adoption in the Philippine government. Laws began to focus on encouraging foreign direct investments, inviting international interlocutors, and facilitating the ease of doing business among market players.

In spite of new laws and regulations, the Philippine Government lags in ensuring that its earlier established laws remain relevant and updated. This has resulted in a corpus of antiquated laws regulating new technological breakthroughs. The chasm that exists between the two has slowed the Philippines' digitalisation push which began as early as the late 1990s. For instance, the 1995 Public Telecommunications Law, which is still in effect, is designed to focus on traditional telecommunications and does not include substantial provisions on the internet. While technological breakthroughs are very fluid and dynamic, legal responses and regulatory approaches have been reasonably short-sighted.<sup>22</sup> Because of the chasm, the Philippines had delayed policy responses to important technological novelties such as AI,<sup>23</sup> cloud technology,<sup>24</sup> quantum computing,<sup>25</sup> and many more. Innovation was bolstered by the passing of the Philippine Innovation Act in 2019.<sup>26</sup> Addressing legal gaps had largely been a wait-and-see

strategy, based on systematically learning from international best approaches and adopting a tailored approach unique to the country, as done with the Data Privacy Act of 2012 which drew heavy inspiration from the European Union's 1995 Data Protection Directive and the subsequent proceedings on the General Data Protection Regulation that began as early as June 2011.<sup>27</sup> What the Philippines cannot properly address legally and has raised alarm among certain sectors is the dual nature of technologies entering the country.

## **CONTENDING WITH CHINESE TECHNOLOGY**

Since late 2013, China's BRI has put the country in a leading global role in economic development. Starting with only nine countries, BRI has captured the attention of both developed and developing nations. This momentum rapidly accelerated,<sup>28</sup> resulting in a total of 148 countries signing memorandums of understanding (MoUs) with China. As an integral component of BRI, China initiated the DSR in 2015. This sets itself apart from the BRI not only in its thematic emphasis but also in terms of the involved Chinese stakeholders, contract types, and geographical scope.<sup>29</sup> Today, through the DSR, China has invested in the Philippines along certain critical fronts including digital infrastructure (both hard and soft infrastructures), major smart city projects, financial technology, and the Philippine supply chain.

China's engagement in telecommunications, both terrestrial and subsea projects, has also been a focal point. The duopoly of Smart Communications and Globe Telecom, powered by Huawei, has played a central role in this domain, with the entry of new players like DITO Telecommunity and Converge ICT disrupting the industry.<sup>30</sup>

Surveillance technology export is another noteworthy aspect, with China's influence extending to the installation of monitoring systems in major Philippine cities.<sup>31</sup> Projects like the "Safe Philippines" initiative, backed by China, involved the deployment of thousands of closed-circuit television (CCTV) cameras.<sup>32</sup> China's export of surveillance technology has faced scrutiny and public opposition, leading to the discontinuation of some projects.<sup>33</sup>

The DITO<sup>34</sup> and Safe Philippines<sup>35</sup> projects raise significant national security concerns, particularly in light of the Chinese National Intelligence Law of 2017.<sup>36</sup> As a joint venture between a China state-owned enterprise (SOE) and a Philippine private company, DITO may bear the brunt of the requirement to provide data to the Chinese government, and this arrangement has direct implications for national security. Entrusting control of parts of the Philippines' national telecom infrastructure to Chinese SOEs presents clear risks. China's well-documented use of cyber-attacks for strategic and economic advantages adds an additional layer of concern. Given the Philippines' existing vulnerability to cyber-attacks, relinquishing control over cyber-infrastructure could potentially compromise the country's ability to defend itself. TikTok, a social media platform owned by Chinese company ByteDance, is immensely popular in the Philippines,<sup>37</sup> ranking as the most downloaded entertainment app despite controversies. The surge in TikTok usage is noted to be correlated to an increase in China-related disinformation in the Philippines,<sup>38</sup> prompting discussions on potential security risks associated with the platform.

Overall, China's evolving economic interests in the Philippines underscore a strategic pivot towards digital domains, encompassing a wide spectrum of sectors from infrastructure and

telecommunications to energy, surveillance technology, and entertainment platforms. Undeniably, the shift toward a digital economy offers the potential to enhance efficiency, innovation and productivity, and generate new job opportunities. However, trust and confidence in China's BRI has taken a toll on account of slow delivery of promised gains.<sup>39</sup> This shift in the Philippines' disposition towards the BRI not only reflects geopolitical considerations but also highlights increasing concerns about China's economic deceleration,<sup>40</sup> property market crises, and the associated challenges tied to foreign investments. For the Philippines, China's engagement<sup>41</sup> seems to be characterised by a form of diplomacy often referred to as a "pledge trap", that involves strategic concessions in the South China Sea in exchange for promises of investment which have not, for the large part, materialised.<sup>42</sup>

Moreover, concerns arise about BRI-DSR projects being coupled with authoritarian tendencies, enabling governments to use centralised power to control citizens through digital tools and technology.<sup>43</sup> Some democracies, like the Philippines, are worried that China might spread its model of *technology-driven authoritarianism*.<sup>44</sup> This concern comes as Chinese firms get involved in building 5G networks and infrastructures in recipient countries, setting technology standards. This involvement raises fears of spying and coercion. Already, PRC-based hackers are attempting to breach the websites of Philippine political leaders and national security organisations, aggravating an already volatile security relationship with China.<sup>45</sup> Additionally, the DSR, along with technology norms pushed by other states, offers ways for countries to control their internet through measures like filtering, content moderation, data localisation, and surveillance. What is more worrying is that the CCP's tightening of its control over PRC tech companies encourage values and practices that can lead to a more divided global internet.<sup>46</sup> This divide emerges<sup>47</sup> as some democracies opt for internet control while others stick to preserving internet freedoms.

## CONCLUSION & POLICY RECOMMENDATIONS

The country's archipelagic nature necessitates digital transformation of all its regions, not simply of the major city hubs. The Philippines will have much to do in terms of connectivity and infrastructure, its regulatory and innovation environment, and digital literacy. Taken together as part of a whole, these point to an overarching goal of building up internal resiliencies, so that the Philippines can safely harness technologies.

The Philippines' deployment of diverse technologies for digital infrastructure, including fixed lines, wireless mobile, satellite internet, and underwater cables. However, acquiring and establishing these technologies is a difficult task, particularly in the absence of sufficient funds for infrastructure investment. Failure to address the connectivity issue will exacerbate the digital divide, particularly due to rapid technological advancements. Findings have indicated that access to adequate internet speeds diminishes in the rural areas of the Philippines.<sup>48</sup>

The Philippine government must also be equipped with relevant policies to facilitate its digitalisation initiatives and adapt to emerging technologies. Unfortunately, many of these regulations are antiquated and lack prompt and clear solutions to the demanding and swiftly evolving requirements posed by Fourth Industrial Revolution technologies. As per the International Telecommunication Union, the Philippines is the third most expensive provider of ICT services among all ASEAN countries,<sup>49</sup> considering various ICT price categories.

Furthermore, the Philippines' complex and tedious bureaucratic processes deter many possible investors and competitors from participating in its digital ecosystem, impeding its development.

Connectivity reforms are capital-intensive. The government needs to engage with a wider range of foreign investors from different countries to facilitate and encourage direct foreign investments. Telecommunication companies play a big role in connectivity initiatives, and enabling and supportive network of laws, such as Executive Order No. 32,<sup>50</sup> will streamline the permitting process for the construction of telecommunications and internet infrastructure. Private sector linkages are also important. By partnering and coordinating with relevant actors in the private sector, the government can establish strategies and frameworks to motivate them to participate, stimulate investments, and jumpstart digital infrastructure in the country.

Regulation is a double-edged sword, and it must facilitate innovation. The Philippines will need to update legislation by developing custom-made reforms taken from international best practices in consultation with domestic and foreign partners. The digital transformation of regulatory processes needs to be supported as well. For instance, the roll out of the novel Electronic Business One-Stop Shop (EBOSS) system<sup>51</sup> by the DICT, ARTA, and the DILG require resources and support to ensure that national government agencies and local government units have the human and physical capacity to fully integrate it. This would also propel its efforts to establish ease of doing business for the business community. The government needs to support projects that promote good regulatory principles. The Philippine-Business Regulations Information System (PBRIS)<sup>52</sup> for example aims to cultivate and practise good and sound regulatory principles among government agencies, such as conducting regulatory impact assessments before agencies introduce or revise new regulations.

Advancing digitalisation in the Philippines poses challenges for stakeholders due to several factors. Given the country's limited capacities and its association with China, ongoing collaboration in digital development is unavoidable. However, to mitigate the possible risks that come along with engaging with Beijing, the Philippines must equip itself with the necessary tools and mechanisms to maintain a balance between advancing its digital development and ensuring digital security. President Marcos Jr.'s renewed push for digitalisation is a good signal as significant digital reforms begin taking shape. However, much like with past administrations, reforms only hold if there is impetus and political will.

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