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LAW AS GEOPOLITICAL INSTRUMENT: EU CONDITIONALITY, CHINESE CONTRACTUAL POWER, AND PHILIPPINE STRATEGIC AUTONOMY IN FDI

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This paper investigates the relationship between foreign direct investment (FDI) and its impact on strategic autonomy of the Philippines. The research advocates for FDI to be considered holistically rather than just economic discourse. The legal mechanisms utilized in the FDI process are important when considering the geopolitical influence of FDI. The research uses a New Legal Realist approach to analyze EU regulatory conditionalities in comparison to Chinese contractual structures to investigate the impact upon Philippines strategic autonomy without formally infringing upon Philippine state sovereignty. The research will answer the question; How do EU regulatory conditionalities and Chinese contractual structures affect the strategic autonomy of the Philippines in the critical minerals sector without formally undermining its sovereignty? The research utilises legal instruments, policy documentation and case studies such as the EU Global Gateway and Chinese-led mining projects in the Philippines to show that both foreign investment approaches from the EU and China limit domestic policy formation in the Philippines.EU investment shapes governance through gradual regulatory alignment and ESG conditionalities, while China constrains the Philippines contractually, creating operational dependence. The findings show that strategic autonomy is not eroded by a loss of sovereignty, but rather through legal and institutional limitations, reconfiguring domestic decision-making. The research shows that FDI is an infrastructural form of geopolitical power, projected through law, rather than just market exchange.

Keywords: *Foreign direct investment; legal conditionality; Chinese investment; EU external governance; Philippines*

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INTRODUCTION

Globally, the demand for the diversification of energy resources has never been more critical than it is now in 2026. In prior years, the push towards diversification of energy resources had given it an air of theoretical importance. Goals like achieving net zero, diversifying away from fossil fuels, etc., had weight to them. However, with the extent of global energy vulnerability now more clearly apparent in the world's need for fossil fuels - oil and gas, the situation is now of particular importance due to setbacks in the global energy systems. For example, persistent issues remain globally in areas such as geopolitical stability, climate and economy (World Economic Forum, 2025). Economies of the international community should not wait to diversify their economies further towards alternative energy resources (Månberger & Stenqvist, 2018; International Energy Agency, 2025). This new reality of potential energy scarcity is a particularly important factor for the nations of East and South East Asia, a region bereft of traditional energy resources such as oil and gas (Zhang & Bach, 2022).

However, despite the lack of oil and gas in this region, countries in South East Asia, such as the Philippines, have plentiful mineral deposits of nickel and cobalt, minerals which are critical in the energy transition process and are heavily utilized in renewable energy generation technology (Mudd & Jowitt, 2018).

The Philippines has a variety of deposits of critical minerals available within the country, which are at different stages of development and exploration (Camba, 2015).

However, overall, the capacity to mine these minerals has not been exploited, and the Philippine government at present has also not fully implemented and undertaken legislative measures to regulate foreign direct investment (FDI) (Camba, 2015) from countries that have differing strategic objectives, which are not always in the best interests of the Philippines.

Overall, it is important to consider the question of the status of critical mineral extraction in the Philippines in relation to foreign direct investment due to the country being at quite an early stage of legislating how foreign companies will undertake activities (Cust & Harding, 2020) within the country to extract minerals.

The main issue under consideration here is that despite the Philippines formally retaining de facto sovereignty over its critical mineral deposits. Its institutional and legislative frameworks do not at this moment fully protect strategic autonomy from external influence. An ideal situation would be a governance system which pushes foreign direct investment to contribute to mineral development without any impact on domestic policy autonomy. However, the empirical reality shows us that EU and Chinese investment models mould governance through regulatory conditionalities and contractual dependencies. This creates a gap between formal sovereignty and effective autonomy.

It is always worth considering how foreign direct investment impacts a country. It can, on the one hand, develop sectors of the economy which are in great need of financial aid. But at what cost to the strategic resources of the host nation, and what effects can this investment have on the national strategic autonomy of the host country.

This study will answer the following questions: How do EU regulatory conditionalities and Chinese contractual structures differ in their effects on Philippine strategic autonomy in the critical minerals sector? To what extent does each investment model preserve formal sovereignty while constraining substantive policy autonomy? Finally, how do Philippine institutional vulnerabilities mediate the impact of foreign direct investment on domestic mineral governance?

This research intends to investigate the impact of foreign direct investment on the strategic autonomy of the national government and political institutions of the Philippines. Specifically, the research will focus on better understanding the impact of foreign direct investment from China and the European Union (EU) (Chinese/EU-sponsored companies) and their impact upon the critical mineral extraction in the country and how these international capital flows affect the strategic autonomy of the Philippine government and national institutions.

The research outlined here will further strengthen the argument which advocates for the notion that foreign direct investment functions as more than just an economic measure. More so, it should be seen as a form of legal governance. Through a variety of measures such as contracts, regulatory frameworks and financial measures, external actors are able to influence domestic policy makers without the need to formally meddle with the host state's sovereignty.

Specifically, this research will utilise New Legal Realism to examine and interpret the legal mechanisms at play in this discussion of Philippine strategic autonomy and their ability to further or hinder the nation's strategic autonomy in the face of these foreign capital inflows.

This research is an important angle to consider within the current discourse surrounding foreign direct investment and critical minerals within the region. This is because it allows for a greater understanding of the impact of national legislative efforts of the host country towards protecting the strategic autonomy of institutions within the host nation. Furthermore, within the conceptual framework of greater power projection, there have been limited studies regarding the relationship between the EU and China in relation to critical mineral acquisition in the Philippines. An area of greater geopolitical competition within an angle of power projection imbalance in this case (Namahoro et al., 2025). With the Philippines being directly adjacent to China and the EU being a distant power, this focus will make for a useful comparative tool and serve as an example of how the EU can better understand the ups and downs of foreign direct investment within the region.

As part of this paper, foreign direct investment will be conceptualised as a form of legal governance whereby contracts, regulatory frameworks and financial arrangements have an impact upon state decision-making. Conceptualising this research through a legalistic lens will offer a nuanced approach towards this topic of research, due to being a primarily legal approach, differentiating the research from the usual political-economic approach. Legal interpretation here will be crucial in defining the significance of the role of legal instruments in both the domestic Philippine setting and the international contractual setting.

This research approach hinges upon the core thesis that law as a tool is not specifically in this case, utilized as a neutral framework to govern foreign direct investment. Law in this context must be seen as a critical tool of geopolitical influence, rather than simply a framework in which financing and funding should be governed in this cross-border setting. Law is a crucial component of the infrastructure of power, the key method to shape the conditions of state engagement with foreign entities. The EU and China represent two differing approaches to this legal power. The EU approaches this legal framework through regulatory governance and embedded conditionalities related to ESG, institutional alignment and policy harmonisation (Ionașcu et al., 2025). Whilst comparatively, China imposes its foreign direct investment upon a country through heavier reliance upon contracts, with influence being embedded in project agreements, financing structures and operational procedures (Gelpern et al., 2021). These models differ in their execution, but both functions to deepen dependency and impact domestic policy through legalities.

LITERATURE REVIEW

The literature on the topic of foreign direct investment and strategic autonomy in relation to critical minerals, with a focus on the Philippines, highlights critical factors which can help us understand how economic engagement and legal regulations intersect with geopolitical power. This focus will investigate and review significant aspects of scholarship relevant to the topic within the Philippine context, while focusing on three key areas: 1) FDI as a tool of governance and power projection, 2) EU and Chinese investment, and 3) Institutional capacity and vulnerability within the Philippines.

Foreign Direct Investment as an Instrument of Governance and Geopolitical Nature

Traditionally, from the perspective of economically orientated individuals and interests, FDI has been considered a mechanism for economic development through capital transfer (Organisation for Economic Cooperation and Development, 2016; Maiti & Mukherjee, 2013). However, recent scholarship has challenged this narrative by highlighting the legal and political dimensions of FDI as equally relevant angles to consider. New Legal Realism serves as a framework for investigating law as a set of practices that mould economic and political outcomes, this is done through institutions, contracts and regulatory enforcement. (Nourse and Shaffer, 2009).

Within this approach, FDI can be considered through its operative nature as a form of governance, embedded within legal instruments such as contracts, bilateral investment treaties (BITs) and regulatory frameworks (Dolzer & Schreuer, 2012). The function of these instruments is not only limited to defining the terms of investment, but also the boundaries of admissible state action. As a consequence, legal instruments associated with FDI can constrain domestic policymakers without the need to formally infringe upon state sovereignty (Simmons, 2009).

Resource control can be seen as a critical component of strategic competition, and therefore, the dimension of governance must be considered particularly relevant in such cases. The increasing strategic importance of critical minerals such as nickel and cobalt in the energy transition has elevated the relevance of FDI from an economic tool to an aspect of greater strategic importance within global power competition (Hira, 2025; United Nations Conference on Trade and Development, 2025). As a result of this, the legal aspect governing the implementation of FDI has become ever more important as a central point of relevance to shape long-term geopolitical outcomes.

Investment Models of the European Union and China

The distinct models of external economic engagement of the EU and China have led to the creation of a substantial body of literature. EU external economic engagement is widely portrayed as a regulatory power, projecting influence through the imposition of legal norms, standards and conditionalities, a phenomenon often described as the 'Brussels Effect' (Bradford, 2019; Damro, 2012). Furthermore, EU investment can also consist of ESG requirements (environmental, social and governance) alongside transparency obligations and institutional reform (European Parliament, 2022; Maybee et al., 2023).

It has been argued by scholars that these conditionalities shape how decisions are made and what is possible. This is because the conditionalities operate across procedural, substantive and institutional dimensions (Blauberger & van Hüllen, 2020). These frameworks contribute multiple aspects to the policy autonomy of the host nation over time. For example, the frameworks can strengthen governance and accountability, and they can also embed external norms into domestic legal systems (Lavenex & Schimmelfennig, 2009).

Comparatively, Chinese investment has often been classified as contract-based with state backing, with a reliance upon project-specific agreements rather than regulatory alignment (Gelpern et al., 2021; Custer et al., 2024). This Chinese approach emphasizes finance, infrastructure delivery and operational control; implemented through engineering, procurement and construction (EPC) contracts and state-backed loans (Chen 2021). The Chinese approach establishes influence through financial dependence, long-term contracts and supply chain integration, rather than through regulatory conditionalities (Horn et al., 2021).

EU investment seeks to impose constraints ex ante through regulatory alignment, while Chinese investment formulates ex post constraints through contractual clauses to lock in the host nation and also through operational dependence. (Heldt, 2023; Wang et al., 2022) The distinction between these two approaches to investment is more than institutional in nature; it is also temporal and functional. However, these differences aside, both investment approaches have the potential to produce similar outcomes. That is to say, these investments shape domestic policy environments in a way which aligns with their external strategic interests.

Legal Conditionalities and Investment Structures

The literature also further divides the concept of FDI governance into differing approaches to legal conditionalities. For example, procedural conditionalities can be considered in relation to transparency, reporting and compliance, within links to ESG standards and international best practice (Extractive Industries Transparency Initiative, 2024). Furthermore, substantive conditionalities can define permissible policy choices, for example, ownership rules, performance requirements and sectoral restrictions (Organisation for Economic Co-operation and Development, 2025). The allocation of authority can be done through dispute resolution mechanisms, for example, such as investor-state arbitration (Schill, 2017).

Dividing these conditionalities into different categories provides a useful framework which can be utilized to interpret the way in which legal instruments shape state behavior. The information shows us that restrictions on autonomy do not equal a formal transfer of sovereignty, but rather, they emerge through embedded legal obligations alongside governance functions and structuring.

Host State Vulnerability and Institutional Capacity

An important aspect of the literature emphasizes the role of domestic institutions in mediating the impact of FDI. For example, strong institutional capacity can enable states to have the option to negotiate on favorable terms, enforce regulations and maintain policy independence (Acemoglu & Robinson, 2012; Sauvant & Sachs, 2009). In contrast, the weaker the institution, the more vulnerable it is to external influence, specifically, for example, in contexts which are defined by regulatory fragmentation, issues in enforcement capacity and obstacles towards governance.

Within the Philippine context, studies have highlighted the consistent issue of institutional vulnerability through the presence of weakness across institutions. The issues include regulatory frameworks, slow dispute resolution processes and limited administrative capacity (Camba, 2015). These issues are particularly evident in the mining sector due to problems arising from overlapping jurisdictions and permitting delays, which complicate governance (Magno, 2024). These conditions can lead to situations where external actors see opportunities to shape outcomes through contractual arrangements and investment conditionalities.

Furthermore, the literature highlights the significance of transparency and accountability mechanisms in the goal of mitigating risks. Initiatives such as the Extractive Industries Transparency Initiative (EITI) seek to bolster governance through the promotion of disclosure and oversight, However, implementation gaps persist. (Van Alstine, 2017). The result of this is that institutional weaknesses remain and amplify the influence of foreign investors and their impact upon domestic policy formulation.

Gaps in the Literature

It is evident that existing scholars have identified valuable insights into FDI, governance and geopolitical competition; however, a limited focus persists regarding the interaction between legal mechanisms and strategic autonomy in specific national contexts. For example, there is a limit in the number of studies which directly compare EU and Chinese investment models within the Philippine critical minerals sector. Furthermore, the role of legal frameworks as tools of power, rather than neutral governance instruments, is an under-investigated concept in empirical case studies.

These power gaps will be addressed in this research through the application of a New Legal Realist framework, which will examine how the legal instruments associated with FDI seek to shape strategic autonomy within the Philippines. The comparison between EU regulatory conditionalities and Chinese contractual mechanisms will be a main point of comparative inquiry. The study will thus contribute to a more nuanced understanding of how law functions as an aspect of the infrastructure of geopolitical power.

ANALYTICAL FRAMEWORK

This paper will adopt an analytical framework which aims to link strategic autonomy, foreign investment and legal and institutional governance. Analysis will be undertaken by examination of three conditionality dimensions: procedural, substantive and institutional. Procedural conditionalities refer to the processes which affect the

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outcome of decision making, including transparency, reporting, disclosure and compliance requirements. Substantive conditionalities refer to the content of permissible policy choices, including ownership rules, performance requirements and sectoral restrictions. Institutional conditionalities encompass the allocation of authority through dispute resolution mechanisms, arbitration, oversight bodies and other institutions of governance. This framework will be utilized to examine how Chinese and EU foreign direct investment actions influence the legal mechanisms that shape strategic and political autonomy in the Philippines.

New Legal Realism (NLR) allows for the most logical theoretical foundation for this research due to its examination of the law as it operates in practice. That is to say, within markets, institutions and power dynamics, rather than purely as a set of rules. It differs from constructivist approaches, which focus on norms and ideas and how these shape state behavior. NLR emphasizes how legal instruments structure decision-making. There is also a difference with standard legalisation approaches because these tend to assess law by way of precision, delegation and compliance. Asking how the law functions as an embedded mechanism of governance and influence in institutions. This research from an NLR perspective allows for an analysis of how contracts, regulatory frameworks, arbitration clauses and investment arrangements shape Philippine strategic autonomy in practice, even in instances of formal sovereignty. Thus, NLR is particularly relevant for comparative analysis between EU FDI regulations and conditionalities vs China's contractual structures. This is because both operate through legal forms which impact domestic policy outcomes without directly interfering with territorial or sovereign control.

Strategic Autonomy vs Sovereignty

Sovereignty

Sovereignty specifically encompasses a state's formal authority in matters of legal and territorial control. From the perspective of international law, it grants the state exclusive de facto jurisdiction within its own borders to legislate and exercise authority. Outside of its territory, sovereignty also grants the state the right to represent the country in international legal matters, signing treaties and joining international supranational institutions. Sovereignty is in the end about how the state monopolises the ultimate legal authority over its own affairs both domestically and on an international stage.

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Strategic Autonomy

Strategic autonomy, on the other hand concerns the practical ability to create and facilitate the implementation of policy and legal decisions. It does not concern a de facto formalised legal status to legislate, rather it indicates an informal ability to monopolise informal but lasting functional concepts and objectives and to transpose these into policy and law.

Bottom Line

A state can be a fully sovereign entity, but this does not always mean it is fully autonomous both domestically and internationally. Legal sovereignty can remain intact and internally and externally recognized, yet material and situational constraints may persist, limiting the sovereign state from enacting its own autonomy fully. Conditions such as economic dependence, supply chain resilience, or security on the international or national stage can shape decision-making within the sovereign state, and thus the state can risk losing control of its autonomy.

This is why the concept of legislating foreign direct investment is such a potent and important matter to consider. When an external nation, extra-territorial entity or private entity obtains a contractual business relationship, this can cause varied levels of threat to the host state's autonomy. Depending on the host state's vulnerability financially, an investment from a foreign entity can lead to the foreign entity holding significant financial power within the country, which in turn can lead to a potential loss of host state autonomy. From business relationships to key figures within the host state to institutional vulnerability, a significant enough source of foreign investment can destabilize the host state's own control of internal policy. This can thus lead to the loss of autonomy over time while allowing the host state to maintain a level of sovereignty.

Understanding the distinction between sovereignty and autonomy and external actor influence over domestic decision-making without formally infringing upon state sovereignty is an important aspect to consider when understanding the legislating efforts of the host state regarding foreign direct investment.

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Legal Conditionalities within Foreign Direct Investment

As laid out in the analytical framework, foreign direct investment in this research is assessed through three dimensions of conditionality: procedural, substantive and institutional. Procedural conditionalities relate to the processes through which decisions are shaped, including transparency, reporting, disclosure and compliance requirements. Substantive conditionalities concern the content of permissible policy decisions, including, for example, ownership rules, performance requirements and sectoral restrictions. Institutional conditionalities involve the allotment of authority through dispute resolution mechanisms, arbitration, oversight bodies and other governance institutions.

Considered together, these dimensions provide a suitable basis for an assessment of how foreign direct investment shapes legal constraints and institutional responses within the Philippine context.

Procedural refers to the way in which decisions are shaped and made, including the obligations of transparency and disclosure. Also consider within this branch the importance of environmental, social and governance aspects (ESG); these standards are of relevance (Lannutti, 2024). These outcomes are not direct, yet they help structure the decision-making process and can affect policy direction.

By contrast, substantive conditionalities have implications on what decisions can actually be made. This includes ownership restrictions, tariff considerations and performance requirements, which limit the range of permissible state action (Narayan et al. 2022).

Finally, institutional conditionalities are the where and the who. This refers to dispute resolution, specifically the where and the who of dispute resolutions. Within this framework of institutional conditionality, we must consider mechanisms such as investor-state arbitration and public-private partnership (Schill, 2003). These mechanisms can diversify authority away from domestic courts towards international arbitration and tribunals.

Considering these three categories together is the most appropriate framework to understand how foreign direct investment can impact legal constraints within domestic systems, at times without infringing upon direct state sovereignty. However, state autonomy can often still be significantly impacted.

In the case of the Philippines, the state is legally open as its institutions conduct themselves with a level of freedom from direct state imposition, executive imposition or direct control. However, the country is institutionally uneven, which creates structural vulnerabilities which can be impacted by external conditionalities. The country has relatively liberal foreign direct investment regulations at the moment, providing foreign entities with easy market access and ownership (UN Trade and Development, 2022). This openness of the economy suggests a clear exercise of sovereignty, showing that the state retains the right and the ability to design and implement an investment framework.

However, institutional capacity remains weak across a large number of Philippine institutions. The country's institutions are affected by things such as weak enforcement, slow dispute resolution and an administrative lack of cohesion (Philippine Institute for Development Studies, 2026). Therefore, the country can at times struggle to defend its policies and strategic aims. As a result of this, external/foreign entities are at times able to manoeuvre within the institutional system of the country and occasionally impact the outcome of policy formulation. These vulnerabilities can increase reliance upon investor-driven standards, contractual safeguards and international arbitration mechanisms.

Therefore, while sovereignty of the Philippines is not called into doubt, the real issue arises due to the vulnerable institutional landscape of the country and the impact this has on the country's ability to enforce native homegrown investment policy. Policy choice independence is therefore called into question in such situations in this investor landscape. These dimensions offer an explanation as to how the Philippines institutional openness and vulnerability shape the domestic effects of foreign direct investment.

METHODOLOGY

This research will comply with a qualitative socio-legal approach, primarily utilising the theory of New Legal Realism. The methodology will function to answer the following research questions: How do EU regulatory conditionalities and Chinese contractual structures differ in their effects on Philippine strategic autonomy in the critical minerals sector? To what extent does each investment model preserve formal sovereignty while constraining substantive policy autonomy? And how do Philippine institutional vulnerabilities mediate the impact of foreign direct investment on domestic mineral governance? The research will examine foreign direct investment (FDI) as an instrument of geopolitical power projection, not simply as a tool of governance. The research employs a comparative case study design to assess legal structures and how they shape state autonomy.

This theoretical approach to the research is justifiable because New Legal Realism permits for the analysis of law. Not solely as formal rules, but also as an embedded mechanism of political and economic power, with institutional operational capacity, contracts and regulatory practices. This specifically has relevance for the context of foreign direct investment, an area where legal instruments function as governance tools, shaping state activity beyond formal sovereignty. The comparative case study design is appropriate due to its ability to allow for a structured comparison of two distinctive investment models (EU regulatory conditionality and Chinese contractual-financial governance). This can be done within the same national context, which allows for controlled analysis of variation in legal mechanisms.

The research will utilise both primary and secondary data sources. The primary data will include legal and policy documentation, for example, bilateral investment treaties (BITs), memoranda of understanding (MoUs), the EU-Philippines Partnership and Cooperation Agreement (PCA) and EU Global Gateway instruments. Secondary data utilized includes institutional assessments, policy documentation and governance and institutional performance reports.

Data is primarily collected through document analysis, with a focus on legal texts, contract structures, arbitration clauses, and policy instruments related to FDI governance. Case studies include the EU Scoping Study (2025) and the Chinese Jinchuan mining projects in Palawan and Zambales. The cases were selected for their relevance in illustrating interactions between legal frameworks and institutional vulnerabilities in the Philippines.

Document analysis was undertaken on a purposive corpus of primary and secondary sources which related to EU and Chinese investment governance in the Philippines. The sources utilized included partnership instruments, financing documents, official government disclosures, institutional reports and scholarly analysis. Analysis primarily focused on discrete legal and policy instruments, including memoranda of understanding, financing agreements, and official statements. A thematic coding framework had been applied across procedural, substantive and institutional dimensions of conditionality. Considering the lack of publicly available confidential contracts, triangulation across official texts and secondary sources was utilized to corroborate results and support analysis of autonomy-related items.

Selecting these two cases followed a specific systems logic, which is because the EU and China represent functionally distinct models of foreign investment governance. With the EU championing regulatory conditionality, while the Chinese approach emphasizes the contractual-financial approach. Regardless of these differences, both cases have undertaken investments within the same recipient state. This allows for a more in-depth comparison of the differing legal architecture, and how it produces similar or divergent limitations on strategic autonomy within the host state.

Data analysis has been undertaken through a comparative legal and thematic analysis, examining the differences between EU regulatory alignment and Chinese contractual leverage. This has enabled an assessment of these two powers' impacts on Philippine policy independence, institutional capacity and vulnerability.

The thematic analysis considers the comparative approach through an analytical framework (procedural, substantive and institutional dimensions of conditionality). This allows for an effective systematic comparison across cases. This research is, however, limited by the reliance upon publicly available legal and policy documentation, since, within this frame of inquiry, there is an issue with transparency. Certain documents, such as Chinese and EU investment arrangements and contractual details, are not accessible, which can affect the granularity of contractual analysis. To address this, triangulation across a multitude of institutional sources will be used to mitigate the limitation.

Philippine Institutional Vulnerabilities

The Philippines utilises its network of institutions to maintain sovereignty and authority to regulate foreign investment, however a multitude of institutions within the country have for a long time been suffering from corruption, a lack of funding and a significant amount of political pressure from both domestic and external actors. Such impacts on institutions in the country leave the overall institutional framework of the country lacking legitimacy and cohesion (Philippine Institute for Development Studies, 2026). Specific to the critical minerals sector, institutions such as the Mines and Geosciences Bureau (MGB) and the Department of Environmental and Natural Resources (DENR) suffer from understaffing and a fragmented permitting process (Magno, 2024).

Overall, this leads to other issues in a knock-on effect: issues such as limited capacity for international arbitration (Schill, 2017).

These types of institutional vulnerabilities lead to a fractured response and a divided front when dealing with foreign direct investment conditionalities and contractual clause negotiations. Thus, the impact of foreign direct investment in the country is amplified in several categories.

- Procedural weakness, due to limited enforcement of transparency standards (EITI non-compliant), leading to investor-driven reporting rather than state monitoring efforts (Extractive Industries Transparency Initiative (EITI) 2024).
- Environmental permit delays lead to overall issues within projects getting off the ground, such delays favor the rapid deployment of Chinese project implementation (OECD. 2025).
- Institutional regulation is difficult to draft and enforce due to under-resourced departments. The end result is that the ability to raise disputes in investment contracts and deals is vastly reduced because these institutions don't have the resources to coordinate and counter claims or raise them (BTI, 2026).

These weaknesses remain an ever-apparent vulnerability to foreign investors and are exploited to produce contracts in favor of foreign entities. This creates an environment of unequal bargaining position, with the domestic entities unable to prevent foreign entities from exploiting institutional gaps and constraining domestic policy as a result.

DISCUSSION

This discussion will compare the European Union and China as two distinct models of foreign investment governance in the Philippines' critical minerals sector. It will examine each actor's way of exercising influence through procedural, substantive and institutional conditionalities, and how these mechanisms mould strategic autonomy in alternative ways. The comparative matrix below summarises the key differences before the research delves into further detail below.

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Conditionality dimension	**EU investment architecture**	**Chinese investment architecture**	**Illustrative case evidence / effect**
Procedural	Transparency, ESG, consultation, monitoring	Project-specific negotiation, faster implementation, less standardized disclosure	EU scoping study and Global Gateway; Chinese mining agreements and permitting timelines
Substantive	Regulatory alignment, sustainability standards, policy harmonisation	Financing obligations, repayment terms, supply-chain integration	EU sustainability conditions; Chinese export dependence and project lock-in
Institutional	Oversight, compliance mechanisms, possible ISDS / arbitration structures	EPC contracts, external arbitration, operational control	EU alignment through institutional standards; Jinchuan and Palawan/Zambales dispute architecture

The European Union Case: The Critical Raw Materials Scoping Study, 2025

The most important development to consider within the framework of EU involvement in the Philippines critical minerals sector is the 2025 scoping study, announced in May 2025. The emphasis of the study is to identify sustainable mining opportunities within the Philippines (European External Action Service, 2025). It has been emphasized by the EU Ambassador Massimo Santoro that the intention of the study is not to directly lead to EU-led extraction efforts in the country, but rather to empower EU and Philippine entities to work together to establish a normative framework. This would combine best practices from both entities to push for modalities aimed at establishing sustainable mining standards (Manhit, 2025). The EU's strategy focuses on shaping regulatory standards rather than imposing direct control over project operations (Bradford, 2019). The study is scheduled for completion in December 2026 and will cover mineralrich areas across Surigao del Norte, Palawan, and Zambales (European External Action Service, 2025). Ambassador Santoro reiterated that access for European companies to these regions was conditional upon these companies maintaining high standards in their mining operations (Manhit, 2025). Observance of environmental and social matters must be a top consideration (European Commission, 2021). Such examples illustrate how the EU leverages market access as a tool of conditionality; Philippine compliance with EU conditionalities plays into who gains from the investment opportunities at play (Lavenex & Schimmelfennig, 2009).

The evidence points to the notion that the EU's influence is primarily procedural and substantive in nature. This is because access is hinged upon transparency, ESG standards and regulatory alignment, instead of direct operational control. In this regard, the EU model establishes leverage prior to implementation, rather than through direct project management.

Furthermore, in October 2023, the Green Economy Programme Financing Agreement signed at the Global Gateway Forum is considered a sign of EU investment backing. The investment is aligned with the Team Europe Initiative on Green Economy (Republic of the Philippines, Department of Finance, 2023). The EU approaches foreign direct investment initiatives through multilateral development banks (the European Investment Bank) and requires alignment with EU ESG frameworks. Comparatively, China's funding is primarily conducted on a case-by-case contractual basis. This reinforces the concept that the EU's model works primarily ex ante regulatory discipline and norm setting. This gives it a measure of leverage over how projects are designed before implementation.

The China Case: The Jinchuan Nonoc Nickel Mining Project

The Jinchuan Group's activities at the site of the Nonoc nickel mine on Nonoc Island, Surigao del Norte, present an example of the Chinese investment model in full operation, with integrated extraction processing frameworks being the key to the investment model. The project involves Jinchuan, a state-owned Chinese corporation and also its domestic partner, the Philippine Mining Development Corporation (PMDC), which is also state-owned by the Philippines, with all shareholders being government entities. This case creates an interesting structure of official Philippine state ownership, while operations are undertaken by Jinchuan and are thus a Chinese government operation. Jinchuan participation is maintained through contractual cooperation and technical exchange arrangements, not specifically formal ownership or regulatory control of mining operations. The indication here is that China's influence hinges less upon regulatory imposition and more upon operational. This is because control is exercised through contractual cooperation, project delivery and technical exchange instead of formal policy conditionality.

Jinchuan's approach prioritises rapid development through project development, control and rapid financing, which holds the Philippines operations to assist with Chinese downstream processing needs (Philippine Institute for Development Studies 2026). Whilst comparatively the EU approach, which emphasizes adherence to normative standards before proceeding with investment sign-off. China's model in this case is shown to create dependence through rapid deployment, financing and operational control. Comparatively, the EU model holds off on commitment until its standards are adhered to. The difference is relevant because it shows two separate approaches to influence: firstly, through speed and secondly, through conditional access.

The China Case: Palawan & Zambales - The Strategic Context

China signed mining cooperation agreements with the Philippine government in 2011 to facilitate Chinese companies' engagement in mining projects in Palawan's Narac and Zambales' Iba regions, with reported investment commitments equalling $14 billion over multiple years. (Camba, 2017a). However, the achievement of operational status for different projects occurred at different times, with the Narac project starting in 2016, the Iba region project was delayed due to a slower granting of environmental permits and was finally undertaken in 2019. The evidence above presents a picture of rapid Chinese commitment to mining projects, but such rapid implementation does not always lead to projects getting off the ground in an equally rapid manner. The suggestion here is that Chinese involvement produces an alternative kind of dependence. Not of a procedural compliance nature, with formal standards, but one of practical reliance upon Chinese-linked financing and investment commitments.

Supply chain integration at this point is evident, with Q1 of 2023 alone showing that the Philippines exported 3.48 million tons of nickel ore to China. Such large export volumes in 2023 and continuing into 2025-2026 (Observatory of Economic Complexity, 2024) indicate that the Philippines has become a major supplier of China's nickel ore. This also suggests a high degree of export dependence. The development of the Palawan/Zambales projects further reinforces this pattern of export dependence and reinforces the concept that the Philippines has built up a trade concentration and sustained integration with Chinese supply chains over time (Gereffi et al., 2006). Thus, the strategic effect of Chinese investment is institutional and structural due to its deepening of trade concentration and creation of long-term supply chain dependence. Thus, the Chinese case is not simply about project delivery; it also relates to broader economic lock-in.

Comparative Analysis of Implementation Dynamics

The differing speeds of implementation between the two models are notable, with EU Global Gateway projects usually requiring 24-36 months of consultation, feasibility studies, environmental assessments and stakeholder consultations before moving onto funding distribution (Heldt, 2023). Whilst in Chinese cases, projects typically begin within 12-18 months after agreements have been signed, with projects utilising pre-financed, readily available equipment and integrated EPC delivery. The momentum of Chinese project delivery notably serves Chinese strategic objectives well, due to the ability to establish operations rapidly. However, once agreements are signed and operations have begun, reversing the working relationship and contractual terms becomes economically costly for the host nation (Wang, Liu, & Liu, 2022).

The comparison shows that procedural conditionality is stronger in the EU's case, while China's rapid delivery installs a more immediate but less transparent form of leverage. The cautious approach of the EU on investment in comparison to that of China also offers a perspective on the situation. Total EU investment in the Philippines stands at approximately €225 million for the 2021-2027 period (European Commission, n.d.). Whilst comparatively, Chinese investments in Philippine critical mineral extraction stand in the billions of dollars. This ratio gives insight as to why the Chinese model dominates the operational landscape in domestic critical minerals, while the EU is far more cautious with its investments. This remains the case within the Philippines despite the Philippine government’s commitment to diversification regarding foreign investment (Bangko Sentral ng Pilipinas 2026). The disparity observed in the scale enables an explanation of why the Chinese model dominates the operational field. Compared to the EU, the influence is narrower in scope but more normative in structure. Together, the comparison highlights

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that the two models constrain autonomy through different approaches: the EU, through regulatory alignment, while China does so through operational dependence.

Legal Mechanisms and Autonomy

Each different legal mechanism accompanying foreign direct investment from the EU or China constrains the autonomy of the Philippines policy apparatus differently. For example, the EU approach emphasizes adherence to things like compliance monitoring, requiring adherence from Philippine institutions to incorporate such aspects into domestic law. Specifically, the EU is keen on things like transparency standards (EITI requirements) and International Labour Organisation conventions, so these are often incorporated into agreements.

Comparatively, Chinese investment contracts typically utilise a variety of cross-border arbitration institutions depending on specific contracts and clauses, but overall with the aim of remaining flexible from an arbitration perspective. (Ogsimer, 2021). This means that legal disputes from parties require the capacity to undergo litigation in a variety of foreign locations, rather than in Manila. Such limitations lead to cost concerns and may complicate the ability to renegotiate contractual clauses. Such legal differences are relevant because they shape how investment is governed and also where authority is located when disputes arise.

The Philippine Response

In 2024, the Philippine Senate held a debate on banning unprocessed nickel ore from being exported, with an implementation date of 2030 (Camba, 2015). The debate provided firm examples of how Chinese investment in actuality constrains Philippine government policy options. A number of groups raised formal opposition to the debate, with Chinese-operated mines formally protesting through diplomatic channels. Furthermore, concern was also raised regarding the issue of employment impacts, with mining industry representatives testifying against the export ban (BusinessWorld Online, 2025). The proposed ban was finally abandoned as a notion; this outcome suggests that existing investment commitments can impact planned future policy agendas.

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Investments from the EU in the Philippines take a different approach. Pressure remains for Philippine policymakers to maintain regulatory alignments with EU's conditionalities, however a lack of immediate alignment does not lead to threats of investment withdrawal. Policy manipulation is still a concern, but is part of a more gradual process to maintain investments in the country.

Consolidating Findings Through New Legal Realism

In these cases, law functions as a key aspect within a discussion surrounding aspects of geopolitical power projection. Within the normative framework of the EU's approach, we can see that it requires operationalisation of regulatory power, through, for example, the scoping study (Projekt-Consult GmbH 2025). This implements documentation standards for adoption by Philippine institutions, which are required to access funding (European External Action Service, 2025). Whilst, comparatively, Chinese contractual clauses embed commercial leverage through operational control (Ogsimer, 2021). Such approaches tend to create dependence and are outlined as such in contractual clauses (Garriga, 2020). Both of these approaches to investment technically preserve the formal de facto sovereignty of the Philippine government. That is to say, there are no formalised transferences of power through international treaty negotiations (Custer et al., 2024). However, the investments in both cases curtail the substantive strategic autonomy of the Philippines in regard to policy formulation, just through varying legal methods (Heldt, 2023).

The legal instruments at play do serve a vital function in the overall strategic outcome of both the EU and Chinese foreign investment examples (Forough & Fünfgeld, 2025). On the one hand, the EU's drive towards regulatory alignment as a fundamental investment condition creates conditions to lock policymakers and institutions in for the longer term (Projekt-Consult GmbH 2025). Whilst China's contractual approach creates rapid operational dependency and also has a tendency to lock in domestic policymakers, almost immediately (Wang, Liu, & Liu, 2022). Both approaches provide the infrastructure to facilitate legality as a key piece of infrastructure to facilitate geopolitical influence (Palmer, 2023).

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Case Selection Rationale

The comparisons chosen were done so based on a maximum variation logic. The idea was to select two investment models that differ significantly in legal form, implementation style and governance effects, all while operating within the same Philippine institutional setting. The EU Scoping Study was selected due to its representation of a regulatory and conditionality-driven model of foreign direct investment. Access, funding and participation are linked to transparency, ESG standards and policy alignment. The Jinchuan/Nonoc case was chosen due to its contractual/financial model, which has the project delivery, financing and operational control embedded in project-specific agreements, rather than regulatory frameworks. Utilising these cases allowed for a controlled comparison of how different investment modalities mould Philippine strategic autonomy under the domestic context. The selection is not intended to be exhaustive, but to provide analytically contrasting cases that make the legal and institutional effects of foreign direct investment easier to compare.

The cases were chosen to optimise variation on investment modality, while maintaining the Philippine host-state context and broader critical minerals sector. This allows for the analysis to isolate differences in legal governance, rather than sectoral or national variation. The comparison is not totally symmetrical, but this is primarily due to the EU case being more operational on a policy and funding level framework. Whilst the Jinchuan/Nonoc case concerns a specific project-level investment. However, this asymmetry is intentional due to the comparison being designed to contrast governance logic, rather than identical project forms.

The comparative element of this research is intentionally asymmetrical due to the EU case being based on a prospective regulatory and financial framework, while the Chinese case is grounded in implemented project-level evidence. Such an asymmetrical approach does not invalidate the comparison, this is because the analysis compares governance, logical and legal conditionality at varied stages of development, instead of identical operational maturity.

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Procedural Conditionalities

The European Union's procedural conditionalities require recipient countries to meet obligations relating to transparency, reporting and compliance before funding is released (European Commission, 2019, Annex II, Art. 1.5; Broberg & Holdgaard, 2015). Recipient countries can usually comply by aligning local laws with EU legislation or completing assessments and mandatory reporting initiatives (Blauberger & van Hüllen, 2020). Meeting these conditionalities matters because they ensure the investments are implemented transparently and comply with EU standards (Extractive Industries Transparency Initiative, 2024). This is crucial to ensure the funds achieve intended, agreed-upon policy objectives and other outcomes, and is a more logical approach rather than transferring the funds without oversight (European Union, 2024). A significant part of EU conditionalities in investment deals with foreign nations often includes a component compelling the host nation to comply with environmental conditionalities and ESG (Becker, 2024). In order to achieve the funding of the host nation provides for things such as permits, impact assessments and continuous monitoring to ensure no lapses in compliance (Extractive Industries Transparency Initiative, 2024). These permits, for example, must also prove that they are fully transparent and have not been awarded due to irregular methods, which may affect transparency. The results show that EU procedural conditionality pivots on formal transparency, reporting and compliance conditions; in contrast, China's procedural influence is embedded in financing terms and repayment structures, which mould implementation from within the contract itself.

Chinese investment in the Philippines is primarily structured through state-backed loans linked to infrastructure or resource extraction projects (Custer et al., 2024). This is often within broader bilateral cooperation frameworks (World Bank, 2019). Financing arrangements from China are often embedded in project agreements and can include repayment functions linked to revenues of projects, while also involving the preferential use of Chinese contractors (World Bank, 2019; Gelpern et al., 2021). This type of arrangement can be considered faster in terms of implementation, but this also leads to a greater limitation on flexibility down the line when it comes to selecting suppliers and overall project design (Custer et al., 2021). This is due to such key terms already being predetermined within an existing financing agreement. This type of agreement will often create long-term financial obligations for the host state (Gelpern et al., 2021). Thus, the host state can have dependency upon China imposed through the repayment structures laid out within the contract (Garriga, 2020). Overall, this shows that conditionalities do still exist, but are imposed through a more informalised financial structure through individual contracts, rather than conditionality being imposed through regulation (Custer et al., 2024). This represents the idea that China's procedural influence is structured primarily through loan terms, repayment obligations and contractor preference, as opposed to the EU's approach of system transparency and reporting rules.

Both of the models considered impose procedural conformity; however, the EU does so through formal compliance requirements and transparency checks, while China does this through financing project conditions that mould implementation from within the contract. This signifies that both actors shape procedure; however, they undertake this through the application of different legal forms: EU ex ante regulatory compliance vs Chinese contract-based financing.

Substantive Conditionalities

The European Union's substantive conditionalities require recipient countries to adopt specific policies and meet certain standards in order to meet the criteria to obtain funding (Blauberger & van Hüllen, 2020). The Philippine critical minerals sector would likely be obliged to meet social safeguarding criteria alongside limited extraction methods and likely would be obliged to partner with EU firms for future projects (European Parliament, 2022). These types of conditions tie the investment of the EU to how the recipient nation should make policy decisions and thus constrain the Philippine government on policy independence (Silga, 2025). They may proceed with policy decisions, but they are obliged to adopt EU norms and objectives in future policy decisions in order to continually receive the funding. This represents how the EU is able to leverage substantive conditionality through requiring policy conformity with external standards, while, in comparison, China's substantive influence is undertaken through control of project design, labor participation and operational control.

Chinese firms often play a defining role within Chinese investment, often designing, constructing and controlling project operations. Primarily, this is done through EPC-type arrangements. The outcome of this often leads to limited participation from local firms and labor, particularly in higher value areas such as engineering (Custer et al., 2021; Gelpern et al., 2021). The outcome of this is often that domestic actors have reduced influence over a number of key areas such as project implementation, technological choice and operational standards. This can risk domestic operational dependence upon Chinese firms because the project post-construction can continue to require Chinese maintenance and technical expertise (Custer et al., 2021; Gelpern et al., 2021). The evidence signifies that China's substantive influence is expressed through project control, labor structure and operational dependence, rather than primarily through policy conformity requirements.

The substantive conditionalities of the EU's approach operate through a process of requiring policy conformity with external standards. Whilst China's substantive impact appears through control of project design, labor participation and operational control. Such confirmation that both actors constrain along the line of substantive choices, however, the EU does so through external standards, while China approaches this through direct project control.

Institutional Conditionalities

Institutional conditionalities define the position of authority within the recipient nation and who undertakes decisions within the critical minerals sector of the Philippines (Lavenex & Schimmelfennig, 2009). Institutional decision-making within the recipient nation can also be affected by the implementation of EU conditionalities to achieve the levels of compliance required to transfer EU funding to the recipient nation (Blauberger & van Hüllen, 2020). Furthermore, institutional elements such as oversight structures, including independent audits and regulatory bodies, help the recipient nation stay aligned with EU conditionalities, thus ensuring recipient nation actors operate according to externally defined standards of governance (Damro, 2012). Alongside this, investor-state arbitration mechanisms allow EU investors to resolve disputes through international tribunals rather than domestic courts (Dolzer & Schreuer, 2012). Such impositions mean that local legal authority is transplanted away from the local judicial bodies towards the international system, with which the EU shares partial alignment. Additionally, Public Private Partnerships (PPP) structures connected to EU-affiliated projects introduce an element of multi-stakeholder governance, which in turn permits EU private sector stakeholders a level of autonomy and also a level of influence across domestic and international actors, shaping decision-making processes (Hodge, Greve & Boardman, 2017). This decentralisation and fracturing of oversight, dispute resolution and operational control affects the Philippines ability to govern its critical minerals without input from the EU and affiliated entities (Lavenex & Schimmelfennig, 2009; Damro, 2012). Therefore, this presents the notion that EU institutional conditionality shifts authority through oversight, audits, multi-level governance and external dispute mechanisms, while China externalises authority by the use of contractual arbitration clauses and external forums.

Chinese contracts often have arbitration clauses within them and often designate international arbitration bodies or external jurisdictions rather than domestic courts of the Philippines (UNCITRAL, 2021; ICSID, 1965). Such mechanisms can be negotiated within individual agreements and contracts and often operate independently of the domestic legal system (UNCITRAL, 2021). This leads to authority over disputes being often moved outside of national institutions, removing the recipient states abilities to defer to domestic legal frameworks to seek a solution to the conflict (New York Convention, 1958). In turn, this leads to a reduction in government leverage in renegotiation or enforcement of scenarios, particularly this can cause issues when contracts favor external forums (ICSID, 1965; New York Convention, 1958). This shows that authority is partially externalised through contractual clause inclusion (UNCITRAL, 2021). To surmise from the above, we can deduce that China's institutional influence is in arbitration clauses and external jurisdiction, shifting dispute authority away from domestic institutions.

In both instances, authority is shifted away from domestic polity control. However, the EU does so through institutional alignment, oversight and multi-level governance, while China approaches the situation through contract-based arbitration and external forums. This information confirms that both actors externalise authority, just through different institutional approaches: EU governance alignment and Chinese contract-based arbitration.

Comparative Link

In comparison to the EU's approach to foreign direct investment, which is characterized by conditionality and regulatory alignment, embedded in EU governance (Blauberger & van Hüllen, 2020), Chinese foreign direct investment primarily relies upon project-specific contracts, state-backed funding and integrated project delivery (Custer et al., 2021/2024). Furthermore, while the EU seeks to steer domestic policy of the host country through procedural, substantive and institutional conditionalities, the Chinese model relies upon seeking influence through indirect financing and operational control alongside external arbitration (Blauberger & van Hüllen, 2020; Lavenex & Schimmelfennig, 2009). Thus, the overall comparison is confirmed: the EU approaches the situation through regulatory alignment across all three dimensions, while China works through primarily contracts, financing and operational leverage.

In summary, the EU's approach is far more reliant on governance influenced by law and regulatory alignment, while China seeks to establish influence within a country through commercial and contractual leverage, which can see dependence and long-term impact without formalised regulation (Gelpern et al., 2021). The finalized amalgamation shows that the two models differ on the matter of legal form, but they do converge on their impact upon Philippine strategic autonomy.

Legal and Operational Impact on the Philippines

Chinese investment is often seen as a much more direct and fast approach, facilitating rapid project delivery. This is due to the Chinese ability to integrate a greater amount of project and operational aspects into the contract alongside the state funding (Bunnak et al., 2024). However, this approach also exposes the host country to risks such as longer-term dependence upon Chinese firms and debt exposure from contractual clauses which favor Chinese terms (Horn et al., 2021). Such clauses overall risk exposing the domestic stakeholders to limited negotiating terms and thus allow the Chinese a greater extent of strategic leverage in domestic policy outcomes. Thus, the Philippines strategic autonomy is limited not directly through impact on the Philippines legislative or policy matters, but through the contractual situation negotiated with China and Chinese private entities (Simmons, 2012; Jensen, 2008).

Comparatively, EU investment in the Philippines primarily impacts the Philippines through the formalisation of legalities and regulation, preferring to focus upon long-term institutional and regulatory alignment, influencing the host country to adapt to these conditionalities for long-term strategic alignment (Poutala-Sinkkonen & Mattlin, 2022). Things such as ESG standards and consistent oversight mechanisms are prioritised, even if this approach may slow the process in comparison to the Chinese approach (European Investment Bank, 2021). However, this approach facilitates increased transparency, suitable compliance frameworks and institutional support for domestic stakeholders. Direct operational control is not the main priority for the EU, with the bloc preferring compliance with conditionalities to shape domestic policy choice to achieve long-term strategic objectives for the bloc.

Considered together, both models may constrain the strategic autonomy of the Philippines, but through different legal mechanisms. The EU, through formalised legal rules and regulatory alignment and the Chinese investment, through embedded contractual obligations and financial dependence, shape project-level decision-making. (Tang, 2020; Brautigam, 2009).

Implications for Philippine Strategic Autonomy

The concept of Philippine strategic autonomy places considerable emphasis on the country being able to execute effective policy flexibility across a variety of sectors (Arceñas, 2017). Such flexibility could lead to regulatory independence and the ability to engage in long-term energy planning (Rodrik, 2008). However, both the EU and China's foreign direct investment in the Philippines critical minerals sector have a significant impact on the Philippines strategic autonomy (Brattberg, 2021; Jensen, 2003). EU engagement affects Philippine strategic autonomy through investment-linked conditionalities that require ESG compliance and regulatory alignment. This shapes domestic policy formulation through legal and institutional mechanisms. (Bradford, 2019; Halliday and Carruthers, 2007). These elements integrate external standards into national and legal institutional structures. This impact can potentially strengthen governance capacity and facilitate better transparency; however, overall, these are still not policy options coming directly from domestic policymakers, so this remains problematic. Furthermore, deviation from these EU conditionalities could risk access to EU investment (IE Center for the Governance of Change, 2025; Bradford, 2019).

Comparatively, Chinese investment also places limitations upon Philippine strategic autonomy, but the mechanisms utilized are more gradual and less direct (Li, 2022). Utilisation of contractual and financial mechanisms such as loan agreements, project obligations and operational control by Chinese firms frames the situation on foreign investment impact from a different angle, yet strategic autonomy remains equally under threat (Camba, 2017b). Specifically, the Philippine government risks losing flexibility, for example, in infrastructure planning and resource governance (Dreher, 2006). Repayment structures and operational dependencies restrict policy choice and direction for the Philippines (Kentikelenis et al., 2016). Whilst sovereignty remains intact in such cases, the country's ability to exercise independent decision-making is limited through financial and operational contractual clauses.

Overall, the impact of these foreign investments from the EU and China depends upon the strength of the domestic institutions in the Philippines (Acemoglu & Robinson, 2012). If the country is able to leverage foreign investment and negotiate on contractual clauses and conditionalities, then it may be able to maintain policy control (Sauvant & Sachs, 2009). However, a weaker institutional environment is likely to increase vulnerability to influence from foreign actors. Strategic autonomy as a concept is continually reconfigured depending on the strength of the domestic systems and political will within the Philippines.

CONCLUSION

The research compiled here illustrates the reality of the impact of foreign direct investment on the Philippines critical minerals sector. Foreign direct investment is not just an element of neutral economic activity, but rather, it has the potential to operate as legal governance within the country. Through analysis conducted under the framework of new legal realism, it is possible to see the real impact of EU and Chinese investment and their legal implications. The real impact of these investments can be seen in how the law impacts geopolitical power projection and the constraints places upon the Philippines strategic autonomy, while officially preserving sovereignty.

The study is validated by the case studies, which provide a relevant empirical analysis. From the case studies, we can see the impact on regulatory governance from the EU's 2025 scoping study and the Green Economy Programme (European External Action Service, 2025). Furthermore, aspects such as the ESG conditionalities, market access requirements and institutional oversight show that the European funding is able to embed EU norms into legislative and policy actions within the Philippines critical mining sector. Whilst in the Chinese case, the following can be seen from the Jinchuan Nonoc project as well as the Palawan/Zambales agreements (Reuters, 2011). Considered together, these findings show that the EU's influence is regulatory and cumulative; comparatively, China's influence is more immediate and contractual.

The evidence shows that contract-based leverage and external arbitration clauses have the effect of externalising authority and isolating domestic institutions on matters of contractual dispute. These actions tie the domestic actor in the Philippines heavily to the Chinese projects and leave domestic policymakers in a difficult and inflexible position, while overall the contract creates a sense of operational dependency upon the Chinese state-sponsored companies undertaking the projects. Due to these difficulties, the Philippine government has emphasized its desire to diversify its investment and international partners within the sector. However, this may be difficult considering the comparative figures available in funding, with China's finance in the Philippines being estimated at multibillion-dollar levels of financial contribution over the past two decades, exceeding EU program investments, which operate at a different scale of hundreds of millions of euros under the Global Gateway and similar instruments (Custer et al., 2024). The contrast in scale reiterates the increased pattern of dependence. This is because China's financial presence increases operational leverage, while the EU's influence remains limited but more normative in structure.

The findings of this research highlight the fact that both approaches to foreign direct investment inevitably affect and limit domestic policymakers' flexibility. The method by which investment limits policy flexibility is the main difference, with EU regulatory alignment slowly limiting options over time, while Chinese contractual arrangements equate to further immediate constraints upon the policy space and dispute resolution. An example of this is the Philippine Senate's raw ore export ban, which was later removed from the mining fiscal bill, illustrating how foreign investment considerations can shape legislative outcomes. Furthermore, there are disparities between the two approaches, with the Chinese timeline for project implementation being 12-18 months, while the EU's approach is 24-36 months for implementation (Wang, Liu, & Liu, 2022). Such findings highlight the disparity between the two investment options, highlighting differences relating to compliance costs and speed of deployment.

Across the investigation, procedural conditionality has emerged as a more gradual but formal form of EU influence, while in China's case, procedural leverage is built into financing and implementation structures. Substantively, the EU limits policy through standards and eligibility conditions; comparatively, China constrains policy through project control and supply chain dependence. From an institutional perspective, both actors shift authority away from domestic discretion, but do this through different mechanisms: EU oversight and alignment compared with China's contractual arbitration and external forums.

Such dynamics show us that strategic autonomy tends to lessen through legislative constraints imposed by foreign investors over time and is not a solid construct, but is ever open to external influence. Autonomy is likely to erode through cumulative legal constraints alongside being affected by institutional vulnerabilities, which amplify the influence of external actors, for example, like PMDC's hybrid partnerships with Chinese firms despite state ownership. Despite these foreign influences on a variety of legal factors, during this time, Philippine sovereignty remains intact. In summary, the comparative approach shows us that sovereignty is preserved formally; however, practical autonomy is narrowed cumulatively through legal, financial and institutional pressures.

POLICY RECOMMENDATIONS

The policy implications drawn from this research call for urgency from Philippine policymakers; the following suggestions should be applied moving forward with future foreign direct investment deals.

1. Foreign direct investment negotiations should be centralized through a single institutional point in order to standardise the nation's approaches to foreign direct investment cases.
2. It should now be mandatory for all foreign investment contracts (>$50 million) negotiated to be done so under full transparency, so as to allow for a full impact assessment.
3. Exports from the Philippines within the critical minerals sector should now be capped at 50% concentration per country to prevent the mineral export sector from being locked into one supply chain.
4. Domestic arbitration should be made a mandatory clause in all contracts signed so as to retain domestic judicial control.
5. Commit to diversification of foreign investors so as not to have the critical minerals sector completely reliant on one foreign entity.

The Philippines must treat foreign direct investment holistically as a point of legal strategy, rather than just an economic opportunity, to avoid the risks associated with foreign investment and legal influence. Furthermore, institutional capacity should be strengthened to reduce vulnerabilities.

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THEORETICAL CONTRIBUTIONS

This research advances New Legal Realism by showing how law operates within institutions, contracts, and regulatory arrangements, shaping foreign investment outcomes in practice (Trubek and Galanter 1974).

Both EU regulatory conditionalities alongside Chinese contractual mechanisms achieve geopolitical objectives through the utilisation of legal frameworks (Blauberger & van Hüllen, 2020). Both regulatory harmonisation and commercial binding have a geopolitical impact on Philippine strategic autonomy, but do not infringe directly upon sovereignty. Understanding the power competition at play here is important to further understand the broader Indo-Pacific competition currently at play. Resource-rich states such as the Philippines must be fundamentally aware of the geostrategic risks involved with external investment and trade in an age of greater resource competition.

The case of the Philippines critical minerals sector helps us understand the vulnerabilities and flexibilities of the concept of strategic autonomy within the discussion surrounding critical minerals and geopolitical competition. As competition increases for critical minerals, legal governance must take a more relevant position within interstate negotiations on investments, as legal governance can either make or break a nation's strategic autonomy.

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