

# The Philippine Review of Economics

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## In this issue:

A semiparametric assessment  
of export-led growth  
in the Philippines

*Lorna E. Amrinto  
and Hector O. Zapata*

The BSP's monetary  
policy reaction function  
from 1992 to 2003

*John Michael Ian S. Salas*

Stereotypic wage  
and accentuation effect

*Assad L. Abdullah Baunto*

Bargaining in rural households:  
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market participation in the Cordillera

*Lorelei Crisologo  
Mendoza and  
Lodewijk Berlage*

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and Nick Wills-Johnson*

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## CONTENTS

A semiparametric assessment of export-led growth in the Philippines <i>Lorna E. Amrinto and Hector O. Zapata</i> .....	1
The BSP's monetary policy reaction function from 1992 to 2003 <i>John Michael Ian S. Salas</i> .....	23
Stereotypic wage and accentuation effect <i>Assad L. Abdullah Baunto</i> .....	49
Bargaining in rural households: a study of decisions on labor market participation in the Cordillera <i>Lorelei Crisologo Mendoza and Lodewijk Berlage</i> .....	75
Governance structures for competition policy: a case study of the Philippines <i>Helen Cabalu, Peter Kenyon, Paul Koshy, and Nick Wills-Johnson</i> .....	101
Legislating regulation for the Philippine HMO industry <i>Karl Kendrick T. Chua</i> .....	115

## Governance structures for competition policy: a case study of the Philippines

*Helen Cabalu, Peter Kenyon, Paul Koshy, and Nick Wills-Johnson\**

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### **Abstract**

Competition policy has become one of the key elements of national economic policy in many countries around the world. This is due to the important role that competition plays in ensuring that markets efficiently produce goods and services that best meet evolving consumer demands. This paper explores the rationale for a comprehensive competition policy and sets out the principles of governance and a suggested governance structure that would deliver an effective competition policy in the Philippines. It also explores the difficulties in implementing competition policy in a developing country where public policy governance structures are not well resourced.

*JEL classification:* H11, D02, O12, O53

*Keywords:* competition policy (Philippines), institutional design, political economy, impediments to competition policy

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### **1. Introduction**

Throughout the 1970s and much of the 1980s, Philippine economic policies were largely directed toward an inward-looking protectionist trade regime and an industrial structure characterized by high levels of market concentration. The economic policies embraced (a) import-substitution; (b) a political economy of distorted incentives, subsidies, and vested interests that interfered with the efficient functioning of markets; and (c) a bias for capital-intensive industries despite a comparative advantage in labor [IMF 1999]. In particular, competitive neutrality was undermined by a governance structure of socioeconomic elites with effective political linkages, resulting in a multiplicity of imperfectly competitive markets. The results were the capture of economic rents by the few and a very unequal distribution of wealth [Rijnsburger and Wijers 1995].

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Though growth was achieved (averaging more than 6 percent in 1975-80), it was accompanied by macroeconomic instability and driven by capital accumulation rather than growth in multifactor productivity (MFP). Capital was the chief source of growth, contributing almost three-fourths between 1980 and 1998. The contribution of MFP, on the other hand, was, by all measures, virtually negative [Cabalu et al. 2001:1-2].

There were two fundamental problems with the country's growth strategy [IMF 1999]. At the macroeconomic level, the excessive buildup of external debt, while contributing to economic growth, proved untenable, exposing the country to the vagaries of financial shocks. This resulted in a debt crisis, fiscal deficits, and high inflation. At the microeconomic level, the deeply entrenched protectionist and misdirected trade policies and an economic milieu of anticompetitive behavior and political linkages contributed to inefficiencies and the misallocation of resources that retarded productivity growth. For instance, while there were incentives and subsidies for export promotion, they were mostly directed toward capital- and import-intensive industries for which the country had no clear comparative advantage. Investments were mainly in import-substituting industries and nontradables. Second, marketing boards were established, which instituted producer price controls in agriculture. In the case of sugar and coconuts, two of the country's major exports, these marketing boards led to excessive rents being captured by a relatively small number of industry participants. Structural and policy-induced barriers to entry were created, and these weakened the contestability of markets, effectively hindering competition.

By the first half of the 1980s, the flaws inherent in inward-oriented, competition-inhibiting growth strategies and political patronage (which came to be known as crony capitalism) began to unfold. Exacerbated by exogenous external shocks and domestic political turmoil, the country plunged into a recession. Output in 1980-85 failed to grow. The 1980s were viewed by many as a lost decade, and the country earned the derisory reputation in many critics' eyes as the "sick man of Asia".

## **2. Early economic reforms**

Economic reform in the Philippines began in earnest by the late 1980s. The Aquino administration introduced several notable reforms. These included the gradual phasing out of quantitative restrictions on imports, the liberalization of foreign investments, and the dismantling of protected monopolies. The country embarked on a program of liberalization, deregulation, demonopolization, and privatization aimed at transforming the economy from an essentially inward-oriented growth strategy characterized by trade protectionism and imperfectly competitive markets to one in which economic progress is founded on the principles of competition, macroeconomic stability, and a political economy of meritocracy and accountability.

The steady improvement in growth during the 1990s was largely a result of a host of pro-competitive economic reforms implemented by the Ramos administration. The government's strong policy advocacy toward openness and competition led to the robust growth and the economic resilience of the country. Enhanced private sector participation was the major growth driver. From the mid-1980s up to the present, the share of government-owned and -controlled corporations in the sales of the top 1,000 largest corporations fell from about

20 percent to 6 percent [World Bank 2000]. The buoyant growth was complemented by the growth performance of merchandise exports, which increased from an average annual growth of 4 percent during the 1980s to 16 percent in the 1990s. This was due, in particular, to investments in semiconductor exports by multinational corporations in the country.

The structural reforms proved their significance when the country was able to weather the impact of the Asian crisis, escaping relatively unscathed the severe declines in output experienced in the region.<sup>1</sup> The economic growth achieved by the country has been established chiefly through a platform of enhanced private sector participation and competition in industries such as telecommunications, shipping, and banking, among others. The challenge confronting the country is to sustain the momentum, by extending the various pro-competitive reforms in a well-defined and transparent process through the adoption of a comprehensive competition policy.

### **3. The need for a comprehensive competition policy**

The need for a comprehensive policy framework containing the core principles of competition is clearly suggested by the declining trend in the country's international competitiveness, despite the achievements of the late 1980s and the 1990s. The Philippines' competitiveness ranking has deteriorated in four key areas relative to many similar countries in the region (e.g., Malaysia, Thailand, and Singapore). These are in overall competitiveness, domestic economy performance, internationalization, and restructuring of the economy. Indeed, only Indonesia seems to have performed worse in recent years (see Cabalu et al. [2001: Figure 1.1, 7-8]). While the country may have introduced policy reforms fostering competition, the competitiveness rankings highlight that the achievements so far are still below par with regional performance.

Challenges to competition must, therefore, be given careful policy focus. The pro-competitive reforms that have been established remain potentially weak and vulnerable in scope and governance. The economic reforms need to be established in such a way that not only are they broad-based but also have an adequate legislative and regulatory framework to rely on. This requires an adequate institutional framework, one that is adequately resourced to research competition issues and to investigate and prosecute breaches of competition policy. In short, the liberal reform agenda requires a comprehensive competition policy framework [Cabalu et al. 1999].

The challenge is substantial. The Philippine corporate sector is dominated by a relatively small number of family-based conglomerates [World Bank 2000]. Control over the sector is exercised by an economically privileged few. The top 5.5 percent of all landholding families has controlling interest over 44 percent of arable land, and the richest 15 percent of all families captures more than 50 percent of all national income [PHILEXPORT 1998]. In addition, there is a high degree of cross-ownership. According to a 1997 survey, 757 of

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<sup>1</sup> Output in the country declined by 0.5 percent compared to the regional experience of 6-14 percent in 1997-98. If it were not for the 6 percent drop in agricultural output brought about by the El Niño phenomenon, the country could well have avoided the contraction.

the largest corporations (ranked by sales value) were Philippine owned and of these 216 belonged to just 39 corporate groups. These groups accounted for over 51 percent of all corporate sales [World Bank 2000:41]. By regional standards, the Philippines has one of the highest degrees of ownership concentration across firms (Table 1).

**Table 1. Ownership concentration by top 15 families in Asia**

	<i>Concentration of ownership control among top 15 families (%)</i>
Japan	2.8
Taiwan	20.1
Malaysia	28.3
Singapore	29.9
Hong Kong	34.4
Korea	38.4
Thailand	53.5
Philippines	55.1
Indonesia	61.7

Source: World Bank [2000].

#### 4. Competition policy

Before we address the application of competition policy in the Philippines, it is necessary to examine briefly the broad principles of competition policy and its enforcement. This we do in the next two sections of the paper.

Competition policy is a cornerstone of microeconomic policy. Approximately 80 countries have implemented competition policy to date. A number of international agencies—such as the World Trade Organization (WTO), the United Nations Conference on Trade and Development (UNCTAD), the Asia Pacific Economic Cooperation (APEC), the ASEAN Free Trade Area (AFTA), and the European Union (EU)—are moving slowly toward global competition laws (or at least adoption by increasing numbers of jurisdictions of harmonized competition laws). International aid agencies increasingly make adoption of competition policy a condition for ongoing aid, as competition policy is a powerful weapon in removing barriers to entry and structural inefficiencies within economies, making aid more effective in promoting development.

Competition policy starts with legislation and regulation to limit uncompetitive behavior by firms, especially that which comes from monopoly power. In the US and in many other jurisdictions, this comes under antitrust law. Competition policy is designed to protect *competition*, not competitors. The failure of an individual firm in competition with other firms is not necessarily indicative of a failure of competition policy, and may indeed indicate that an effective policy is in place.

Competition policy also includes the regulation of the conduct of the government as it affects business, especially the conduct of government business enterprises and the capacity of government legislation and regulation to affect economic efficiency. An important part of competition policy is to take into account the public interest where competition does not achieve economic efficiency or conflicts with other social objectives.

The core element of competition policy is the removal of as many barriers to entry in as many sectors as is practically possible, as long as this is in the public interest [Singleton 1997]. The reason is that barriers to entry essentially protect firms from the forces of competition and lead to monopoly power. Barriers to entry may be usefully divided into three components: artificial barriers, natural barriers, and government-imposed barriers.

Artificial barriers refer to those created by firms to prevent other firms from entering or operating within an industry. These ultimately impact on customers through the higher prices and/or lower product quality that result from the lack of competition. They are welfare-reducing in that they distort relative prices away from the opportunity cost of resources. Examples of practices include price fixing, cartels, discrimination between different markets, exclusive dealing, tie-in arrangements and third-line forcing, retail price maintenance schemes and predatory pricing. They are the preserve of traditional antitrust policy, which addresses issues arising when firms treat each other in an egregious manner. Policy is directed at prohibiting anticompetitive agreements (both horizontal [i.e., between firms in the same market] and vertical [i.e., between firms in different markets but part of the same supply chain]), prohibiting abuses of market power and scrutinizing changes in industry structure (through, for example, corporate mergers and acquisitions) that may result in abuses of market power.

Natural barriers refer to those that are intrinsic to sectors of the economy with high sunk costs. Natural barriers to entry occur because the minimum efficient scale of production is a single firm. Such conditions of supply are often prevalent in national infrastructure, such as electricity and gas provision, water, transport systems, telecommunications, and the like. However, these barriers can be ameliorated through the provision of third-party (or open) access regimes and the regulation of assets that exhibit natural barriers to entry. Access regimes ameliorate the barriers to entry for new market entrants associated with industries upstream and downstream. An important part of competition policy in this area is to scrutinize such industries for elements where natural monopoly elements are not present and to introduce competition in these elements where feasible. For example, it may well be that the distribution of electricity (“the wires”) may be a natural monopoly, but generation and retail sales are not. Competition policy is directed at creating competitive markets (often through sophisticated market design) to introduce competition and contestability wherever possible.

Government-imposed barriers refer to barriers to entry that exist due to both legislative and policy decisions and the actions of government-owned business enterprises. They include two elements. The first is legislation and administrative directives that create barriers, such as licenses and government franchises. The second is conduct by government, which raises barriers to entry, such as policy decisions favoring one set of firms over others and/or activities by government-owned business enterprises, which disadvantage private

competitors. Government barriers can be addressed by legislative reform and competitive neutrality programs and through the application of antitrust measures to the public sector. An important aspect of competition policy with respect to reducing government-imposed barriers is the restructuring of government business enterprises through corporatization or privatization.

## **5. The enforcement and administration of competition policy**

Enforcement and administration are critical components of an effective, comprehensive competition policy. Effective enforcement requires effective institutions to convert legislative intention into policy action. There are two aspects to enforcement: (a) the legal system and the role of the courts and (b) the nature of governance of competition policy by the state institution designed to implement competition policy and industry regulation.

In most jurisdictions, the predominant role of the courts is in the areas of antitrust and access to infrastructure (see Cabalu et al. [2001: chapter 6]). A key issue is the extent to which a country's standard court system is the best judicial vehicle to deal with antitrust matters or whether a special court should be introduced to deal with antitrust and industry regulatory matters. Largely, this hinges on the capacity of the conventional court system to consider detailed economic argument, and to make judgements based on economic criteria in the context of proficient law. Whereas the United States has developed a tradition of the marriage of the disciplines of law and economics and thus its courts seem able to make sophisticated economic judgements, albeit not without controversy, this is not true in many other jurisdictions. Often, good economics is sacrificed for reasons that are not apparent to economists, but which may satisfy other interests.

For these reasons, some jurisdictions have developed specialist judicial bodies to deal with antitrust. However, a consideration in respect of such arrangements is to guard against the possibility of regulatory capture. It may well be that a specialist court would run the risk of becoming too close to the protagonists and not be sufficiently mindful of the public interest.<sup>2</sup>

Nevertheless, given the role of the standard court system generally as the supreme adjudicatory body in democratic societies, it is appropriate that they have a role in hearing appeals against the decisions of any quasi-judicial enforcement body that may be created for the purposes of antitrust and other aspects of regulatory adjudication. This occurs in many countries, including the European Union. Given the issue of the interjurisdictional nature of competition cases, this is typically the role of the highest court in the judicial system (e.g., the US Supreme Court).

Turning to the key design issues for state institutions charged with implementing competition policy and industry regulation, there are four key design issues:

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<sup>2</sup>It is instructive that Australia's quasi-judicial system for the conduct of industrial relations was vehemently criticized by many commentators as being captured by peak union and employer bodies, to the detriment of economically advantageous industrial relations and the public interest. For a representative argument, see McGuinness [1985].



*Independence.* Critical for the enforcement agency is its ability to remain independent from the political process, but with sufficient safeguards to ensure transparency and accountability.

*Investigatory powers.* Critical to enforcing antitrust is the ability to successfully investigate cases. The enforcement agency should have sufficient powers to conduct thorough investigations.

*Separation of investigation and adjudication.* There are two key roles to be performed by a competition authority: investigation and adjudication. The essential issue involved where investigation and adjudication occur within the same organization is a concern about the independence of the process.

*Funding.* Adequate resourcing is required and can be provided either by the state, or through the fines and other penalties imposed for breaches of competition policy and from other fees. Ideally, funding should be primarily provided by the state through general taxation revenues. Fees should still be charged for services to reduce vexatious or spurious use of the agency's resources; however, they should not become a major source of revenue.

*Research capability.* Competition policy is a rapidly evolving field of both academic study and practice. Ideally, the agency should have the capacity to thoroughly research competition issues. This is to ensure that the best contemporary theory and evidence is at hand to evaluate issues as they arise.

## **6. Implementation of competition policy in the Philippines**

The Philippines has in place many of the preconditions to achieve the goal of successful implementation of a comprehensive competition policy. However, the pursuit of policy to increase the degree of competition has not been as effective as is possible. Partially, this has been due to poor formulation of the laws and a lack of a centralized enforcement agency with sufficient powers and responsibility to pursue its tasks.

### *6.1. Legislative issues*

It is considered that House Bill 1373 (the Fair Trade Act of 1994, presented by Rep. Gerardo S. Espina) and House Bill 183 (the Fair Trade Act of 1998, presented by Rep. Rolando A. Briones) represent good solutions to the development of an appropriate competition policy in the Philippines currently being proposed. The bills are almost identical. However, they do require some improvement in order to achieve a comprehensive approach to competition policy. (For an extensive discussion, see Cabalu et al. [2001:chapter 8].) Areas where improvements might usefully be made include the following:

- Definitions of Terms (section 3) especially the definitions of “monopoly”, “oligopoly”, and “cartel”.
- Unlawful Business Practices (section 4), which addresses unlawful business practices: monopolization, mergers and collusion, and other issues. A greater degree of clarity is required and there is a need for several additions and/or changes.

- Divestment (section 5) requires the divestment of a certain portion of any monopoly, regardless of its conduct. If, however, the prohibitions described in section 4 are properly applied, there should be no reason to apply section 5, as the activities of entrenched monopolies can be effectively controlled. There are also dangers related to the incentive to invest and sovereign risk.
- Fair Trade Commission (section 6) action in respect of fines for breaches and the relationship with court action requires further clarity. In addition, it is recommended that the bills be amended to require the publication of detailed guidelines on enforcement, which would be a useful “code of conduct” for business; and for the enforcement agency also to offer informal guidance to business as well. Also, there is need for clarity and/or changes with respect to the scope of work, reporting requirements, qualifications of senior officials (section 8), and funding.
- Penalties (section 14) and Award of Damages (section 15) both need further clarification and/or changes.

In order to implement a comprehensive competition policy, there are also a number of issues not addressed by the Espina and Briones bills. The most important ones are

- legislative reviews,
- competitive neutrality,
- restructuring of public monopolies and privatization, and
- access to critical infrastructure.

Appropriate legislation needs to be drafted and appropriate administrative arrangements need to be put in place to cover these crucial areas of a comprehensive competition policy. Also, care must be taken to repeal any legislation that conflicts with the proposed new legislation.

Because there is a current lack of experience and knowledge in competition policy matters in the Philippines, it is crucial that there be sufficient training arrangements in place for judicial and administrative officials in the theory and specific practice of all aspects of competition policy. International agencies and strategic arrangements with other countries (such as staff exchanges) may fill this gap.

## *6.2. Institutional issues*

There is also the need to set in place an appropriate institutional structure to implement the policy, once legislative requirements are met. The institutional framework is as important as the detail of the policy itself. Key tasks associated with implementation involve both policy analysis and advice, and administration. A comprehensive study by Cabalu et al. [1999, 2001] sets out a framework and a suggested institutional structure. A guiding principle of that framework is an economy-wide approach with a single regulatory agency, the proposed Philippine Competition Commission. An economy-wide approach, rather than a sector-by-sector approach is recommended for two reasons.

First, apart from administrative savings, it is argued that there are more economic similarities between industries than differences. Consequently, a single competition agency would have the virtue of ensuring consistency in regulation across sectors. This would lead to greater economic efficiency than would be the case where different industries faced different regulatory incentives and strictures. Second, an economy-wide institution is less likely to be subject to regulatory capture, a real possibility in single-industry regulatory institutions.

It is proposed that a new institution, the Philippine Competition Commission (PCC), be set up under a specific Act of Congress. The PCC would oversee the conduct of competition policy in the Philippines. The PCC should have two separate (but complementary) functions: one function is policy analysis and advice, and the other is administration and enforcement. Two offices within the PCC are envisaged: the Office for Policy Analysis and Advice (OPAA) and the Competition and Consumers Welfare Administration (CCWA)

The OPAA within the PCC would be in charge of policy analysis and have the following characteristics:<sup>3</sup>

- It would be advisory in nature and would not perform any administrative functions.
- It would be independent of any government department or authority. However, its activities should complement and be consistent with the work program of the other department within the PCC.
- It would adopt an integrated, economy-wide perspective of competition policy issues rather than be restricted by industry-specific matters.
- It would focus on facilitating practical reforms in the short-run, while examining reforms for the longer term.
- It would open channels of communication to all affected interests to present their views.
- It would recognize the existence of skills and resources of other agencies and, hence, not duplicate them. It would draw on their expertise for analytical work.

Its major functions would be as follows:<sup>4</sup>

- To provide advice to government departments or agencies on policy questions concerning the content of the rules of competitive conduct and legislated exemptions.
- To provide advice to government departments or agencies on the development and implementation of agreed principles governing regulatory restrictions on competition, structural reform of public monopolies, access rights, pricing matters,

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<sup>3</sup> These characteristics were adapted from the Hilmer report [1993] describing Australia's National Competition Council.

<sup>4</sup> Adapted from Hilmer, Rayner, and Taperell [1993].

competitive neutrality; and other issues associated with transition toward a more competitive environment.

- Implementation of the agreed principles would rest with individual government departments, with the OPAA playing a support role in terms of policy development.
- To provide advice on the development and implementation of the national competition policy. To undertake or coordinate economy-wide reviews of regulatory restrictions on competition and of structural reform issues relating to public monopolies—in particular, proposed privatizations that involve the transfer of a significant public monopoly to the private sector.

The functions of the CCWA in charge of administration of competition policy would be to<sup>5</sup>

- enforce compliance with competitive conduct rules;
- monitor compliance with conduct rules and report legislated and regulatory exemptions regularly;
- administer the prices oversight function of the competition policy, particularly monopoly pricing;
- oversee the administration of the national access regime and the implementation of pro-competitive safeguards; and, finally,
- disseminate information and provide public education on the general conduct rules and other competition issues.

Importantly, the PCC would build up a fund of economic and social-policy expertise, which, over time, will prove to be an effective knowledge base for policy advice and administration to ensure the development of the Philippine economy as a dynamic and internationally competitive market.

It is essential that the PCC be adequately staffed and resourced to discharge its duties to implement and oversee national competition policy. The PCC should be seen as being one of the most prestigious economic agencies, with remuneration and conditions sufficient to attract an expert and dedicated staff.

## **7. The political economy of competition policy in the Philippines**

One of the major barriers to implementing a comprehensive competition policy in the Philippines is the nature of the interaction between economics and politics in the Philippines. The Philippines does not rate well in international surveys of perceptions of corruption. However, to speak of corruption in the Philippines as interpreted from the perspective of North American or Western European values is to misunderstand a vital component of

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<sup>5</sup> Adapted from Hilmer, Rayner, and Taperell [1993].

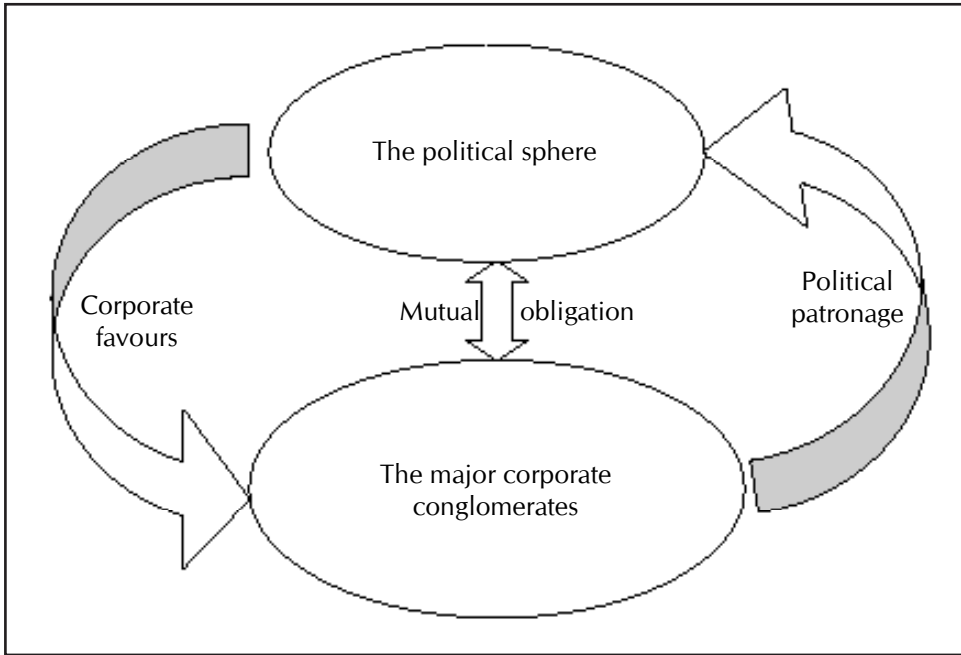
Philippine culture and the value system of the Filipino people. As is the case in many Latin American countries, and possibly many African countries, too, at all levels of Philippine society, there is a system of “mutual obligation,” which spreads out from the extended family to the local community—“the Barrio”, and from there to the Province and ultimately to national politics. To participate in the economic and political sphere, there is an obligation on those who succeed to repay through favored treatment those that supported their rise. Similarly, there is an obligation on each person to support members of their extended family to succeed by assisting them financially and supporting them as best he or she can in their quest. When this system of mutual obligation is combined with the concentration of economic resources in a relatively small number of family-based conglomerates, the scope of what has become known as “crony capitalism” is very great.

As we saw in section 3 of this paper, the Philippine economy is very concentrated. The Philippine corporate sector is dominated by a relatively small number of family-based conglomerates, and control over the major corporations is exercised by an economically privileged few. In agriculture, the top 6 percent of all landholding families has controlling interest over nearly 50 percent of arable land. The richest 15 percent of all families captures more than 50 percent of all national income. There is also a high degree of cross-ownership. Of the largest corporations (ranked by sales value) that are Philippine owned, nearly 30 percent belongs to just 39 corporate groups and these groups account for over 50 percent of all corporate sales. By regional standards, the Philippines has one of the highest degrees of ownership concentration of industry.

The Philippines is a democratic country, its politics a very vibrant and popular process. But formal participation in the political process requires considerable resources. Part of the reason is the necessity to build and maintain extended political alliances. Political parties are not pervasive and well-disciplined structures when compared with North American or Western European party systems. Rather, politics consist of complex alliances of family and regional groupings, held together by mutual obligation and extended barrio and family connections as much as by ideology. Added to this is a history of domination by political elites, both in terms of the autocracy of the relatively recent Marcos years, and before that, extended periods of colonial domination by, first, Spain and then the United States.

This system has given rise to a version of “crony capitalism” that entrenches political and economic power. This politico-economic system is illustrated in Figure 1. Crony capitalism is, in this scheme, an extended system of rent exchange.

In such a politico-economic system, the will to implement competition policy is weak, not because of the lack of power of ideas, or even the lack of a widely held belief that such a policy would ultimately lead to better economic outcomes in the Philippines. Rather, the issue is that the whole purpose of competition policy is to break down economic power and to spread economic power to the extent that individual economic agents cannot by their own actions control market outcomes. This means that the implementation of competition policy is unlikely to gain favor with the political and economic elites currently in place. The greatest advocates for competition policy in the Philippines are not “big business” but rather the relatively powerless—the consumer advocacy groups, student activists, academics, and those outside the corridors of power.

**Figure 1. A model of ‘crony capitalism’**

Is competition policy in the Philippines therefore a lost cause? We do not think so. The reason is that the Philippines sees itself and wants to be seen as a “good regional and global citizen”. That is, the Philippines takes its obligations under regional and international economic and political alliances seriously and, increasingly, implementing competition policy is becoming a major part of being in the forefront of international organizations and alliances.

The international context is important. A number of international agencies are moving toward global competition laws (or at least adoption by increasing numbers of jurisdictions of harmonized competition laws). International aid agencies, such as the World Bank and the Asian Development Bank, increasingly make adoption of competition policy a condition for ongoing loans and aid, as competition policy is a powerful weapon in removing barriers to entry and structural inefficiencies within economies, making aid more effective in promoting development.<sup>6</sup> For example, the Asia-Pacific Economic Cooperation (APEC)—of which the Philippines is a member—has shown an interest in competition policy for some time, and the Pacific Economic Cooperation Council (PECC)<sup>7</sup> has developed for APEC the *PECC Competition Principles* [1999] to formalize ongoing dialogue into a series of

<sup>6</sup> For an in-depth review of this subject, see UNCTAD [1999].

<sup>7</sup> PECC is a partnership of senior business, government, and research individuals working in a non-official capacity on policy issues. It is the only nongovernment, official observer of APEC, and has a seat at all meetings of the APEC ministers and officials.

nonbinding principles for APEC members. PECC [1999] recommends that APEC economies embrace a number of measures that go a long way down the comprehensive competition policy path. According to the recommendations, member countries are to

- reevaluate all relevant government legislation and regulations to ascertain the extent to which these distort competition, particularly in sectors of relative economic importance in the domestic economy;
- develop an action plan for this reevaluation with a view to minimizing distortions of market mechanisms, including efficiency-reducing barriers to market entry;
- implement that action plan for the domestic economy, including the development of appropriate criteria for future government interventions in globalizing markets;
- promote the maximum degree of transparency with respect to substantive provisions, procedures, and decision-making in legal, administrative, and regulatory regimes;
- minimize the risk of anticompetitive business conduct through appropriate competition disciplines on business conduct and effective surveillance and enforcement of those disciplines, including appropriate deterrent measures and, in this context, consider enactment of at least a modest domestic competition law that
  - (a) embodies the explicit objective of promoting the process of competition in order to enhance efficiency in the marketplace;
  - (b) contains provisions with respect to “hard-core” horizontal cartel activity (price-fixing, bid-rigging, market allocation, and group boycotts), egregious abuses of a dominant position, and mergers or takeovers of large firms;
  - (c) contains as few sectoral and other exemptions as possible;
  - (d) is ultimately administered and enforced by an independent agency.
- Explore the benefits of engaging in international cooperation among competition agencies and authorities.

Therefore, in terms of its participation in many regional and international groupings, the Philippines will be increasingly under pressure to take active steps to implement competition policy. Competition policy, in this sense, is part of the process of globalization.

## **8. Conclusion**

In this paper we have argued that the Philippine economy would benefit from the introduction of a comprehensive competition policy that minimizes artificial, natural, and government-induced barriers to entry. This is because the Philippine economy is characterized by extreme concentration. We have suggested legal changes that are necessary and a governance structure for the implementation and operation of competition policy. However, we note that the pervasiveness of mutual obligation in Philippine political life, together with

high levels of economic concentration, does not provide a fertile environment for the adoption of competition policy by the Philippine political elites. If competition policy is to progress in the Philippines, we argue that the impetus will come from external obligations of the Philippines to regional and international economic alliances and organizations.

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