

POGO funding amid COVID19

Reviewing POGO revenue as a funding source through a BHR lens

Introduction

The Philippine government has consistently defended the legality and continued operations of Philippine Offshore Gaming Operators (POGOs) despite calls for their shutdown from Filipino citizens and the Chinese government.

Since 2016, the government has also consistently cited billions in economic gains from licensing revenues, taxes and job creation as their primary reason for enabling POGOs to thrive in the Philippines.

Fast-forward to 2020, the entire world is ravaged by the coronavirus19 (COVID19) pandemic which resulted in lockdowns and community quarantines that crippled economies and drew heavily on government funds for emergency response.

The Philippines, having one of the strictest lockdowns in the world, virtually shut down it's economy in the hopes of controlling the pandemic by decreeing that only essential industries and businesses can operate during lockdown. Controversially, on 1 May 2020, the government declared that POGOs are classified as essential business (BPOs) and can thus partially continue operations. Justifying this statement, officials reasoned that POGO revenue is a vital funding source for COVID19 response.

This paper will look at the issues regarding POGO revenue as funding sources for COVID19 response through the lens of the United Nations Guiding Principles (UNGP) on Business and Human Rights (BHR).

This paper will also briefly discuss how POGO fits into the Philippine context prior to the COVID19 pandemic to have a deeper understanding of why Filipinos have such a visceral reaction and rejection to POGOs.

Background

On March 16, 2020 the Philippine government announced its plans for "priority response actions" against the Coronavirus 19 (COVID19) pandemic with an estimated cost of Php 271 billion.¹

The response package has 2 main objectives 1) ensure support for health frontliners through the Department of Health (DOH) and 2) economic relief for Filipinos particularly the private sector and businesses affected by the pandemic.

The government assured the public that it has sufficient funds to cover the response.² However by April 24, 2020, President Duterte admitted that COVID19 response funds are running low and reiterated his idea of selling government assets for cash as a last resort.⁴ This is contrary to the statements of Finance Secretary Carlo Dominguez that sale of government assets is not needed to fund the government's response.⁴

¹ DOF [Gov't economic team rolls out P271 B package vs COVID-19 pandemic](#)

² CNN Philippines [COVID-19 response budget: Is it enough?](#)

³ CNN Philippines. [Gov't says COVID-19 funds running low, floats idea of selling state assets as last resort 24 April 2020](#). Manila Bulletin. [PH running low on funds for COVID-19 response — Duterte. 24 April 2020](#).

GMA News Online. [DOF: Sufficient cash but budget for COVID-19 response running low 24 April 2020](#).

⁴ Phil star Global. ['No need to sell government assets for COVID fund'. 17 April 2020](#).

President Duterte's admission came on the heels of the suspension of the COVID Adjustment Measures Program (CAMP) of the Department of Labor and Employment (DOLE) citing depletion of its P1.6Billion fund. The program is still suspended despite announced efforts to resuscitate it.⁵

With dwindling funds and a looming global recession, unsurprisingly the Philippines turned to loans to support its response. Most notably are the approved loans from ADB worth \$1.7 billion,⁶ \$500 million from the WB⁷, and \$750 million from the China-led Asian Infrastructure Investment Bank (AIIB). This is on top of other funding sources such as \$2.5B in the issuance of dual-tranche Philippine global bonds⁸, foreign aid such as, \$9.3 million from the US Government, \$474 million from the Japanese government⁹, and millions more from private sector most notably the two largest conglomerates alone, the Ayala Group and the San Miguel Corporation's response is already valued at least \$48 million and \$233 million respectively^{10,11}. Bringing the total disclosed COVID19 Emergency response-related loans to approximately \$2.95 Billion with another \$3.2 billion from other sources.

However, on May 1, 2020 the government sparked controversy and outrage when it announced that it will allow Philippine Offshore Gaming Operators (POGOs) to partially reopen despite status quo closure of most local businesses. Met with furor from the public the government rationalized that POGOs are classified as Business Process Outsourcing (BPOs), one of the established essential industries exempted from closure. The government explained that classifying POGOs as BPOs will be beneficial for the COVID19 response because 100% of revenues from their continued operations will be allocated to support the COVID19 response. According to Philippine Amusement and Gaming Corporation (PAGCOR), in the first quarter of 2020 POGOs paid Php 1.8 billion in regulatory fees alone making them a viable source of funding.¹²

What are POGOs and what makes them so controversial?

What are POGOs?

POGOs are firms that are operating in the Philippines to provide offshore, online gambling services. Otherwise stated, POGOs are online casinos catering to clients outside of the Philippines. The firms do not provide any services that can be accessed locally because online gambling is illegal in the Philippines and thus their websites are blocked.¹³

In May 2020, PAGCOR released [a primer](#) on what POGOs are and proceeded to defend their legality and overall economic benefit for the country in terms of job creation and revenue.¹⁴

According to the primer, POGOs have been in operation in the Philippines since 2003 and illegally employed over 80,000 overseas workers over the 13-year span. This was only discovered in 2016 after PAGCOR "took bolder steps to enforce stricter gaming regulatory policies."

⁵ Cebu Daily News. [DOLE suspends acceptance of CAMP application, funds almost depleted](#). 16 April 2020.

Philstar. [Cash-strapped DOLE suspends cash aid but DBM said funds are coming](#). 16 April 2020.

DOLE. [Fresh hopes to resuscitate aid](#). 19 April 2020.

⁶ ADB. [ADB Approves \\$1.5 Billion Financing to Support the Philippines' COVID-19 Response](#). 24 April 2020.

On 27 April 2020, ADB approved an additional [\\$200 Million for coronavirus cash subsidies](#).

⁷ WB. Philippines: [World Bank Approves US\\$100M to Support COVID-19 Emergency Response](#). 23 April 2020.

⁸ Manila Times. [Govt generates \\$2.5B from global bond offer](#) – The Manila Times. 28 April 2020.

⁹ Rappler. [Philippines secures P23.5-billion Japan loan vs coronavirus](#). 1 July 2020.

¹⁰ Ayala Land. [Ayala unveils P2.4B COVID-19 response package](#). 27 March 2020.

Inquirer. [SMC earmarks P11.67B for COVID-19 initiatives](#). 26 April 2020.

¹¹ US Embassy. [US Provides Php269 Million in New COVID-19 Assistance, Total Aid Exceeds Php470 Million](#). 22 April 2020.

¹² Business Mirror. [PAGCOR authorizes partial resumption of POGO operations](#). 2 May 2020.

Manila Standard Online. [PAGCOR authorizes partial resumption of POGO operations](#). 3 May 2020.

¹³ Esquire. [Everything You Need to Know About Philippine Offshore Gaming Operators](#). 19 July 2019.

¹⁴ This primer was also published by [Manila Bulletin](#) and [Manila Times](#).

In subsequent PAGCOR newsletters on COVID19, it continued to highlight the contributions of POGOs in cash and in kind to the COVID19 response. The newsletters are available [here](#).

The issues that specifically highlight POGOs read as follows:

- Update 8: POGO operators donate Php 150 million worth of hospital supplies and food packs
- Update 11: PAGCOR facilitates initial distribution of POGO-funded relief food packs
- Update 15: PAGCOR, POGO deliver over 47,000 food packs to COVID-19 affected communities

Why are POGOs so controversial?

Influx of Chinese workers on the heels of PhilWeb's closure

Controversy first began when PAGCOR decided not to renew the license of locally-owned online casino operator, PhilWeb Corporation in August 2016 but proceeded to grant licenses to POGO operators citing billions in economic gain for the government. This resulted in the closure of over 286 locally owned and staffed outlets and internet cafes dedicated solely for online gambling whilst licensing encouraged the influx of foreign, mostly Chinese workers.¹⁵

According to PAGCOR, the workforce of POGOs in 2019 is 60% foreign and 40% Filipinos in composition.¹⁶ By March 2020, PAGCOR said that registered Filipinos working in POGOs make up 25% of their workforce or 30,521 Filipino employees. They also reported that the remaining 75% of the workforce is composed of 69,613 Chinese, 3,000 Vietnamese, 2,400 Indonesians, 1,700 Taiwanese, 1,200 Malaysians, and 12,542¹⁷ workers from 44 other countries.¹⁸

POGOs are associated with crime, rude and racist workers, and inflated residential rentals

From 2016 to the present, POGOs and their workforce have repeatedly come under fire from Filipinos and China¹⁹ due to the continued prevalence of unlicensed POGO operations²⁰, lack of proper documentation of foreign workers,²¹ raids that discovered drug possession²² and prostitution dens,²³ POGO-operated online fraud schemes,²⁴ increase in gambling-related kidnapping and criminality,²⁵ and, on a personal level, it stoked an anti-Chinese sentiment due to the reports of refusal of Chinese workers to respect local culture/customs and rude behavior towards Filipino citizens and establishments.²⁶ Additionally, the influx of foreign workers has caused residential rental rates in Metro Manila to increase and put increased economic strain on affected Filipino households.

¹⁵ GMA News. [PAGCOR now processing offshore gaming licenses](#). 14 September 2016.

¹⁶ Manila Bulletin. [Pagcor raided over 170 online gaming firms](#). 30 September 2019.

¹⁷ PAGCOR stated that the total number of registered workers is 120,976. 12,542 was the result of subtracting the identified number of Filipino, Chinese, Indonesian, Malaysian, Taiwanese and Vietnamese workers.

¹⁸ Inquirer. [1/4 of registered POGO workers are Filipino, says Pagcor](#). 12 March 2020.

¹⁹ Rappler. [How China's online gambling addiction is reshaping Manila](#). 10 November 2018

Online gambling is illegal in China and POGOs are seen as skirting their national laws by providing offshore services. Additionally, China has flagged fraudulent mass recruitment schemes that target low income Chinese workers to work for POGOs.

Additional references here:

GMA. [China airs concern over move to transfer Chinese POGO workers](#). 8 August 2019.

O'Connor, Devin. [China Cancels Thousands of Passports for Those in POGO Centers](#). 26 February 2020.

²⁰ Ibid.

Philippine Star. [281 Chinese in POGO raid face deportation](#). 14 September 2019.

Inquirer. [Pagcor backs police raid on illegal POGO firm in Parañaque City](#). 25 April 2020.

Manila Standard. [Cops raid illegal POGO hubs in Makati](#). 7 May 2020.

Rappler. [Police file charges vs 181 illegal Chinese POGO workers in Cebu](#). 12 September 2019.

²¹ Rappler. [342 Chinese POGO workers without visas set to be deported](#). 20 December 2019.

²² Manila Standard. [Chinese POGO owner nabbed with 18g shabu](#). 20 May 2020.

²³ CNN Philippines. [Police: Luxury hotels, condos raided as POGO sex dens](#). 17 February 2020.

Inquirer. [Chinese prostitution fronts' shenanigans bared; Pogo suspension eyed](#). 28 January 2020.

²⁴ GMA. [China pursues crackdown on POGO workers, identifies violators](#). 23 February 2020.

IAG. [PAGCOR working with Chinese Embassy in Manila to track down illegal POGO workers](#). 27 February 2020

²⁵ South China Morning Post. [A Chinese crime wave hits Duterte's Philippines as Pogogs grow unchecked](#). 27 December 2019.

A surveillance video of a Chinese female POGO worker getting kidnapped in Makati went viral in the Philippines last December 2019. It stoked fears of criminality and concerns for safety especially of young working females in Metro Manila.

²⁶ Id. See note 10.

Anti-Chinese sentiment that goes beyond POGOs

The growing sentiment against Chinese in the Philippines has been brewing for a long time stemming from friction between economic classes (Filipino-Chinese business owners with labor violations), Chinese claims upon Philippine territory, and environmental destruction and poaching by Chinese vessels. Anti-Chinese sentiments rapidly increased with the influx of POGO operations because it brought the issues closer to the average Filipino. Feelings of resentment for foreign workers who are taking away opportunities from Filipinos whilst evading taxes and other duties due to illegality of their operations, for driving up cost of living in Metro Manila, and most especially, due to the viral stories of rude and racist behavior towards Filipinos.

This anti-Chinese sentiment peaked as COVID19 began spreading all over the world from Wuhan, China. Globally, Chinese and other Asians with East Asian facial features experienced an increase in racist behavior towards them. In the Philippines, anti-Chinese sentiment and racist behavior also increased not just against Chinese POGO workers but also towards Filipino-Chinese, in general. The significant increase in racism against Chinese workers has led several POGO operators to announce that they will no longer operate in the Philippines.²⁷ However, more recent news reports cite increasing franchise tax and license impositions as the main deciding factor for the confirmed exit of 2 POGO operators with several companies expected to follow suit in the coming months.²⁸

POGOs and the loopholes on jurisdiction

Lastly, legally speaking POGO's are also controversial because they circumvent gambling laws of both the Philippines and China and have been strongly linked to cross-border money laundering and criminality. House of Representatives Minority Leader Bienvenido Abante Jr. went as far as to say that POGO's are the "source of unimaginable corruption" that makes a "mockery of [Philippine] anti-money laundering, immigration, and tax laws. [POGO's] [have] been a source of untold criminal offences and heinous crimes related to the conduct of such operations."²⁹

Gambling has been illegal in China since 1949.³⁰ The prohibition includes betting, racing and operating casinos within the Chinese jurisdiction. POGO's circumvent these by operating offshore, therefore outside Chinese jurisdiction, while still providing services and targeting consumers in China. However, the Chinese Embassy in Manila issued several remarks calling the Philippine government to ban online gambling particularly POGO's because they claim these are run by organized Chinese criminals that use POGO's to siphon funds out of China, illegally recruit and employ Chinese citizens, and illegally provide gambling services in China. The Philippines rejected this call. China stated that it would respect Philippine jurisdiction over POGO's but has since made efforts to work with PAGCOR to crackdown on unlicensed POGO's.

Further, the Embassy strongly stated that aside from POGO's being illegal under Chinese law that any and all acts of gambling by Chinese citizens regardless of their physical location is illegal and shall make Chinese citizens liable for criminal prosecution.³¹ As part of the crackdown, China has also threatened to cancel

²⁷ CNN Philippines. [Racism vs Chinese workers prompt some POGO firms to leave PH](#) – Pagcor. 1 May 2020.

²⁸ GMA. [POGO exodus looms as gaming firms keen to exit Philippines, says PAGCOR](#). 28 June 2020.

Manila Bulletin. [POGO exodus looms amid crisis –PAGCOR](#). 28 June 2020.

Business World. [POGOs start to exit PHL – regulator](#). 29 June 2020.

Inquirer. [Macau firm folds up PH unit as more POGO closures seen](#). 30 June 2020.

²⁹ Asia Times. [Chinese casinos spark viral uproar in Philippines](#). 14 May 2020.

³⁰ Gambling is legal in Macau and Hong Kong. A Thomas Reuters [interview](#) also included Taipei/Taiwan in this list. Sullivan, Lawrence R. Historical Dictionary of the Chinese Economy. (2018) Page 169.

³¹ Chinese Embassy in Manila. [Remarks by Chinese Embassy Spokesperson on Issues of Chinese Citizens concerning Gambling in the Philippines](#) 8 August 2019.

Philippine Star. [China urges Philippines: Ban all online gambling](#). 22 August 2019.

Bloomberg. [China Wants Philippines to Do More And Ban All Online Gambling](#). 21 August 2019.

thousands of passports of Chinese POGO workers that do not immediately return to China. It also threatened mass deportation for those that would not cooperate.³²

On the other hand, in the Philippines, PAGCOR regulations on offshore gaming states that while licensed and registered POGOs are allowed to operate in the Philippines that all persons within the Philippines, foreigners included, are not allowed to play games and access the services of POGOS. Further, only offshore, registered players above the age 21 are considered authorized players.³³ In compliance with these rules, all POGO websites are blocked in the Philippines.

Additionally, in its primer on POGOs, PAGCOR recognized that POGOs and all forms of gaming have a social cost. PAGCOR went on further to state that as the regulator that POGO-funded government revenues must not be vehicles for criminality, abuse, and social injustice.³⁴

The above is considered, PAGCOR and the Philippine government send an incoherent message to business and the public in general. It recognizes the social cost of POGOs and the criminalities associated with it but it allows POGOs to continue operating on the condition that its services are not accessible within its own jurisdiction for the sake of revenue. Distilling this message, what we arrive at is an almost Machiavellian and utilitarian policy wherein the end goal (revenues) justifies the means (POGOs).

POGO-funded response through a BHR lens

States must lead by example under BHR principles

The [UNGP on BHR](#) are voluntary guidelines for states and businesses that enshrine 3 main pillars in relation to human rights and transnational business transactions and operations, namely:

1. States have the duty to protect human rights and fundamental freedoms;
2. Business have the duty to respect the rights human rights in the course of their operations and impacts; and
3. Duty-holders have the right to access effective remedies.

States must be cognizant of the state-business nexus wherein the state and state-owned enterprises (SOEs) as primary duty-bearers under international human rights law (IHRL) must take additional steps to protect against human rights abuses within their jurisdiction. This principle encompasses all state agencies, offices, SOEs, and all other entities that receive substantial support from the state.³⁵

The state and SOEs must lead by example,³⁶ their failure to do so may also constitute a violation of the State's IHRL obligations. According to the Office of the United Nations High Commissioner for Human Rights (UN OHCHR), this legally binding obligation is a compelling reason for states to undertake additional steps³⁷, failing which, enterprises and agencies linked formally or informally to the State may put themselves at risk – in reputational, financial, political and potentially legal terms – for supporting any such harm, and for adding to the human rights challenges faced by a recipient State.³⁸

³² GMA. [China threatens to cancel thousands of POGO workers' passports](#). 24 February 2020.

CNN Philippines. [342 Chinese POGO workers up for deportation after arrest over canceled passports](#). 20 December 2019.

Philippine Star. [Mass deportation looms for Chinese POGO workers](#). 25 February 2020.

³³ PAGCOR. [Rules and Regulations for POGO](#). Section 4.e.

³⁴ PAGCOR. [Primer on POGO](#).

³⁵ UNGP BHR. Principle 4.

³⁶ [State-owned enterprises must lead by example on business and human rights – New UN report](#)

³⁷ UN OHCHR. [Leading by example: The State, State-owned enterprises, and Human Rights](#). June 2016.

³⁸ UN OHCHR. [GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS](#). Principle 4. Page 7. 2011.

States must ensure policy coherence³⁹

States must ensure that there is vertical and horizontal policy coherence in order to send a strong, and clear message that it is committed to fulfilling its legal obligations to protect human rights and fundamental freedoms at all times within its domestic policy space and in relation to its transnational transactions and relations.

In crafting and enforcing policies, states must balance the interests of all stakeholders, this includes citizens and communities impacted by any and all activities/operations/transactions satisfying the state-business nexus.

PAGCOR, POGO and COVID19

PAGCOR is not only an SOE, or in local parlance a government owned and controlled corporation (GOCC), but is also the main regulator for all games of chance and gambling. It is the largest contributor of government revenues with P75.8 billion collected in 2019. This is an 11% increase from its 2018 revenues which it attributes to regulatory fees and licenses collected from POGOs.⁴⁰

As previously discussed, POGOs and their profits have been linked to organized crime, underground banking, and money laundering. POGO operations themselves are replete with labor and human rights violations with reports of illegally recruited workers suffering slave-like working conditions,⁴¹ gambling-related kidnapping and criminality, connections to drug and prostitution dens, tax evasion,⁴² and bribing Philippine authorities in order for workers to enter and operate in the country without proper documentation.⁴³

Additionally, allowing POGOs to continue operating in the Philippines is also enabling and contributing to crime, criminality, and violation of anti-gambling laws in China.

In order to contribute to a socially sustainable global future, the BHR framework calls on states and businesses to integrate its principles into their core business processes. Rationalizing that POGOs should be allowed to operate as they are, due to their economic contributions is inconsistent with the statement of PAGCOR that it shall not, as a regulator, support and enable gaming that perpetuates abuse, social injustice, and other social costs.

The state, through PAGCOR, has vigorously defended the legality and validity of POGOs due to their economic benefit but at high social cost and in defiance of its legally binding obligations in IHRL. It sends an incoherent message and policy wherein, POGOs are allowed to operate within the jurisdiction on technicalities but their services are still considered prohibited for all persons in the Philippines.

Considering the above, we can see the vast negative impact of POGOs in the Philippines and to some extent, in China. The fact that revenues from POGOs are used as funds to support the COVID19 response does not provide a blanket excuse to allow POGOs to continue their operations. The positive impact of the COVID19 response also does not, in any way, provide remedy or protection for any of the negative impacts caused by POGOs. Conversely, the continued operations and the strong government support enables POGOs to institutionalize and formalize the abuses and questionable financing.

³⁹ Guiding Principles 8 to 10.

⁴⁰ <https://business.inquirer.net/289752/pagcor-revenues-up-11-6-to-p75-8b-in-2019>
<https://newsinfo.inquirer.net/1227567/fwd-treated-like-a-slave-taiwanese-bares-abuse-from-chinese-pogo-employers>
<https://cnnphilippines.com/news/2020/2/21/POGO-shutdown-BIR.html>
<https://www.rappler.com/nation/252003-hontiveros-reveals-bribery-entry-pogo-workers>

⁴¹ <https://newsinfo.inquirer.net/1227567/fwd-treated-like-a-slave-taiwanese-bares-abuse-from-chinese-pogo-employers>

⁴² <https://cnnphilippines.com/news/2020/2/21/POGO-shutdown-BIR.html>

⁴³ <https://www.rappler.com/nation/252003-hontiveros-reveals-bribery-entry-pogo-workers>

CALL TO ACTION

We call on the government to

- **Increase transparency and accountability when it comes to funding for COVID19 response.** The government already has access to billions of pesos in its own coffers, and additionally billions of pesos in emergency-response loans from multilateral and aid agencies. Filipinos have the right to information regarding the allocation and breakdown of funding for the response and why billions more in POGO-related revenue is still needed;
- **Fulfill its duty under the IHRL, the Philippine Constitution and other domestic laws to uphold fundamental freedoms and human rights in its entirety** and to be cognizant of the state-business nexus when selecting industries and enterprises that it will enable and support;
- **Provide access to effective remedy for individuals, communities and organizations negatively impacted by POGO-related crimes and abuses.** The state must go beyond a philanthropic view when it comes to revenue and funding sources and must ensure that their financing strategies and partners are BHR-compliant which has ethical core business processes at its heart.

We call on citizens and civil society to remain vigilant and vocal about their concerns regarding the legality of POGOs without resorting to racism and hateful generalizations against Chinese and foreign workers.

We call on civil society organizations to lend their expertise on human rights and due diligence to support both government and businesses to build-capacity on human rights compliance in their core business processes and across their supply chains.

We call on the business community to work with government and civil society in order to help ensure that abuses by erring enterprises and agencies are avoided, mitigated or addressed. The BHR framework recognizes the important role and contribution of businesses as specialized agents of change towards a sustainable future. We also call on businesses to share best practices and BHR-compliant processes and business models to encourage peer-to-peer learning and a positive and impactful race-to-the-top.

We call on all stakeholders to participate in multi-stakeholder engagement to ensure that all rights and interests are balanced. An inclusive policy and implementation process also increases ownership, legitimacy, and sustainability of any change process that will be achieved.