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RESEARCH ARTICLE

Pandemic Precarity: Labour Dispute Resolution for Overseas Chinese Workers during COVID-19

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Abstract

This paper examines the impact of COVID-19 on labour governance and legal struggles faced by overseas Chinese workers. Drawing on migration studies and legal research, it explores the intersections of state, labour and law in the context of transnational mobility and dispute resolution. Through critical analysis of policy directives and court rulings, the paper highlights the Chinese government's dual challenge in the wake of the pandemic: maintaining the continuity of overseas business operations to safeguard corporate profitability and China's international image, while also protecting workers' rights to uphold social stability. The findings reveal that overseas workers were at times overlooked in central government policy guidelines, despite facing unique legal, spatial and logistical challenges owing to the transnational and trans-jurisdictional nature of their employment. This lack of tailored policy attention has resulted in inconsistencies and disparities in how domestic courts adjudicate their legal claims. Gaps in overseas labour governance during times of crisis underscore the need for clearer legal stipulations and more inclusive judicial protections to address the complexities of transnational labour disputes under "Global China."

摘要

本文探讨了新冠疫情对海外中国工人劳动治理与法律保护的影响。基于移民研究与法律研究的视角, 文章分析了跨国劳工流动与劳动争议背景下, 国家、工人与法律之间的相互作用。通过对疫情期间政策指令与法院判决的批判性分析, 文章指出, 中国政府在疫情中面临双重挑战: 一方面需要确保海外企业运营的连续性, 以维持企业利润和维护国家的国际形象; 另一方面则需保护工人的合法权益, 以保障社会稳定。然而, 研究发现, 由于海外工人的工作具有跨国性与跨司法辖区的特征, 他们在寻求法律保护过程中面临在司法、空间以及后勤方面的特殊挑战, 而中央政府的政策指引往往未能充分回应其独特处境。这种政策关注的缺失导致国内法院在审理相关案件时出现裁判标准不一、判决结果不均等问题。本研究指出, 在"全球中国"背景下, 面对愈加复杂的跨国劳工争议, 需要更加明确的法律规范与更具包容性的司法保护机制, 以弥补危机时期海外劳动治理的制度空白。

Keywords: migrant labour; lawsuits; dispute resolution; COVID-19; Global China

关键词: 跨国劳工; 法律诉讼; 争议解决; 新冠疫情; 全球中国

The Belt and Road Initiative (BRI) is one of the most prominent manifestations of the "Global China" agenda, designed to enhance regional and global connectivity through infrastructure development, trade flows, economic integration and people-to-people exchanges. However, the onset of the COVID-19 pandemic in Wuhan, Hubei province, in early 2020 led to a decline in China's overseas economic activities. In 2020, the total new contract value signed by Chinese companies with BRI member countries stood at US$141.46 billion, an 8.7 per cent decrease from 2019, while the turnover

from overseas projects fell 7 per cent to US$ 91.12 billion.[1] Meanwhile, official data on international labour cooperation show that from 2013 to 2017, China dispatched an average of 527,000 workers abroad annually, maintaining a year-end stock of 966,800 overseas workers. However, by 2020, the number had dropped to 301,000, a decline of 186,000 from 2019, with only 623,000 Chinese workers abroad by the year's end.[2]

In addition to the quantitative decline in overseas economic activities and labour migration, the COVID-19 pandemic has triggered policy responses to regulate transnational business operations and population mobility. Research on the intersection of mobility and pandemic management has largely focused on two geographical-thematic spaces. For one, studies on domestic migration examine how pandemic-induced disruptions expose entrenched politics of labour control.[3] In China, the enforcement of movement restrictions has led scholars to explore the state's role in both dismantling and reshaping social dynamics through different modes of mobility governance.[4] For another, research on transnational migration highlights the challenges migrants face, such as income volatility and dual-country precarity, while also emphasizing migrant agency and resilience.[5] In the Chinese context, emerging studies have explored the international student populations, analysing how institutions, actors and technologies have been mobilized to craft a new education-migration landscape.[6]

While both research areas provide valuable insights into the pandemic's impact on migration, this paper seeks to bridge these two spheres. It extends the discussion on state power in domestic population governance to examine how state authority regulates transnational migration during the pandemic. Meanwhile, it contributes to understanding a critical yet often overlooked group of transnational migrants – overseas Chinese workers – who are large in number and who were heavily affected by the pandemic.

Drawing on insights from migration studies and legal research, this paper explores the interplay between state, labour and law in shaping transnational mobility and dispute resolution during the global pandemic. Methodologically, it analyses two bodies of documents to assess the Chinese state's capacity to protect its citizens working abroad. The first set of materials comprises policy directives and official guidance from Chinese authorities concerning labour migration and worker rights. The second includes court records outlining legal proceedings and outcomes for overseas workers seeking redress against Chinese companies. By integrating policy analysis with judicial case review, the paper critically examines the strengths and limitations of China's labour governance framework in responding to the challenges migrant workers face amid global disruptions.

These two empirical lenses provide both conceptual and policy insights into "Global China" in three ways. First, existing discussions on labour under "Global China" often reinforce racialized stereotypes by depicting Chinese workers as convicts, exploitative managers or job thieves.[7] A more nuanced examination of their lived experiences during the pandemic helps to humanize "Chinese labour" and challenges these reductive narratives. Second, while scholarly attention has largely focused on the macro-dynamics of diplomacy, politics and economic fallout during the pandemic,[8] there remains a knowledge gap in understanding its direct effects on individual mobility, livelihoods and socio-legal protections. Third, legal scholarship on labour and migration typically focuses on the "front-end" of legal frameworks, such as immigration policies that shape workers'

1 MOFCOM 2021a.
2 MOFCOM 2021b.
3 Carswell, De Neve and Subramanyam 2022; Le 2022.
4 Chen et al. 2020; Xiang 2023.
5 Fei 2024c; Siruno and Siegel 2023.
6 Luk and Yeoh 2023; Wang, Bingyu 2022.
7 Sautman and Yan 2014.
8 Schindler, Jepson and Cui 2020; Zhao 2020.

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mobility, status and rights in host countries. Less research has been devoted to the "back-end" processes, particularly dispute resolution processes and the extent to which workers exercise legal agency through litigation to address workplace conflicts.

The specific timeframe of the COVID-19 outbreak is crucial, as legal issues that might go unnoticed under normal circumstances become more visible during extraordinary events like the pandemic.[9] Such crises bring the complexities and impacts of legal frameworks to the forefront, making them subject to critical examination. Moreover, at a time when the Chinese government and its legal institutions must navigate multiple mandates, assessing their willingness and capacity to safeguard the welfare of overseas workers is both timely and necessary.

The remainder of the paper proceeds as follows. It begins with a brief review of academic research on state, labour and law, along with a discussion of the study's methodological approach. It then examines the policy and legal guidance introduced at the onset of the pandemic. Next, the paper offers an in-depth analysis of court judgments to evaluate the nature of pandemic-related labour disputes and their adjudication. The final section concludes by summarizing the conceptual and policy implications of the findings.

Migrant Labour and Dispute Resolution

Labour mobility: structure and agency

The interdisciplinary field of migration studies has explored labour mobility from two main perspectives: structure and agency. The structural approach emphasizes how systems of production, consumption and regulation under neoliberalism destabilize labour activities and heighten the precariousness of migrants' lives.[10] In particular, some research highlights the state's role in mobilizing legislative and administrative mechanisms to regulate population flows, determining who can move and who benefits from or bears the costs of mobility.[11] With the global flexibilization of employment relations and the technology-facilitated segmentation of production networks, control of labour migration has also become increasingly fragmented, involving not only state institutions and corporates but also various layers of intermediaries.[12]

The agency approach, on the other hand, centres on diverse forms of labour activities that extend beyond traditional labour union movements. It encompasses situation-improving strategies, such as mobilizing cultural resources and transnational social networks,[13] as well as situation-resisting actions, including activism, sabotage, non-compliance and exit.[14] While scholars acknowledge the growing precarity and vulnerability faced by migrant workers owing to socio-economic disparities and identity politics, this agency perspective places greater emphasis on the conscientiousness, intentionality and proactivity of individuals in navigating migration and employment processes.

Meanwhile, legal research on labour migration has primarily adopted a "structure-oriented" perspective, emphasizing the critical role of legal institutions in maintaining and reinforcing national (im)migration and labour regimes. At the core of this scholarship is the rejection of the notion that law is neutral or apolitical but an active instrument to shape population mobility, labour regulation, as well as the distribution of power and resources. For example, scholars argue that neoliberal governance is deeply entangled with legal systems to regulate mobility and determine an individual's legal status in a country, positionality within an industry and capacity to challenge established power structures.[15] Recent scholarship has moved beyond the well-studied democratic contexts to explore

9 Philippopoulos-Mihalopoulos 2011.
10 Standing 2011.
11 Collyer and King 2015; McDowell 2003.
12 Barbu, Dunford and Liu 2013.
13 Dekker and Engbersen 2014; Lugosi et al. 2023.
14 Hoffmann 2010; McIlwaine and Bunge 2019.
15 Bruff and Tansel 2019.

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the legal instruments of labour control under authoritarian regimes. For example, Sabina Lawreniuk documents how the Law on Trade Unions was introduced in Cambodia as a legal instrument to obstruct labour organization, restricting workers' collective bargaining power and suppressing dissent.[16]

These various strands of research illustrate how legal frameworks across different political contexts shape migration regimes and labour relations, sometimes reinforcing restrictive practices under the guise of legal governance. However, the predominant focus on law's governing power over migrants and workers risks overlooking workers' agency, where individuals actively employ legal mechanisms to assert their rights and resolve disputes. This paper examines one such "legal space" – the courtroom – where laws are debated, interpreted, applied and enforced. As a critical site for understanding the everyday workings of law under "Global China," the courtroom provides insight into how legal institutions function in transnational labour disputes as well as the potential and limitations of law as a tool for worker protections.

Global China: law and labour

Studies on "Global China" have expanded beyond its tangible dimensions, such as trade, investment and infrastructure construction, to encompass "soft infrastructures," including law, governance, norms and standards.[17] Early research in this area has explored China's adherence to local or international laws.[18] More recently, scholars have begun exploring how global initiatives such as the BRI serve as a vehicle for internationalizing Chinese legal frameworks and regulatory norms.[19]

Traditionally, the Chinese legal system has been perceived as internally focused, with limited effectiveness and clarity when engaging with international legal systems.[20] However, in the context of the BRI, the Chinese government issued its "Opinion concerning the establishment of the Belt and Road international commercial dispute resolution mechanism and institutions" in 2018. This document advocates for a "diversified," "organic" and "plural" approach to dispute resolution, and proposes a "one-stop" mechanism that integrates mediation, arbitration and litigation.[21] This initiative later led to the establishment of the China International Commercial Courts in Shenzhen and Xi'an.[22]

Building on this effort, the Chinese government launched the foreign-related rule of law reform (FROL hereafter) in 2020. Matthew Erie provides a nuanced critique of FROL, arguing that it represents an incremental and multi-directional integration of Chinese law into international legal frameworks.[23] The reform is driven by three main objectives: to address the complexities of transnational litigation, where judges must navigate multiple legal jurisdictions; second, to clarify the allocation of power under domestic constitutional law when handling international legal issues; and third, to strengthen domestic legal capacities by training a new generation of transnational lawyers and developing mechanisms for cross-border dispute resolution.

Despite the broad scope of China's legal reforms, dispute resolution mechanisms for overseas Chinese workers remain largely overlooked in both legal and scholarly discussions.[24] This omission is particularly striking given the extensive research on domestic labour dispute resolution, which gained momentum following China's economic reform and the "legal consciousness" campaign.[25] Meanwhile, while international media frequently report on Chinese labour migration and conflicts

16 Lawreniuk 2023.
17 Erie 2020.
18 Driessen 2021; Fei 2024b.
19 Links, de Feijter and Lammertink 2021; Xiong and Tomasic 2019.
20 Cai 2016.
21 Zhang 2020.
22 Goh 2021.
23 Erie 2023b.
24 Halegua and Ban 2020; 2021.
25 Gallagher et al. 2015.

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between Chinese managers and local workers in overseas contexts, these issues are rarely addressed in official Chinese policy discussions or legal analyses.

Emerging research has begun to note the jurisdictional complexities in cross-border labour disputes, particularly the question of which country's courts should adjudicate these conflicts and which legal frameworks should apply.[26] Conventionally, Chinese jurisdiction over civil disputes has been limited to cases where the contract was signed in China, where the contract was executed in China, or where the domicile of the representative agency was in China. However, in 2023, the Standing Committee of the National People's Congress amended the Civil Procedure Law, particularly the section on "foreign-related civil litigation." This amendment broadened the jurisdiction of domestic courts over foreign-related civil disputes, demonstrating a shift in China's legal attention to transnational issues.[27]

The year 2020 marked a critical conjuncture for examining the intersection of labour migration under "Global China" and the internationalization of China's "rule of law." The global pandemic disrupted the momentum of Chinese overseas economic activities and labour migration, leading to project suspensions, mobility restrictions and unforeseen challenges that would continue to impact future business prospects and employment opportunities. At the same time, Chinese domestic laws have begun to take on a more international orientation, which reflects China's intent to influence and adjudicate disputes beyond its borders.[28] However, while this legal shift has been most evident in the realm of commercial disputes, relatively little attention has been paid to conflicts involving overseas Chinese workers.

Against this backdrop, this paper seeks to address three pressing questions. First, how have the Chinese government and domestic legal institutions navigated the multiple challenges that arose during the pandemic, including stabilizing the economy, protecting workers and maintaining a positive international image? Second, what complications in labour dispute resolution have emerged as a result of the COVID-19 pandemic? Third, what policy implications do these experiences hold for the future development of China's legal frameworks? By exploring these questions, the paper aims to shed light on the evolving legal mechanisms governing transnational labour disputes and to assess the extent to which China's legal and institutional responses have been effective in safeguarding the rights and interests of overseas workers.

Methodological note

This paper conducts a critical analysis of two key groups of documents. The first comprises government policies and legal guidelines enacted to govern cross-border mobility and regulate labour dispute resolution. These policies were gathered through open online searches as well as targeted searches of the official websites of three major government agencies: the Ministry of Commerce (MOFCOM), which specifically targets overseas economic activities; the Ministry of Human Resources and Social Security (MHRSS), which oversees employment and labour relations; and the Supreme People's Court (SPC), which provides guidance for courts in handling labour disputes (see Table 1). Analysing these policy interventions provides insight into the institutional frameworks designed to facilitate migration and labour governance during the pandemic. Yet, focusing on official documents risks treating law as static, determinate, aspatial and wholly formal, thereby overlooking the dynamic social and spatial contexts in which legal frameworks are interpreted, implemented and contested.

To address this weakness, the paper analyses a second set of documents – court judgments on overseas labour disputes adjudicated by Chinese domestic courts. These judgments were obtained from OpenLaw, an open-source database of judicial decisions managed by a legal NGO in Shanghai.

26 Fei 2024a; Rodgers 2012.
27 Lü and Li 2020.
28 Erie 2023a.

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Table 1. Analysed Documents

Agency	Year	Title
Ministry of Commerce (MOFCOM)	2020	Notice on handling COVID-19 related work in foreign contracted construction and engineering projects
	2020	Notice on strengthening pandemic prevention and control in overseas economic and trade cooperation zones
	2020	Notice on actively guiding and assisting overseas enterprises in handling COVID-19 response work
	2021	"Dual random, one open" supervision work rules for foreign investment cooperation (updated trial implementation)
Ministry of Human Resources and Social Security (MHRSS)	2020	Opinions on stabilizing labour relations to support the resumption of work and production during the prevention and control period of the COVID-19 pandemic
	2020	Notice on properly handling labour relations issues during the prevention and control period of the COVID-19 pandemic
	2020	Opinions from seven departments on properly handling labour relations issues related to the COVID-19 pandemic
Supreme People's Court (SPC)	2020	Guiding opinions of the Supreme People's Court on properly handling civil cases related to the COVID-19 pandemic

OpenLaw operates similarly to China Judgements Online (CJO), the official government platform managed by the SPC. However, as CJO has become increasingly inaccessible to researchers and the public, and the SPC is reportedly shifting towards restricting case access to internal staff,[29] OpenLaw offers a relatively viable alternative for gathering judicial information.

Specifically, the initial search used a combination of keywords including "COVID-19" (*xinguan* 新冠), "overseas" (*haiwai* 海外), and "return to home country" (*huiguo* 回国), filtered by the case type of "labour dispute" (*laodong zhengyi* 劳动争议). This search yielded 311 judicial documents from 2020 to 2024. To refine the dataset, a set of screening questions was applied to identify cases that best illustrate the intersection of transnational labour disputes and pandemic-related legal challenges. The first screening question examined whether the labour dispute occurred in an overseas context. A total of 107 cases were excluded for involving domestic labour disputes within companies engaged in overseas business, and another 25 cases were removed for focusing on overseas fisheries. The second screening question evaluated whether COVID-19 was explicitly cited as a primary cause of the dispute, rather than being incidental to a typical labour conflict. An additional 109 cases were excluded on this basis. Through this process, 72 cases were selected for further review. Of these, 19 were chosen for in-depth analysis in this paper, based on their representativeness of different types of labour disputes, the completeness of documentation, and the geographic diversity of host countries (Table 2).

It is important to acknowledge the limitations of both CJO and OpenLaw, including incomplete case coverage, delayed updates, limited search functionality, a Chinese-only interface and restrictions on bulk data downloads. Moreover, sensitive or high-profile cases, particularly those involving political matters, national security or commercial disputes with state-owned enterprises, are often excluded from public access. These constraints limit the scope and availability of judgment documents for external researchers. As a result, the cases analysed in this paper do not represent a statistically representative sample, as there is insufficient information about which judgments are made public, what content an individual court chooses to disclose, and when documents are uploaded. Nor do these cases aim to reveal broad trends in China's judicial process. Rather, they are presented

29 Yang 2023.

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Table 2. Analysed Court Judgments

Cases	Country	Handling Court
Wei v Lineng Electric Power Technology Corporation	Ethiopia	Gaomi County People's Court, Shandong Province
Deng v Beishi Water Technology Corporation	Vietnam	Shanghai No. 2 Intermediate People's Court
Yang v Sida Times Software Technology Corporation	Mozambique	Daxing District People's Court of Beijing
Jun v Xianghui Import and Export Corporation	Kenya	Yuetang District People's Court of Xiangtan, Hunan Province
Dai v Xinyuan Metal Technology Corporation	Peru	Intermediate People's Court of Chizhou, Anhui Province
Eight Workers v Huabao Footwear Corporation	Ethiopia	First People's Court of Dongguan, Guangdong Province
Ma v Jinhaoyang Construction Engineering Corporation	Nigeria	Chaoyang District People's Court of Beijing
Liu v Kunlong Construction Group	Algeria	Huai'an District People's Court of Huai'an, Jiangsu Province
Jiang v Central Asia Energy Corporation	Kyrgyzstan	Chang'an District People's Court of Xi'an, Shaanxi Province
Xu v AVIC Kaidien Engineering Company	Angola	Shunyi District People's Court of Beijing
Shi v China Railway Eurasia Construction Investment Corporation	Kazakhstan	Beijing No. 2 Intermediate People's Court
Li v Xinbiaozhi International Engineering Corporation	Algeria	Gaomi County People's Court, Shandong Province

as illustrative examples to shed light on "lived law" – the ways in which legal principles are interpreted and applied in the courtroom, and the inherent messiness, complexity and variability of law in practice.

Governing Migrant Workers under COVID-19

The outbreak of COVID-19 in 2020 prompted governments worldwide to implement stringent public health measures, including lockdowns, contact tracing and social distancing, to curb the spread of the virus.[30] The Chinese government enacted particularly rigorous policies to control population movement at both local and interprovincial levels, introducing measures such as intensive testing, mandatory quarantines and a mobile app-based health code system to track and regulate mobility. This section examines the policy guidance issued during the pandemic, with a particular focus on workforce management, labour protection and dispute resolution.

Managing the workforce

The COVID-19 outbreak, coinciding with the Lunar New Year, a peak travel time for Chinese citizens, created unique challenges for overseas workers. Many were either in China for the holidays or planning their return trips when the pandemic abruptly halted global mobility. This disruption left many workers stranded – some were unable to return to their workplaces abroad while others were stuck in host countries with no clear path home. MOFCOM subsequently issued directives instructing Chinese overseas companies to minimize cross-border personnel rotations. Companies

30 Fei, Liao and Yang 2021.

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were asked to reassess their expatriation plans by delaying both the recruitment of domestic workers for overseas positions and the returns of workers to China. In cases where overseas travel was unavoidable, companies were advised to avoid recruiting from Chinese provinces that were severely impacted by the pandemic.

In addition to managing the mobility of workers, a critical challenge for Chinese policymakers during the pandemic was balancing pandemic control with the need to ensure the continuity of business operations. Maintaining workforce productivity became a key concern, as reflected in various guidelines on labour management issued by MOFCOM and the MHRSS. For example, the MHRSS advocated for remote working and flexible schedules to reduce workplace population density and mitigate transmission risks. Companies resuming operations were mandated to implement preventive measures, including emergency response planning and careful management of critical production sites and high-density work areas. Meanwhile, MOFCOM issued specific directives for overseas economic and trade cooperation zones (OETCZs), recommending enclosed operations and strict entry and exit protocols to minimize the risk of virus transmission.

MOFCOM's guidance positioned overseas companies as pivotal actors in workforce management during the pandemic, assigning them the dual responsibilities of sustaining productivity and ensuring worker protection. Companies were required to assess potential business risks arising from personnel shortages, raw material scarcities, project delays and negative public perceptions in host countries. To mitigate these challenges, they were encouraged to leverage legal and international frameworks to safeguard their interests and minimize economic losses. Beyond risk management, MOFCOM also emphasized the effective administration of labour dispatchment and conflict resolution. The 2021 amendment to MOFCOM's "'Dual random, one open' supervision framework for foreign investment and cooperation" incorporated pandemic-related performance evaluations to enhance government oversight of overseas companies' pandemic responses.

While overseas companies served as the frontline implementers of government policies, MOFCOM also assigned supervisory responsibilities to the local commerce authorities in the companies' home regions as well as the domestic headquarters of overseas subsidiaries. These agencies were expected to strengthen communication with overseas companies, take proactive measures and conduct comprehensive assessments of the pandemic's impact on business operations. In cases involving OETCZs, MOFCOM recommended the establishment of tripartite pandemic prevention and control mechanisms, led by provincial commerce authorities and company headquarters. These mechanisms aimed to support companies in navigating pandemic-related challenges while maintaining operational stability and compliance with both Chinese and host country regulations.

Protecting labour

The pandemic has put two aspects of labour relations at risk. The first concerns the termination of labour contracts – can economic difficulties justify layoffs as a cost-cutting measure? The second pertains to wage standards – for employees unable to fulfil their contractual duties due to illness, quarantine or lockdown, what criteria should employers use to determine wages? These uncertainties have created significant tensions between businesses seeking financial stability and workers facing job insecurity.

To address these concerns, the MHRSS issued key guidance outlining employer responsibilities and worker protections. Regarding labour contracts, the MHRSS required companies to minimize layoffs and resolve emerging labour disputes through mutual negotiation rather than unilateral terminations. The guidelines specifically addressed the needs of workers who were diagnosed with COVID-19 as well as service workers who were not formal employees of the company but were nonetheless affected by pandemic-related disruptions. Along with six other central agencies, the MHRSS mandated that employees who were confirmed COVID-19 patients, suspected cases or close contacts could not have their labour contracts terminated during their respective periods of

treatment, quarantine or medical observation. Employers were required to continue paying standard wages throughout these periods. Furthermore, if an employment contract was set to expire during any of these periods, it was to be automatically extended until the period concluded.

While the guidance on labour contracts primarily targeted the most vulnerable workers during the pandemic, regulations on salary standards applied to all employees. The MHRSS specified that for employees unable to work because of lockdowns, employers were required to pay wages as stipulated in the contract for at least one salary cycle. After this period, if the employee resumed normal work, their wages could not fall below the local minimum wage standards. For those who remained unable to resume normal duties, employers must provide a living allowance, with the specific rate determined by provincial standards. This provision introduced a degree of flexibility for businesses facing operational and production difficulties, allowing them to adjust salaries, job responsibilities and work schedules through mutual agreement with employees.

Although the MHRSS regulations were designed primarily for domestic labour relations, MOFCOM issued a specific mandate for overseas Chinese companies to strengthen protections for dispatched workers. Employers were required to provide personal accident insurance for all expatriated employees and enhance pre-departure training on pandemic prevention and control. Once abroad, companies were responsible for ensuring that workers complied with local quarantine and testing requirements set by the host country. To reinforce oversight, local Chinese embassies were designated as the primary supervisory agencies, tasked with ensuring that both companies and workers adhered to Chinese and host country regulations.

Addressing disputes

Pursuing labour lawsuits in China typically involves three key stages. The initial stage is pre-litigation mediation conducted by a mediation committee, which is often organized at the community or workplace level. This stage aims to resolve disputes informally to prevent escalation to formal legal proceedings. If mediation fails, the dispute proceeds to the second stage, which involves labour arbitration. In China, labour arbitration is mandatory for most labour disputes. A local labour arbitration committee reviews evidence, hears arguments from both parties and issues a ruling. Arbitration serves as an intermediary step to expedite dispute resolution before entering the court system. If either party is dissatisfied with the arbitration decision, the third stage involves filing a formal lawsuit in the people's court within 15 days of receiving the arbitration award. A decision made by the lower-level courts can be appealed to an intermediate or high court in the province for further judicial review.

An analysis of the MHRSS and SPC guidelines reveals several key features in handling labour disputes during the pandemic. First, there was a strong emphasis on mediation through diversified channels, which reflects an effort to resolve disputes early and prevent escalation. Companies were encouraged to establish internal mechanisms for negotiation and conflict resolution to ensure that disputes could be addressed proactively within the workplace. Central agencies also promoted innovative and flexible approaches to mediation, including people's mediation, administrative mediation, industry-specific professional mediation, arbitration mediation and judicial mediation.

In addition, official documents emphasized the promotion of digital and information technologies to expedite dispute resolution. The MHRSS promoted the "Internet + mediation" platform to enhance mediation services, while the SPC sought to facilitate "non-face-to-face" arbitration and judicial services through an "Internet + arbitration, litigation" approach. This shift towards virtual dispute resolution, which had been on the SPC's agenda for years, gained significant traction during the pandemic. In 2021, the SPC issued the "Online litigation rules for the people's courts," marking the first official regulation on online litigation. Under these new guidelines, parties were

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permitted to submit litigation materials and evidence electronically instead of providing original paper documents.

Moreover, procedural requirements in the arbitration-litigation process were relaxed to address the logistical challenges posed by the pandemic. One notable adjustment was the suspension of the one-year mandatory arbitration period for certain cases. If pandemic-related disruptions prevented a party from applying for arbitration in time, the deadline could be extended to ensure that workers did not lose their right to seek redress. Additional obstacles, such as collecting evidence from outside China's jurisdiction and notarizing documents for identity verification, also prompted further procedural changes. New provisions allowed for extended deadlines to submit required legal materials.

Adjudicating Overseas Labour Disputes in Domestic Courts

This section explores how the policies and guidelines established by central agencies were applied in specific cases of labour dispute during the pandemic. It examines three key areas of labour conflicts: contract and salary disputes, dismissal and economic compensation, and costs associated with travel and quarantine. By analysing court rulings, the discussion investigates how domestic courts interpreted and implemented central policy mandates, shedding light on whether legal frameworks provided sufficient protection to workers amid the unprecedented challenges posed by the pandemic.

Contract and salary

Policy guidance issued by the MHRSS and SPC has, in some instances, helped to protect employees diagnosed with COVID-19 from layoffs and salary cuts. One illustrative example is the case of Wei, a mechanic dispatched to Ethiopia in January 2020 without a formal labour contract. After contracting COVID-19 in August 2020 and becoming unable to work, Wei's employer stopped his overseas allowance. Upon returning to China in February 2021, Wei sued his employer to recover the unpaid overseas allowances for the period he remained abroad. The court ruled in his favour, determining that the overseas subsidy was an integral part of Wei's salary. Despite his inability to work owing to illness, he was still entitled to the allowance as long as he remained stationed abroad. The ruling cited a policy document issued by the Shandong provincial department of human resources and social security, which elaborated on the MHRSS regulations stating that pandemic-related work interruptions should not justify the denial of contractually obligated benefits.

While this case shows that the MHRSS guidelines can effectively uphold workers' rights under pandemic conditions, it also highlights the interpretive challenges courts face when applying labour protections. Wei, who had not signed a formal labour contract, also sought double salary compensation under China's Labour Contract Law, which requires employers to pay double wages to employees working without a formal contract. The court awarded this compensation, but only for the period before Wei's illness. Once he was diagnosed with COVID-19 and underwent treatment and quarantine, the court determined that the pandemic constituted a *force majeure* event, making it impossible for either party to sign a contract. On this basis, the court exempted the employer from further liability, reasoning that even if the company had intended to formalize the contract, it could not have done so under the circumstances. This outcome reflects a measure of judicial flexibility during crises, but it also raises concerns about how courts evaluate employer intent and accountability, particularly in cases where contract formalization had already been delayed or neglected prior to the pandemic.

Another case, involving Liu, a translator employed by the Kunlong Construction Group in Algeria, further illustrates how *force majeure* has been used to justify deviations from standard contractual obligations. Liu began working for the company in July 2018 on a two-year contract. After the contract expired, he remained in Algeria for an additional seven months before returning to

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China in February 2021. Upon return, Liu filed a lawsuit seeking double salary compensation for the period during which his contract had not been formally renewed. The company argued that the extended employment period resulted from pandemic-related disruptions, citing notices from the Chinese embassy in Algeria announcing the suspension of consular services and advising companies to remain in place. The court accepted this reasoning, ruling that the pandemic constituted a legitimate *force majeure* event, which justified the continued employment without triggering penalties for non-compliance.

The two examples show how Chinese courts have invoked *force majeure* to address pandemic-related disruptions in labour relations. In legal terms, *force majeure* refers to events beyond human control, irresistible by human effort and independent of the will of the contracting parties.[31] Owing to their unforeseeable nature, such events may exempt a party from liability or allow for adjustments to contractual terms without incurring penalties.[32] Since the onset of COVID-19, legal scholarship has examined the variability in the scope and interpretation of *force majeure* clauses, their relationship to common law principles, and the differences in how they are applied across jurisdictions.[33]

In China, authorities formally recognized the pandemic as a *force majeure* event and encouraged its use in contract enforcement. The China Council for the Promotion of International Trade (CCPIT) supported this effort by issuing *force majeure* certificates to companies seeking justifications for delays or non-fulfilment of contractual obligations. While such clauses are designed to offer legal flexibility during crises, their application in labour-related disputes remains underexplored in existing legal literature. However, the two cases discussed above highlight the potential risks of asymmetrical protections: companies may be allowed to evade contractual penalties, while workers' rights may be inadvertently undermined. This raises broader concerns about the adequacy of current legal frameworks in safeguarding labour rights during periods of economic and public health emergencies.[34]

Dismissal and economic compensation

Although the pandemic compelled many companies to downsize their workforce or prompted employees to seek alternative opportunities, the adjudication of dismissals in courts varied considerably. Analysis of court cases concerning employment terminations reveals two broad legal scenarios. The first involves cases where a termination agreement was signed by both parties. Here, legal disputes often centre on whether the agreement reflected mutual consent or was signed under coercion. The second scenario concerns cases in which no formal termination agreement was reached, leading to disputes over whether the dismissal was an instance of employer misconduct or a voluntary departure by the employee. Courts must assess the specific circumstances of termination, weighing available evidence to determine whether the employer acted unilaterally and unfairly, or whether the employee willingly resigned. These rulings reflect the tension between protecting labour rights and accommodating the operational adjustments businesses must make during the pandemic.

Mutual or coerced agreement?

In cases involving signed contract termination agreements, Chinese courts have generally ruled in favour of employers over workers' claims for severance pay, even when employees alleged coercion. One illustrative case included eight workers who individually sued the Huabao Footwear Corporation after the company's factory in Ethiopia terminated their contracts owing to a sharp decline in international orders. Each worker had signed a termination agreement indicating a mutual

31 Wang, Yi 2020.
32 Lü and Li 2020.
33 Brugger 2023; Palmer 2022; Phelps 2021.
34 Zheng 2020.

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consent to end the employment relationship. This agreement included a waiver clause relinquishing the right to pursue legal actions upon returning to China.

Despite this, the workers filed lawsuits claiming that they had signed the agreements under duress. They argued that Huabao had threatened to withhold assistance for their return to China unless they complied, and that they signed out of fear – both of employer retaliation and the worsening public health situation in Ethiopia. Nevertheless, the court ruled in favour of the company. It found that the workers, as individuals with full civil capacity, were responsible for understanding the legal implications of signing the agreement. The court held that their signatures represented valid expressions of intent, regardless of the pressures described, and affirmed the agreements as legally binding.

Two additional cases also resulted in judgments favouring the employer. In the first, Xu, a security guard dispatched to Angola for the Luanda Airport Project with the AVIC Kaidien Engineering Company, signed a termination agreement in December 2020 as the pandemic escalated and many Chinese workers returned home. The agreement included a clause waiving any future claims for compensation. After returning to China, Xu filed a lawsuit seeking severance pay, alleging that he had been deceived and coerced into signing the agreement. However, the court dismissed his claim, citing insufficient evidence to substantiate the allegation of coercion.

The second case involved Li, a project manager employed by Xinbiaozhi International Engineering Corporation in Algeria. His original labour contract expired in October 2020, and he submitted a written statement indicating that he did not wish to renew it. However, because of the pandemic-related travel restrictions, Li was unable to return to China and agreed to extend the contract for one additional year – once again stating in writing that he did not intend to renew it beyond that period. When Li later filed a lawsuit seeking economic compensation following his dismissal in October 2021, the court ruled against him, citing the clarity and finality of his written declarations.

While the rulings in these cases may align with established legal norms, they also reveal the challenges of interpreting the voluntariness of consent in overseas employment settings. Although workers' claims of coercion were not upheld in court, they may nonetheless reflect credible experiences shaped by limited access to legal recourse and support services while abroad. MOFCOM's recommendation for enclosed management as a pandemic prevention measure likely intensified workers' isolation, reinforced existing power asymmetries in the workplace, and heightened workers' dependence on employers for daily necessities, wages and arrangements for repatriation. Under such conditions, workers may have experienced both physical and psychological pressure to sign termination agreements, while holding onto the hope that they could later contest the terms once safely back in China. The courts, therefore, face the complex task of evaluating the authenticity of consent and the potential presence of coercion in transnational labour disputes, particularly in the context of restricted mobility amid public health crises.

Wrongful or justified termination?

Court rulings on dismissals without formal termination agreements display greater variability and inconsistency, as evidenced by the wide range of outcomes in severance pay claims within the sample. One case involved Jun, a chef employed by the Xianghui Import and Export Corporation at its Kenyan subsidiary, the Kenya Sunlight Manufacturing and Construction Corporation. Jun's two-year contract contained a *force majeure* clause, which allowed for termination if significant changes in circumstances made it impossible to fulfil the contract. In May 2020, the company terminated Jun's contract, citing the pandemic as a *force majeure* event. When Jun sued for severance pay, the court ruled in favour of the company, referencing China's Labour Contract Law, which permits employers to terminate contracts if unforeseen conditions prevent the fulfilment of agreed terms.

A more contentious case involved Deng, an engineer dispatched to Vietnam by the Beishi Water Technology Corporation. Shortly after his arrival in March 2020, Deng raised concerns about inadequate local pandemic safety measures, including limited personal protective equipment and insufficient insurance coverage. He subsequently resigned and filed a lawsuit seeking severance pay.

The lower court ruled in his favour, determining that the employer's failure to address these concerns amounted to a constructive dismissal. However, this decision was overturned on appeal. The intermediate court found that the company had provided adequate insurance and noted that, at the time of Deng's deployment, Vietnam had not implemented lockdowns or travel restrictions that would have prevented him from performing his duties. The court also argued that by accepting the overseas assignment, Deng had implicitly assessed and accepted the associated risks. On this basis, it concluded that his resignation was a voluntary exercise of his right to terminate the contract. Thus, he did not qualify for economic compensation.

While several rulings underscore the difficulty workers face in substantiating their claims, other cases resulted in favourable outcomes for employees. For instance, Jiang, a civil engineer employed by the Central Asia Energy Corporation in Kyrgyzstan, was repatriated to China after the company suspended operations in January 2020. Although operations were initially expected to resume later that year, deteriorating conditions in Kyrgyzstan prevented Jiang from returning. Left without income, he resigned and filed a lawsuit seeking severance pay. The company contended that his resignation was voluntary. However, the court ruled in Jiang's favour, citing evidence that the company had failed to pay his wages for several months prior to his resignation. This breach, the court held, provided a statutory basis for Jiang to terminate the contract, thereby entitling him to economic compensation.

Another successful case involved Yang, a translator employed by the Sida Times Software Technology Corporation on projects in Mozambique. In March 2020, Yang was transferred back to the company's domestic office, where she continued to coordinate translation work remotely. In February 2021, the company issued a notice terminating her contract, citing the suspension of operations in Mozambique due to pandemic-related economic losses. Yang contested the termination, arguing that the projects had not been suspended. She submitted emails, WeChat messages and weekly reports as evidence of ongoing activity. The court ruled in her favour, finding that the company had misrepresented the status of its overseas operations and had unfairly transferred business risks onto the employee.

These two successful cases suggest that courts may be more likely to hold employers accountable when workers present clear, well-documented evidence of employer wrongdoing. In Jiang's case, the company's failure to pay wages prior to his resignation was critical. In Yang's case, she successfully demonstrated that the employer's justification for her dismissal was unfounded. These outcomes highlight the critical role of strong evidence in labour litigation and suggest that while courts may strive for consistency in applying existing legal frameworks, the burden of proof remains particularly high for overseas workers.

Costs on travel and quarantine

Regulations issued by the MHRSS and SPC were primarily designed to govern domestic labour disputes in China, which leaves gaps in their applicability to overseas employment. One major shortcoming, as discussed earlier, is the absence of clear guidance on interpreting *force majeure*. This ambiguity leads to inconsistent judicial rulings in cases of pandemic-related dismissals. Without standardized criteria for determining when and how *force majeure* should be invoked, courts are left to assess employer claims of disruption on a case-by-case basis, which often leads to varied outcomes for workers seeking redress.

In addition, the central guidelines have inadequately addressed financial responsibilities related to cross-border travel and quarantine for overseas workers. Numerous disputes emerged over who should bear the costs of return flights, quarantine accommodation and other pandemic-related logistical expenses. The lack of explicit legal provisions regarding employer obligations for repatriation and post-assignment support left many workers vulnerable – often requiring them to cover these costs personally or engage in protracted legal battles for compensation.

Travelling to and from China during the pandemic posed severe challenges due to strict border controls, limited flight availability, skyrocketing airfares and extensive health screening procedures. Data from a Chinese travel booking platform indicated that, in early 2020, economy-class tickets were often priced at business-class rates. Moreover, many travellers were forced to transit through third countries, which further exacerbated the costs and logistical complexity. Upon arrival in China, travellers were required to undergo a mandatory quarantine of at least 14 days, typically at their own expense.[35] In Beijing, for example, the average quarantine hotel cost around 350 yuan (US$48) per night, with meals adding approximately 100 yuan (US$14) per day.

These financial burdens placed substantial strain on overseas workers, many of whom had already experienced income loss or job instability during the pandemic. Yet, central agencies provided no clear guidance on who should be financially responsible. The variability in court judgments on such disputes underscores the importance of written agreements between workers and their employers. As with dismissal cases, courts often adhere closely to the terms of signed contracts, prioritizing explicit provisions over broader considerations of fairness or hardship.

One illustrative case involved Ma, an accountant employed by the Jinhaoyang Construction Engineering Corporation at its Nigerian subsidiary. Ma signed an agreement with the company acknowledging that, due to flight cancellations, he would return to China via a third country on a chartered flight. The agreement stated that the company would reimburse up to US$3,000 in travel costs. However, Ma's total expenses, including flights and quarantine, amounted to 40,000 yuan (US$5,500). When he sued to recover the full amount, the court ruled that he was entitled only to the US$3,000 specified in the agreement.

A comparable case involved Shi, the deputy finance manager at the China Railway Eurasia Construction Investment Corporation, who worked on a light rail project in Kazakhstan. In April 2021, after resigning, Shi signed an agreement stating that the company would cover up to 20,000 yuan (US$2,700) of his return expenses. After returning to China, the company accused him of making disparaging remarks about the employer and refused to pay. The court, however, upheld the agreement and ordered the company to honour the reimbursement.

Where no such agreements existed, court rulings on travel and quarantine costs varied. In some cases, judges relied on broader legal principles such as fairness or public interest. For example, in *Jun versus Xianghui Import and Export Corporation*, the worker requested reimbursement for quarantine costs after returning to China. The court acknowledged the necessity of quarantine for national pandemic control and noted that the contract had not specified responsibility for such costs. Invoking the principle of fairness, the court ruled that the expenses should be shared equally between the employer and employee.

By contrast, in the case of Dai, an operations supervisor employed by the Xinyuan Metal Technology Corporation in Peru, the court ruled against the worker. After resigning in May 2020 and returning to China on a company-arranged flight, Dai completed the required 14-day quarantine. He later sued the company for reimbursement of quarantine and local transportation expenses. The court ruled that these costs fell outside the scope of the labour relationship, and that since Dai's employment had ended before his return, the company was not legally obligated to cover these expenses.

These cases show how the absence of clear contractual terms creates considerable space for judicial discretion, which can lead to divergent interpretations and outcomes. While some courts take into account broader principles, such as fairness and public health obligations, others narrowly interpret employer responsibilities based on the duration and explicit terms of the employment contract.

35 Policies vary in terms of the lengths of quarantine across places and times. In most jurisdictions, individuals faced a combination of 14-day hotel quarantine with an additional 7 days of hotel or home quarantine and a 7-day health monitoring period.

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Conclusion

The COVID-19 pandemic has deeply impacted China's economy and society, introducing new complexities to labour governance, especially in transnational contexts. For overseas Chinese workers, the crisis entailed more than logistical or economic hardship; it was also marked by profound uncertainty, fear and dislocation. Many found themselves stranded abroad or trapped within China's borders because of travel restrictions. This liminal condition placed workers at the intersection of competing state priorities: sustaining production to uphold China's positive global image and ensuring the well-being of Chinese citizens.

While MOFCOM issued guidance to manage overseas operations and limit the spread of the pandemic through mobility restrictions, and the MHRSS and SPC provided regulations on domestic labour governance, these measures have shown limited effectiveness in addressing the specific challenges faced by overseas workers. A critical reading of court rulings uncovers three recurring tensions. First, while courts have upheld certain worker protections, their interpretation of *force majeure* has been inconsistent – sometimes protecting labour rights, at other times absolving employers of responsibility. Second, in the absence of explicit regulatory guidance on overseas-specific issues, such as the voluntariness of contract terminations or obligations for repatriation, courts have exercised wide discretion, often defaulting to formal contractual language over the lived realities of constrained worker agency. Third, while employers' logistical and operational challenges are well acknowledged, courts have shown insufficient recognition of the structural vulnerabilities faced by workers abroad, such as legal isolation, dependency on employers and increased precarity during the pandemic.

This paper contributes an interdisciplinary approach to labour governance under the framework of "Global China." It employs a dual lens to examine both the state's efforts to regulate labour relations and the outcomes of workers' legal actions against their employers. In doing so, it highlights the institutional reach and procedural limitations of China's labour governance apparatus in the context of global crises. While litigation offers a potential avenue for redress, it also exposes the constrained and contested nature of China's evolving legal-political system – one that is simultaneously extending its global presence while grappling with new entanglements between domestic governance and international labour mobility.

The findings of the paper underscore the need to adapt China's labour governance frameworks to the complexities of transnational employment. One key area for improvement lies in the clarification and standardization of *force majeure* clauses in labour disputes. While Chinese authorities have formally recognized the COVID-19 pandemic as a *force majeure* event, courts have interpreted its implications inconsistently. These inconsistencies often stem from the term's conceptual ambiguity, its overlap with other legal doctrines and a lack of clear moral or contextual reasoning in judicial decisions. Developing a clear legal definition and criteria for applying *force majeure* in labour disputes would promote the consistency and fairness in future rulings.

In addition to refining legal terminology, there is also a need to strengthen formal labour protections for Chinese workers employed by overseas Chinese companies. Existing policies prioritize mediation and arbitration as the primary modes of dispute resolution; however, many of the cases analysed in this study reveal the limitations of these mechanisms in transnational contexts. Overseas workers encounter distinct legal, logistical and institutional challenges that current frameworks are ill-equipped to address. Bridging these gaps will require coordinated policy development among key regulatory bodies, including MOFCOM, the MHRSS and SPC, along with their provincial bureaus. Such collaboration should aim to produce enforceable legal guidelines that define the rights, responsibilities and remedies specific to overseas employment.

Finally, improving the transparency and accessibility of legal proceedings is essential for building public trust in China's labour dispute resolution system. Currently, access to judicial decisions and regulatory interpretations remains inconsistent, which limits the ability of workers, employers, legal practitioners and researchers to understand precedents and navigate disputes effectively.

Expanding public access to case documentation and strengthening open legal databases such as OpenLaw would promote institutional accountability and foster more consistent legal interpretation across jurisdictions.

These policy changes are not only necessary to address the specific disruptions brought about by the COVID-19 pandemic but also to align China's domestic labour governance with the demands of an increasingly globalized workforce. As Chinese companies and workers continue to expand their presence abroad, a more coherent, transparent and context-sensitive regulatory framework will be vital to ensuring equitable and effective dispute resolution in transnational settings.

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