11. Where is the Belt and Road Initiative taking international labour rights? An examination of worker abuse by Chinese firms in Saipan

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China's Belt and Road Initiative (BRI) is a US$1 trillion plan to deepen economic relations between China and over 100 countries worldwide through large investments in infrastructure, construction, and other projects. In 2018, the Chinese government reported that 7,721 new contracts worth US$1.25 billion had been executed for projects in BRI countries (Ministry of Commerce 2019a). Many academics have considered the significance of the BRI from a political, economic, or environmental perspective. However, with a few notable exceptions, there has been little scholarly attention paid to the implications of the BRI on global labour standards.

This chapter explores this topic primarily through a case study of a casino construction project on the island of Saipan, part of the US Commonwealth of the Northern Mariana Islands (CNMI), based largely on my own fieldwork. In 2014, a Hong Kong-based company, Imperial Pacific, after obtaining the exclusive licence to operate a casino resort in Saipan, executed contracts totalling hundreds of millions of US dollars with multiple Chinese construction firms. Each firm considered the Saipan project to be a contribution to China's "One Belt, One Road" initiative.[1] Later on, widespread violations of local and US federal labour and immigration laws were uncovered, resulting in civil and criminal enforcement actions by US authorities.

This chapter argues that a series of Chinese policies and regulations exists that both protects the labour rights of Chinese workers dispatched abroad and requires firms to comply with local labour laws. However, as demonstrated by the Saipan case, rather than adapting to local conditions, the labour practices of Chinese companies often do not take these rules

into account – resulting in the mistreatment of Chinese workers and an undermining of local labour standards. The Saipan case also helps to illustrate host-country factors that facilitate the remedy of such abuses, but these conditions are absent in many BRI jurisdictions.

The chapter proceeds in four parts. Section 1 briefly reviews the past decade of China's "going out" strategy and the existing literature on how this has impacted global labour standards. Within this broader topic, particular attention is paid to three questions:

1. To what extent do China's investments create jobs for local workers versus Chinese workers?
2. What are labour conditions like for Chinese and local workers on these projects?
3. And to what extent does this vary according to the ownership structure of the Chinese company?

Section 2 discusses the facts of the Saipan case in greater detail, providing background on the labour situation in Saipan, the Chinese firms involved in building the casino, the labour abuses that occurred, and how they were eventually remedied. Section 3 uses the Saipan case as a starting point to consider the questions raised in the first section in terms of Chinese overseas infrastructure and construction projects more broadly. There is significant evidence that Chinese companies are failing to create local jobs and, regardless of ownership type, are knowingly violating local laws. In terms of remedying abuses, the firms operating in Saipan proved responsive to the negative media reports generated by unpaid protesting workers. However, such public displays of discontent and open news coverage may be impossible in many other BRI jurisdictions with different legal systems, or where Chinese investments are politically sensitive. Section 4 concludes by noting that achieving China's political and financial interests will require that its companies respect labour rights abroad, and considers several policy options to encourage increased compliance with Chinese and local labour standards.

1. CHINA'S EXPERIENCE "GOING OUT"

When the BRI formally launched in 2013, China had already been engaged in its "going out" strategy, encouraging companies to invest and operate overseas, for well over a decade. In 2001, Chinese Premier Zhu Rongji called upon the nation's enterprises to use their comparative advantage to obtain international contracts, join with local partners, and increase the

export of Chinese labour (Zhu Rongji 2001). Five years later, the State Council pronounced that overseas activities by Chinese companies, despite encountering some obstacles, had significantly contributed to economic development and job creation in the host countries (State Council 2006). In order to limit negative impacts, Chinese enterprises were directed to respect local religious beliefs and cultural traditions, protect the environment, and safeguard labour rights (Ministry of Commerce and Ministry of Environmental Protection 2013). These instructions to respect labour rights abroad remained vague and largely unenforceable, however, particularly those relating to the treatment of host-country workers.

In contrast to the minimalist guidance concerning host-country workers, China adopted reasonably extensive rules on sending Chinese workers overseas. A 2002 regulation provided that labour agencies engaged in sending workers overseas must ensure they are provided written contracts with certain content, may only charge workers fees within a prescribed amount, and must contribute to a reserve fund to compensate workers who are not paid their wages (Ministry of Labor and Social Security et al. 2002). Nonetheless, a 2005 central government document reported a rising number of labour disputes involving overseas Chinese workers, including several mass protests, sit-ins at Chinese embassies, and clashes with local police (Ministry of Commerce 2005). The causes for the unrest included the failure of Chinese companies operating abroad to comply with laws on hiring, supervision, and management; their subcontracting out of labour services, including to unregistered entities; and their efforts to reduce costs by not paying wages and violating worker rights. The document also observed a dearth of effective mechanisms for resolving labour disputes.

In response to these challenges, the Chinese government's highest executive organ promulgated regulations to manage subcontracting in overseas projects, such as by demanding that labour agencies be registered with the government and conclude written contracts with workers, and established obligations for companies employing overseas workers, including: purchasing accident insurance; ensuring workers have valid visas; paying wages that meet local standards; forbidding the collection of security deposits or performance guarantee payments from workers; and obeying existing rules on written contracts and reserve fund contributions (State Council 2008, 2012). Government bureaus were also instructed to handle any complaints lodged by overseas Chinese workers.[2]

Given the number of Chinese government policy documents calling for overseas projects to be "win-win," safeguard the rights of dispatched Chinese workers, create local jobs, and respect the laws of the host country, one might expect China's outward expansion to have a largely positive impact on labour rights. But what has been the reality? Do these Chinese

infrastructure and construction projects drive down labour conditions or have a positive impact for workers? Does China's desire for soft power ensure its firms will always create good jobs for local workers? Or are Chinese firms importing vast armies of Chinese workers, paying them paltry wages, and subjecting them to hard conditions while failing to generate employment opportunities for locals?

In reviewing a decade of Chinese overseas investments, which have taken a variety of forms, Chris Smith and Yu Zheng note that generalizations are difficult. They point out that some research shows that Chinese construction firms regularly import Chinese migrant workers, break local rules on working hours and safety, and use the retention of wages and other coercive means to control the workforce.[3] The authors acknowledge that this characterization may sometimes be exaggerated, but confirm that importing Chinese workers may be an explicit strategy for certain firms because it brings several benefits: Chinese workers obediently follow Chinese company rules; they are more focused on work than local employees; as migrants living in company-based industrial dormitories, they can be tightly controlled and will submit to compulsory overtime; and they are less able to organize and voice concerns collectively (Smith and Zheng 2016, p. 376). As many observers have noted, neither Chinese managers nor workers find this system of labour relations unusual since it largely mirrors that of construction sites within China, which are predominantly staffed by disenfranchised migrant workers from poorer regions of the country (Bengsten 2018; Halegua 2016a).

In her ethnographic study of Chinese construction firms in Africa, sociologist C.K. Lee also found evidence of such abusive practices. Lee described the labour conditions for Chinese workers as "abysmal," characterized by "poverty wage rates," late salary payments, inadequate safety procedures, and other forms of exploitation (Lee 2014, p. 52).[4] This was true for employees in both state-owned enterprises and private firms. A 2011 Human Rights Watch report on Chinese-operated copper mines in Zambia confirmed that the situation for local workers was equally abhorrent, including work hours beyond the legal limit, failure to provide protective equipment, and threats to fire those workers who objected to the unsafe conditions (HRW 2011). Two Chinese researchers who examined Chinese projects in Kenya and Indonesia similarly found widespread illegal use of Chinese labour under abusive conditions as well as contentious relations with local employees (Pan and Chen 2018).[5]

Lee (2018) found few distinctions in the motivations or operations of Chinese state-owned enterprises and private Chinese firms in Zambia's construction industry; however, the firm's ownership structure did make some difference in the more politically and strategically significant mining

sector. Since many large-scale resource extraction projects are pushed by the Chinese government to serve "national interests," state-owned firms may consider political relations with the host government or China's soft power in making certain operational decisions. Private Chinese companies, by contrast, more strictly seek profit maximization for shareholders. Thus, for example, when business slows, private firms are quick to shed local employees to reduce costs, whereas state-owned firms may continue employing people to maintain good political relations, even where this does not optimize profit. State-owned Chinese companies must also sometimes forego their preference for imported Chinese workers due to pressure from local unions or other host-country stakeholders.[6]

What about when Chinese firms enter more developed countries? Are labour rights violations less likely? Some studies have found that Chinese firms provide higher wages and better conditions in more developed jurisdictions (see, e.g. Shen 2007). But this is not always the case. In March 2019 a large Chinese construction firm operating in the United States was criminally prosecuted for subjecting its Chinese workers to forced labour since the early 2000s. In addition to withholding their wages and subjecting them to poor living conditions, the company compelled the workers to pay large security deposits and sign one-sided contracts while in China; confiscated their passports once in the US; and hunted down workers who sought to abandon their positions (Department of Justice 2019). For over a decade, labour groups have reported that Chinese construction workers in Israel are similarly subjected to unsafe worksites and conditions resembling forced labour (Ellman and Laacher 2002).

Turning to Europe, a large Chinese state-owned enterprise that owned the port terminals in Piraeus, Greece, replaced local unionized employees with Chinese workers and then with temporary contract workers. This latter group reported being forced to work long shifts with no breaks or overtime pay, and under dangerous conditions. Frustrated by the Chinese company's disregard for the host country's labour laws, a local politician complained that Greece was "no longer a sovereign state" (Lim 2011; Zheng 2017). In South America, a similar set of issues emerged after unionized miners were laid off and temporary contract workers were hired at the Shougang-Hierro iron mine in Peru (Ferchen 2017).

Law professor Ji Li's survey of Chinese companies' compliance with US law, including workplace antidiscrimination laws, further evidences a limited commitment to complying with local labour standards (Li 2018, Ch. 6). Li discovered that these companies view "high labor costs" as the largest challenge to doing business in the US, and many are particularly committed to keeping these costs down (Li 2018, p. 163). Although the study concerned enterprises with a longer-term presence in the US, as opposed

to a single project, a "significant minority" never hired permanent, full-time human resources staff; and, relatedly, a significant number of firms simply modelled their human resource management system on that of their parent company in China (Li 2018, pp. 165–7). This approach to labour compliance contrasts with how these Chinese companies approach other fields, such as tax law, where they demonstrate higher levels of compliance and greater willingness to hire local professionals (Li 2018, Ch. 5). Li found that whether a company is state-owned or private had no significant impact. However, firms with larger investments in the US made more efforts to address workplace discrimination (Li 2018, p. 175).

In short, despite Chinese policies calling upon enterprises to protect dispatched workers and safeguard labour rights in their "going out" overseas projects, companies often fail to live up to this standard. Not only is this the case in developing countries, but also in more developed economies like the US and Greece – and state-owned companies often behave as badly as private ones. What about large-scale infrastructure and construction projects after the formal launch of the BRI in 2013? The chapter now turns to the Saipan case for a detailed look into one such recent overseas construction project.

2. THE SAIPAN CASE

A Garment-Industry Legacy

Saipan is the largest island of the CNMI, which first formed a political union with the US in 1976. The relationship between these entities is essentially negotiated between the CNMI government and US Congress, and has changed over time.

When the CNMI first affiliated with the US, it retained control over its immigration system; in other words, the local government decided who entered its borders and under what conditions. For several decades, the CNMI set its own minimum wage as it was exempt from the higher federal one; and even after the US Congress decided that federal minimum wage rules would apply in Saipan starting in 2007, the actual wage remained lower there than in other states.[7] Products manufactured in Saipan were also considered to be made in the US, and therefore no quotas or tariffs were imposed on imports to the mainland. All these factors led garment manufacturers to establish operations in Saipan. At its peak, the industry generated US$85 million per year in tax revenue (about 40 per cent of the CNMI government's total budget), employed tens of thousands of factory workers, and created 7,500 related non-factory jobs (Sobel 2001).

In the early 1990s, however, major media outlets revealed the horrendous labour abuses that were occurring in Saipan's garment industry (Shenon 1993). The factories were importing workers from overseas, primarily China, under conditions characteristic of indentured servitude. The workers paid large recruitment fees in China, often incurring significant debt. In Saipan, the mostly female labourers worked long hours; the wages they received were often below the (already low) local minimum wage; dormitory conditions were horrid; employees lived under a constant fear of deportation; and employers forced pregnant workers to have abortions. Soon thereafter, multiple class action lawsuits were filed against brands sourcing garments from Saipan, which resulted in a US$20 million settlement and the establishment of a monitoring mechanism to oversee compliance with labour standards (Business and Human Rights Resource Centre n.d.). The US Congress also "federalized" control over immigration to Saipan, stripping the local government of this power.

Imperial Pacific's Casino Project

In light of the abuses discovered, reforms instituted, and – perhaps most significantly – changes in trade policy eliminating import quotas from countries like China, the garment industry in Saipan disappeared. The island struggled to find a new economic engine. Around 2013, discussions began around changing the law to permit a casino. Saipan residents rejected this idea in a referendum. However, after a group of legislators returned from a "fact-finding visit" to Hong Kong and Macau, a bill authorizing the CNMI Lottery Commission to issue an exclusive casino licence was passed by the legislature and signed into law. After a bidding process, the licence was granted to Imperial Pacific – a company based in Hong Kong.[8]

Imperial Pacific hired multiple Chinese construction companies to build its casino and resort in Saipan. The primary contractor was the state-owned firm Metallurgical Corporation of China (MCC). MCC's contract for the first phase of construction was for RMB610 million (US$92.1 million) (MCC 2015). Imperial Pacific also contracted with Gold Mantis, which is publicly listed on the Shenzhen Stock Exchange. A third company playing a significant role was the privately owned firm Nanjing Beilida. Interestingly, each of these three Chinese contractors identified their work in Saipan as a "One Belt, One Road" project.[9] (The question of to what extent this case from the US is representative of BRI projects more generally is addressed below in Section 3.)

Chinese Workforce, Recruitment Fees, and Labour Abuses

Together, in or around 2016, the three Chinese contractors brought in thousands of Chinese workers – including the managers, foremen, and labourers. After the supply of foreign worker visas was exhausted, rather than offer a wage high enough to attract local residents, the companies arranged for more Chinese construction workers to enter Saipan as "tourists."[10] At least 2,400 employees of these contractors were eventually accounted for by a US Department of Labor (USDOL) investigation (discussed further below), but the actual total number of workers on the site may have been greater. The precise breakdown of "legal" workers on proper visas and "illegal" tourist workers (or *heigong*) is also unknown, but there were at least several hundred *heigong* involved in the project.

While the specific details differ, most of the *heigong* on the Saipan project found out about the opportunity through recruiters in China. My fieldwork revealed that some recruiters personally visited the towns and villages where workers lived, while others posted listings on WeChat, Weibo, QQ, or other online forums. Some recruiters were individual operators; others had established companies.

Virtually all of the recruiters promised a good job in "America" with good pay, free food and housing, and overtime compensation for work beyond eight hours per day; they either stated that no visa was required or were silent on the issue; and some even promised eligibility for a green card after a few years.[11] Many advertisements mentioned that the job would be constructing a casino, others just said construction, and some did not state the job type. Several specified that the worker must be male and within a certain age range, which is a relatively common (albeit illegal) practice in China and occurs even in postings for public-sector positions (China Labour Bulletin 2019; HRW 2018).

Each worker had to pay a recruitment fee to be sent to Saipan. The amounts varied, but some were as high as RMB70,000–80,000 (over US$10,000). Most of the people enticed by the Saipan offers did not have this money available, so they borrowed from relatives, friends, or loan sharks – the latter charging high interest rates and often requiring collateral. A few workers received written contracts from their recruiters, but most got nothing at all – not even a receipt for their payment. The contracts' provisions were almost uniformly adverse to the workers. For instance, workers were obligated to be obedient, hardworking, and willing to "eat bitterness."[12] Some contracts prohibited workers from causing trouble or going on strike.

After payment to the recruiter was made, workers began to discover that they had been misled. For instance, when some recruiters called with the

details of a worker's flight, they said to pack light to look like a tourist, and certainly not to bring any construction clothing or tools. Other workers only learned they had been defrauded once at the airport, when the recruiters instructed them to tell immigration officials in Saipan that they were there for tourism, not work, and coached them on what to say. Having already borrowed money, paid the recruiters, and started their journeys, it was too late for the workers to turn back.

Working conditions in Saipan were far worse than what was promised in China. When workers were first brought to the construction site, sometimes the companies charged them additional fees before they could start work. They also made some workers pay for boots, hardhats, or other required items. Salaries were less than what the recruiters had advertised. The men routinely worked 13-hour days with no rest day. Payment was often delayed and almost always less than the amount promised, but with little explanation of the discrepancy. The pay fell far below the federal minimum wage applicable in Saipan.

Numerous workers remarked that the safety conditions on site were worse than those in China. An inspector from the federal Occupational Safety and Health Administration (OSHA), which enforces workplace safety, noted that the injury rate on the Imperial Pacific site was above the national average. People suffered broken backs and lost limbs. During one visit in late 2016, OSHA identified 20 "serious violations" of the federal regulations. Moreover, the companies blatantly failed to comply with rules requiring that every injury be reported to OSHA and, initially, even refused to grant the inspector access to the worksite. Fearing that their use of undocumented workers would be discovered, the companies generally avoided taking workers to the hospital, and, when they did, refused medical care beyond what was needed to stabilize the person and send them back to China.

Living conditions were terrible. Dormitories contained hundreds of workers cramped into rooms with bunk beds and no air conditioning. There was an inadequate number of showers, causing people to line up for nearly an hour. The canteen sometimes ran out of food, and occasionally the food being served was spoiled.

The employers intimidated and coerced the workforce. Sometimes the companies confiscated workers' passports. Managers also frequently reminded workers that they were in Saipan illegally and could therefore be arrested and deported at any time, including if they complained to the government. Managers hid workers from government authorities. When government agents finally came to inspect the workplace, managers told the *heigong* to stay home – but, just in case, also coached them on what to say about their work hours. One lawsuit filed in the CNMI's federal district

court alleges that these workers are victims of forced labour and human trafficking (Master 2019).[13]

Government Enforcement

The contractors' abusive practices continued, virtually uninterrupted, for well over a year. In late March 2017, one of the *heigong* employed by Nanjing Beilida fell to his death on the construction site. The company sought to cover up the fact that he was working on the casino site, but the truth was eventually discovered. Within days, the FBI raided the construction firms' offices, where it found confiscated worker passports and lists identifying large numbers of workers as *heigong*. Several company managers were arrested. (Those managers all eventually pleaded guilty to charges of illegally employing and harbouring undocumented workers.) This prompted an effort by the contractors to get all *heigong* off the island as soon as possible, buying them plane tickets and threatening that if they did not leave they would be arrested.

One of the somewhat unique outcomes of this case is that almost all the workers employed by the three firms were eventually compensated for the wage violations they suffered. But *how* that unfolded is important. The first group to get paid was made up of the roughly 200 MCC workers who could not return to China because the FBI confiscated their passports when it raided the company offices. As they waited to have their documents returned, the workers protested repeatedly in the most central, downtown area of Saipan, drawing a great deal of attention from the local population and media. Since the discovery of the passports made it impossible for MCC to deny that it employed these people, and the protests caused pressure to grow, MCC quickly concluded an agreement with the USDOL to compensate the workers for the recruitment fees they paid and minimum-wage violations suffered – even paying them in cash before they returned home to China.

Soon thereafter, a group of nearly 100 former Gold Mantis workers emerged after their foreman fled Saipan without paying their wages. Initially, Gold Mantis refused to recognize them as their employees or take any responsibility for them, despite each worker having a hardhat and t-shirt with the Gold Mantis logo on it. But the workers regularly protested in Saipan's downtown area, local media covered the event, major media outlets – including the *New York Times* – ran stories, and individuals and advocacy groups wrote letters to the company demanding justice. Very quickly, Gold Mantis started to provide "humanitarian assistance" to the workers, including meals and housing; but the company still denied responsibility for the unpaid wages. As public and media pressure grew,

however, Gold Mantis also reached a settlement with the USDOL to compensate workers for the recruitment fees paid as well as the minimum-wage and overtime violations suffered.

Once the Gold Mantis workers were paid, another group of roughly forty former MCC employees (not included in the initial group) and Nanjing Beilida employees began to protest. Local and international media publicized their plight, and advocacy groups again demanded that the workers be compensated. Imperial Pacific initially denied any responsibility for the employees of its contractors, but then agreed to provide them housing, food, and water out of its "humanitarian concern." The federal labour authorities were meanwhile attempting to negotiate settlements with MCC and Nanjing Beilida for these workers and their hundreds of coworkers who had already returned to China, and eventually did so. While negotiations were ongoing, however, Imperial Pacific decided to itself pay the workers still in Saipan in order to get them off the island and end the bad publicity. When workers rejected the first offer of a few thousand dollars each, Imperial Pacific offered significantly more to get the deal done. Generally speaking, these workers who stayed in Saipan and protested received considerably more money than their counterparts who returned to China and got paid through the USDOL settlement.

In total, USDOL reported settlements with four Chinese contractors that compensated 2,400 workers US$13.9 million for wage violations and illegitimate recruitment fees (US Department of Labor 2018). USDOL also sought to hold Imperial Pacific responsible for the mistreatment of the Chinese workers on its project site. In April 2019, USDOL entered a settlement and consent decree with the casino, in which Imperial Pacific agreed to pay US$3.36 million – consisting of over US$3 million in compensation for the workers and US$200,000 in fines to the USDOL (Gibbs 2019). Moreover, to prevent future abuses, Imperial Pacific agreed to require all future contractors to escrow US$100,000 in case wage violations arise, to subject contractors to training on local labour laws, and to pay for an independent monitoring firm to assess compliance with wage and hour laws by the casino and its contractors.[14] Labour rights advocates, including myself, and local CNMI legislators had previously called upon Imperial Pacific to take responsibility for working conditions on its construction site by requiring such bonds and paying for an independent monitor (Halegua et al. 2018; Villahermosa 2018a).

OSHA also took several enforcement actions against the construction firms. After OSHA brought a court action to gain entry to the site in December 2016, the companies relented and permitted an inspection. This resulted in over US$190,000 in fines for 20 "serious violations" by MCC, Gold Mantis, and Nanjing Beilida. The death of the "tourist worker" in

2017 resulted in OSHA finding more "serious violations" and imposing an additional US$48,890 in fines. While the figures may not seem very high, these fines were actually among the highest issued by OSHA that year (Berkowitz 2017).

Moving Forward

When all the Chinese workers were sent home, the casino project was still far from complete. In response to the bad publicity and the scrutiny of labour practices in Saipan, even by the US Congress, the local government and casino promised to use US-authorized workers to finish the project.[15] Imperial Pacific signed a contract with a firm in Guam, a nearby US territory, which provided up to 600 workers at one point. However, the casino had already applied for and received permission to bring in 1,200 individuals under the federal programme for temporary unskilled guest workers. Once these workers arrived from the Philippines and Taiwan, Imperial Pacific severed its contract with the more expensive Guam company. Imperial Pacific also engaged other smaller contractors that continued to employ foreign Chinese workers, who eventually protested outside the casino that they too had not been paid overtime (Villahermosa 2018b). The casino has been criticized by locals, politicians, and others for its continued reliance on foreign instead of local workers.

3. THE BRI'S IMPACT ON LABOUR STANDARDS

What does the Saipan case teach us about how the BRI is impacting international labour standards? As a preliminary matter, one may question the extent to which the Saipan case is representative of BRI projects. Although the precise contours of the BRI remain fairly amorphous, some of the more typical characteristics of BRI projects were absent in Saipan. For instance, BRI projects are generally large infrastructure projects, such as railroads, highways, ports, gas lines, or power plants. Many are funded by Chinese state banks. And, even though the list of BRI partner countries is constantly growing, the US is decidedly not on it.

While acknowledging the above, the Saipan case nonetheless shares several characteristics with BRI projects and is quite useful in understanding their labour implications. First off, the three Chinese contractors in the Saipan case each publicly declared the casino project to be part of their contribution to the BRI.[16] If the theory is that firms performing BRI projects are more motivated to comply with Chinese policies, such as the requirement to safeguard labour rights, then it is their own perception

that is most critical. Moreover, China has officially recognized that the BRI is not limited to infrastructure projects, and includes construction, manufacturing, and other industries (Li 2017). The Saipan casino project also involved the same firms, including a large state-owned enterprise, that are active in BRI projects elsewhere.[17] And while the US is not an official BRI partner country, China has expanded the initial list of targeted geographic regions to include island nations in the Pacific and more developed countries such as Italy and New Zealand (Greenfield and Packham 2018). Accordingly, regardless of whether the BRI label is technically appropriate, the Saipan case offers important insights into the labour issues that arise when Chinese companies are contracted to construct large projects overseas and how they might be addressed.

Furthermore, Saipan may to some extent serve as a "limiting case" for examining the extent to which a more robust rule of law and legal enforcement regime can prevent or mitigate labour abuses by Chinese firms.[18] In other words, if even China's state-owned firms operating in the US engage in such exploitative practices, then it seems unlikely that private or smaller companies operating in less developed jurisdictions with weaker rule of law will behave better.

Chinese Labour or Local Jobs?

While a common perception of large Chinese infrastructure or construction projects is that companies bring their own labourers from China to do the work, this view has been challenged. For instance, in looking at Africa, despite the significant number of Chinese workers there, Lee calls the idea a "widespread rumor" and another expert labels it a "sticky myth."[19] In her fieldwork, which largely pre-dates the launch of the BRI, Lee found that Chinese employees filled most of the supervisory and managerial positions, but rank-and-file workers were generally hired locally (Lee 2014, p. 46). A prominent Chinese professor and authority on the BRI, during a panel discussion in New York City that I attended, insisted that this era of large-scale labour export has already ended due to the comparatively high wages demanded by Chinese workers.[20] Indeed, numerous projects have employed large numbers of host-country residents, such as the 48,000 local workers on the Addis Abba–Djibouti Railway (UNDP 2017, p. 31).[21] One Chinese company building a motorway in Pakistan reports employing 23,000 local workers, meaning there are over 15 Pakistani workers for each Chinese one (The Nation 2018). A power plant in Pakistan even sent 100 college graduates to study in China to learn the necessary job skills (Pakistan Construction & Quarry n.d.).

There is little reliable data that can provide a more comprehensive

picture of the global trend though. According to official Chinese government statistics, the number of overseas Chinese workers increased until 2015, reaching a record high of over 1.02 million, but then dropped in subsequent years – although this figure presumably excludes the large number of Chinese individuals working overseas illegally (Liu 2018, p. 14). In August 2018, President Xi Jinping announced that the BRI had created over 200,000 local jobs in its first five years (Wong 2018).[22] (Less than a year later, in the lead-up to the second Belt and Road Forum, Chinese officials put the number at 300,000 jobs (China Daily 2019).)

There are also empirical studies that suggest Chinese firms hire a significant number of local workers, although those datasets are not limited to infrastructure and construction projects. For instance, a 2015 study of 400 Chinese enterprises and projects in Africa, many of which presumably pre-date the BRI, found that locals constitute over 80 per cent of the workforce (Sautman and Yan 2015). A 2017 report by US management consultancy firm McKinsey, which surveyed over 1,000 Chinese businesses in Africa, found that 89 per cent of all employees and 44 per cent of all managers were African (Jayaram et al. 2017, p. 42). Another study examining state-owned enterprises worldwide calculated that 43 per cent of their employees were local hires in 2015, an increase over the prior year (UNDP 2017, p. 31).

While unable to shed light on the macro trend, the Saipan case nonetheless demonstrates that importing low-skilled or even unskilled Chinese labourers on a large scale has not yet ended. One of the more notable aspects of the Saipan case is that the local law actually requires that 30 per cent of any company's employees are locals. The Chinese firms secured waivers from the local government to bring in more foreign workers.[23] When no more visas were available, Chinese workers were encouraged to enter as "tourists."

The Saipan case is not an isolated example of reliance on Chinese labour, even after the formal launch of the BRI. At the start of the Baha Mar casino project in the Bahamas, the labour force was required to be 70 per cent locals. However, when the project stalled, the Chinese state-owned bank that agreed to take over financing the construction insisted that a Chinese contractor be used and that the contractor be permitted to hire Chinese employees. The local government agreed, and the Chinese bank lent US$2.4 billion and 4,100 Chinese labourers were imported.[24] The practice is not limited to the construction of casinos. For instance, the US$100 billion real estate development project in Malaysia, Forest City, has been criticized not only for relying primarily on Chinese workers, but also for employing Chinese workers who were in Malaysia on tourist visas (Feng 2019). Israel's construction sector also imports thousands of

Chinese workers each year (Benovadia 2017). In Saïda, Algeria, a Beijing company engaged to build 4,000 homes was required by contract to employ 3,724 local workers and permitted to bring in 1,197 Chinese supervisors; one year later, only 300 Algerians had been hired (Pairault 2015, p. 9). There are also 30,000 Chinese workers building "mega-projects" in Algiers, including over 10,000 constructing the Algiers Great Mosque (North Africa Post 2018).

The large-scale use of Chinese labourers also continues to occur on projects that are more characteristically "BRI." Gas and oil pipelines in Myanmar were reportedly constructed primarily by Chinese workers housed in dedicated dormitories (Voice of America 2016). Half of the 1,000 workers at the deep-water port in Gwadar, Pakistan, are Chinese (Yamada and Palma 2018). While China promised that construction of a railway in Indonesia would generate 40,000 local jobs, even Chinese media reports only 2,000 local employees working on the project (Kliman et al. 2019, p. 18). Chinese companies building roads in Ethiopia also rely more heavily on imported workers than other foreign companies, which generally employ ten or fewer expatriate managers. Moreover, local workers hired by Chinese companies face a "racial glass ceiling" that keeps them from reaching management positions (Driessen 2019, pp. 8, 13).

The continued use of Chinese labourers may have several explanations. Researchers looking at Chinese projects in Ethiopia note that local workers create significant and costly headaches for companies, including going on strike or commencing lengthy court proceedings against employers (Sui 2019). In some instances, the Chinese companies claim an inability to find local labourers with sufficient skill. For example, it is reported that the portion of the Kunming–Vientiane Railway that runs through Laos, a country with virtually no history of constructing railroad tracks, employs tens of thousands of Chinese workers but only a few thousand Laotians (Radio Free Asia 2018). However, analysts have pointed to cases in which multiple projects are built in the same geographic area, such as the construction of various wharfs in Vanuatu, in which a non-Chinese project created significant local employment but a Chinese project did not.[25] In some cases, analysts argue that contract terms with "low costs and short deadlines" leave Chinese companies with "no choice but to import their own labour force" (Pairault 2015, p. 9). Yet in other instances, such as the Budapest–Belgrade Railway project, it is reported that China actively pushes for the use of its own workers by demanding a higher interest rate on the project loan if the host country insists on using local contractors (Kliman et al. 2019, p. 12).

As in Saipan, the practice of importing Chinese workers while not employing locals, or even replacing local workers, has occasionally fostered

resentment among host country populations and governments. In 2018 a deputy minister in Malaysia's newly elected government stated that Chinese investments would only be welcome if they created quality jobs for locals: "If investment into [a country] doesn't bring jobs, you will eventually see a domestic political problem" (Heydarian 2018). The perceived "influx" of "millions" of unskilled Chinese workers became a crucial political issue in Indonesia's 2019 presidential election (Henschke 2019). In more extreme cases, locals have physically attacked Chinese workers. In 2016, Kenyan youths, allegedly angered because they wanted jobs on the project, assaulted and injured 14 Chinese workers at the Duka Moja railway construction site (Sayagie 2016). Similarly, back in 2009, young unemployed Algerians attacked Chinese workers in the suburbs of Algiers (Pairault 2015, p. 9).

Labour Standards Compliance, Firm Ownership Structure, and Subcontracting

The Saipan case is consistent with research by Lee in Africa, Zheng in Europe, and Li in the US, which all indicate that many Chinese companies have made little effort to comply with local employment laws, and that the ownership of the enterprise has had little impact on compliance with labour standards (Lee 2018; Zheng 2017; Li 2018, Ch. 6). Despite repeated emphasis in China's BRI and overseas investment policies on respecting local law, the Saipan case suggests that little has changed in practice. Chinese employers knowingly and wilfully violated local immigration and labour laws, and the ownership structure of the Chinese firms – variously state-owned, publicly traded, and privately held – made no noticeable difference. In the aforementioned Bahamas casino case, a state-owned firm funded by a state-owned bank showed a similar disregard for local labour regulations. Even though this was already a closely scrutinized, highly politicized situation, wage payment issues still arose (Rolle-Brown 2014). The Chinese firms also confiscated worker passports, giving rise to allegations of human trafficking (Robards 2017).

Examples of labour abuses by Chinese companies, including state-owned enterprises, can also be found in late wage payments and insufficient protective equipment on road projects in Ethiopia (Driessen 2019, pp. 85–91); failure to offer proper safety training on a subway project in Vietnam (Nikkei Asia Review 2017); and low wages, poor safety standards, and discriminatory treatment on a railway project in Kenya (Wafula 2018). One study found that only half of Chinese-owned firms in Kenya had employment contracts with their workers, compared to 100 per cent of US-owned companies (Jayaram et al. 2017, p. 47). During construction of

a hydroelectric dam in Ecuador, 26 complaints were filed against the state-owned firm Sinohydro over poor work conditions, including inadequate safety precautions, lack of proper protective clothing and equipment, and worker mistreatment. A tunnel collapse during the construction of that project killed over a dozen workers (Kliman et al. 2019, p. 10). In Belarus, hundreds of Chinese workers, after paying significant recruitment fees and "working like slaves," were not paid any wages for three months (Bigg 2015). When a worker injured in Papua New Guinea returned to China and sought compensation, the state-owned enterprise controlling the project refused to pay him for four years, insisting that only its overseas subsidiary was liable (Zhang 2018).

There is, however, some evidence that the workers directly employed by Chinese companies were treated marginally better than those working for subcontractors. In Saipan, the direct employees tended to have valid work visas, share a room with fewer workers, and get to shower first after work. They would finish eating before the subcontracted *heigong* could take food. This distinction has also been found elsewhere. For instance, Miriam Driessen describes how Chinese employees of state-owned enterprises in Ethiopia received better salaries and benefits than workers hired by private subcontractors (Driessen 2019, pp. 15, 45–64, 114). On the M4 motorway project in Pakistan, the vast majority of workers were hired by subcontractors that were not properly registered and never provided written employment contracts (Breuker and van Gardingen 2019, pp. 25, 35–6). At least 21 construction workers on the Lower Sesan 2 dam project in Cambodia claimed to be owed money by the subcontractor who hired them (Seangly 2017). That being said, even the directly hired employees in Saipan worked very long hours, were denied rest time, were not paid the minimum wage, and were subjected to very dangerous conditions.

Enforcing Local Labour Standards

In the Saipan case, the US government enforcement authorities, despite failing to prevent the gross labour abuses that transpired, did eventually end those practices, punish the wrongdoers, and obtain some remedy for the workers. One could fairly question the size of the OSHA fines or adequacy of the USDOL settlement, but because many exploited workers never obtain any redress, this section instead focuses on explaining the remedies that were achieved in this case.

One significant motivation for the Chinese firms to compensate the Saipan workers was undoubtedly the desire to avoid additional arrests and criminal prosecutions of company executives by the US government. However, perhaps even more interesting is the significant role that

public pressure played in compelling these companies to act. The clearest demonstration of this is the fact that the workers who remained in Saipan, staging protests and engaging the media, got paid the fastest and got paid the most. There is some evidence that the state-owned enterprise (MCC) and publicly traded company (Gold Mantis) were more susceptible to this public pressure than the private company (Nanjing Beilida), which was the last to reach a settlement. However, the difference may also be due to the more acute media attacks on MCC and Gold Mantis as well as their wider engagement in overseas projects, thus heightening their sensitivity to bad press.

The uniqueness of what transpired in Saipan is worth noting. Foreign workers, including in the US, are often too fearful of retaliation by an employer or local government to speak out at all – let alone protest publicly (Halegua 2016b). Even in Saipan, after the FBI raids, the initial reaction of the Chinese employers was to immediately send workers back to China. As for the Gold Mantis workers who stayed, even while negotiating with federal authorities over compensation for wage violations, the company, with the support of the local government, pushed for them to return home. In many jurisdictions, such openly undocumented workers would more likely be rounded up by police or immigration authorities than be permitted to stage repeated protests. It is by no means clear that the Saipan workers would have obtained the same remedies for the injustices suffered if they were unable to pressure their former employers through public protests and the media attention thus garnered.

The worker protests in Saipan contrast starkly with how most labour disputes are handled in China. Worker protests are often suppressed by police. The Chinese media is often reluctant to publish stories that give a "black eye" to China or its companies, particularly state-owned ones. In fact, in this case, China's official media did not report on the US$13.9 million settlement, OSHA violations, or criminal prosecution of Chinese nationals. There was also no report about MCC's involvement. The only incident reported by the Chinese media involved the protesting Gold Mantis workers. But even this story was spun to characterize Gold Mantis as the "victim" because it allegedly first paid a subcontractor who ran away with the money, forcing it to make payment a second time out of "humanitarian concern" for the workers (People's Daily Online 2017).

Many BRI host countries may be more similar to China than Saipan in terms of tolerance for public protests, freedom of the media, and the capacity or willingness of labour standards agencies to take enforcement actions.[26] Since BRI projects are often politically sensitive, media may be particularly wary of reporting on labour disputes and authorities may feel emboldened in quelling any protests.[27] For instance, after Chinese con-

struction workers in Algeria staged a public protest demanding months of unpaid wages in 2018, they reported being forced out of their dormitories, having their personal possessions destroyed, and being beaten by hired thugs (JQK News 2018). When Chinese railway workers in Saudi Arabia held a strike over working conditions and pay in 2010, the government arrested 16 "ringleaders" for allegedly damaging vehicles owned by their employer (United Press International 2010). In 2012, unpaid, striking workers on an APEC project in Russia were forced to return to China (Ministry of Commerce 2019b).

Although no trade unions are present in Saipan, in other contexts they may be able to prevent labour abuses by Chinese employers, or at least detect violations earlier. In fact, recent Chinese regulations concerning overseas investments now call upon companies to engage with labour unions in the host country (NDRC et al. 2017, Art. 22). However, the track record on this has been, at best, mixed.[28] While Chinese enterprises have sometimes worked successfully with unions or conceded to their demands, such concessions usually only occurred following a large display of dissatisfaction or even militant protests by the union (Lee 2018, p. 50).[29] In other cases, Chinese companies have directly opposed unions, such as through campaigning to defeat an organizing campaign at a glass factory in Ohio in 2017 (Scheiber 2017), replacing union workers in Greece with temporary-contract workers since acquiring a port there around 2008 (Zheng 2017), and firing guns at striking union members at a mine in Zambia, wounding 11, in 2013 (Okeowo 2013). Chinese companies have also retaliated against union leaders who organized strikes in Cambodia (2015) and Myanmar (2017) (Hong Kong Confederation of Trade Unions n.d.). Accordingly, while unions can play a positive role in stemming abuses by Chinese companies, their existence alone will not be sufficient to achieve this outcome.

4. CONCLUSION: PRESENT TRENDS, FUTURE POSSIBILITIES

In light of the above analysis, this section returns to the larger question: What do China's "going out" strategy and the BRI mean for global governance and international labour rights? The official policies accompanying these initiatives speak of "win-win" economic projects that create jobs for host-country residents and respect local laws. This is consistent with many other areas of Chinese foreign policy that proclaim a desire to respect the sovereignty of the host nation. Accordingly, if implemented as planned, the BRI would not necessarily result in some uniform set of progressive labour standards in all nations. Nonetheless, if all Chinese companies

actually respected local laws, this would likely have a positive effect since the written labour protections in most countries, even if imperfect by international standards, are generally still better than what exists in practice.

Unfortunately, rather than flexibly adapting to uphold local laws, the practices of Chinese companies – generally designed to finish projects quickly and cheaply – remain quite uniform and often violate local standards and even Chinese laws. In Saipan, the Bahamas, Algeria, and elsewhere, where host-country regulations required that a certain number of locals be employed, Chinese companies failed to comply or demanded exemptions to bring in more Chinese workers. As discussed above, there are many examples in which Chinese employers have then compelled these labourers to work long hours, confiscated their passports, and withheld their pay for months. Moreover, larger Chinese companies often rely on subcontractors with even more abusive practices, such as hiring indebted, undocumented workers and ignoring minimum wage or overtime laws (Halegua and Cohen 2019). To the extent that local workers are used, Chinese employers have sought to undermine local unions and increase the use of temporary workers – a common practice within China. There are numerous instances of hazardous work conditions and insufficient safety training for workers. In many instances, it appears to be Chinese companies' domestic model of exploitative labour relations that is "going global."

But how prevalent are such abuses? To my knowledge, no comprehensive study of the labour conditions on China's overseas projects worldwide, let alone BRI ones specifically, has been conducted. The Chinese government maintains databases listing a significant number of these projects and occasionally publishes some aggregate statistics, but provides little or no information on their labour conditions.[30] Nonetheless, the cases referenced in this chapter provide substantial evidence that labour abuses are not rare on Chinese overseas projects. Moreover, the fact that even major state-owned enterprises and their subsidiaries are engaging in abusive practices in developed countries suggests that private companies and small subcontractors in less developed jurisdictions are more likely to be doing the same. Recent articles by Chinese scholars even report that conflicts between Chinese companies and local workers are increasing, putting enormous pressure on Chinese embassies and consulates (Pan and Chen 2018; Yong 2016). Furthermore, China's continual issuance of policies reminding companies to respect local law and safeguard labour rights suggests that compliance remains a problem (Ministry of Commerce et al. 2018, Art. 13).

Should China care if its companies are not safeguarding labour rights? There is good reason for it to be concerned. If a company fails to ensure worker rights, regardless of whether the project is part of the BRI, this is

likely to undercut China's broader foreign policy objectives. Chinese executives have faced criminal prosecution for violations of local immigration and labour laws, such as prohibitions on forced labour, and companies can face significant fines for non-compliance (Department of Justice 2019). These risks are heightened as the BRI expands into more developed countries. Running afoul of legal provisions can also significantly delay a project, with real economic consequences for Chinese lenders and developers.

Beyond hurting China's financial interests, local perceptions that large Chinese projects are not creating local jobs, or only creating low-paying and unsafe ones, undermines the BRI objectives of promoting "people-to-people" relations and building soft power. Even if poor labour treatment is primarily directed towards vulnerable Chinese migrants, it hardly creates a positive image of China or its companies in the eyes of local populations. Furthermore, the influx of large numbers of Chinese workers, or the creation of isolated Chinese enclaves, has fuelled resentment towards China's "invasion" of a host country (Mech 2018). Upset by a Chinese dam project that created no local jobs and planned to send the electricity produced back to China, an NGO leader in Myanmar warned that "future generations could end up as slaves of the Chinese, and our country could end up as a province of China" (Tun and Aung Thein Kha 2019). The Saipan case also poignantly illustrates this tension. One explicit BRI objective is to facilitate Chinese citizens' ability to travel to partner countries, but in Saipan rampant immigration and labour law violations prompted local officials to call for tightening the policy that permits Chinese nationals to enter without visas (Encinares 2018).

China recognizes these dangers and has taken some measures in response. This became particularly clear in the lead-up to the second Belt and Road Forum in April 2019, during which time numerous critical accounts of the BRI were published (Rosenzweig 2019) and China responded by announcing plans to improve the initiative. For instance, China has issued new policies reiterating its instruction to companies operating abroad to comply with domestic law, local laws, and international standards (State Council 2017), and to "safeguard labor rights" (NDRC et al. 2018, Art. 8). It also recently agreed that the United Nations Guiding Principles on Business and Human Rights should be considered in all overseas investments (CICDHA 2019).

In a few areas, such vague pronouncements have been supplemented by more detailed guidance. For instance, the "code of conduct" developed for Chinese enterprises operating abroad, in addition to instructing companies to engage local unions, calls upon them to educate dispatched workers on local laws and develop plans to reduce safety accidents (NDRC et al. 2017, Art. 22). In the same year, 2017, the China International

Contractors Association (CHINCA) issued a set of guidelines on constructing sustainable infrastructure projects, which includes directions to promote local employment, minimize harm to the local population, ensure workplace safety, prevent discrimination, child labour, and forced labour, and establish a channel for workers to raise concerns (CHINCA 2017). These guidelines remain voluntary rather than mandatory, however, and it is by no means clear that a Chinese enterprise could be held liable in China for violations of labour or other laws in a host country (Horsley 2018, pp. 9–10). Moreover, a survey of Chinese managers in Africa showed that most were simply unaware of Chinese policies concerning appropriate conduct by overseas Chinese businesses (Weng and Buckley 2016).

There may be other consequences for Chinese companies that act inappropriately in their overseas operations, though. For instance, the government can order companies to cease operations on a project (NDRC 2017, Arts. 55, 56). Earlier Chinese regulations provided for a "naming and shaming" approach in which government departments publicize the identity and misdeeds of companies that failed to uphold their contractual obligations or adequately protect labourers; this has been implemented, albeit to a limited degree.[31] China seems to be enhancing this effort, however, as a 2017 document calls upon state and Chinese Communist Party organs to jointly punish "seriously dishonest" entities engaged in overseas projects that violate domestic or local laws, adversely impact implementation of the BRI, or damage the reputation and interests of China. These entities are also to be entered onto a "blacklist," which may lead to their debarment from future projects or impact their eligibility for government financing (Horsley 2018, p. 10). It remains to be seen whether these measures will be successful.

What else can encourage Chinese companies to safeguard labour rights in their overseas projects? A recent survey of overseas Chinese enterprises showed that directives from the head office are more important than local laws in encouraging the adoption of sustainable development practices (UNDP 2017, p. 98). Accordingly, one potential reform is for China to turn its general policies on overseas projects into more detailed, binding laws. The US Foreign Corrupt Practices Act, for example, is a domestic law that holds US companies liable for paying bribes to foreign officials, even if committed extraterritorially. China could pass legislation that creates specific due diligence obligations for companies; mandates compliance with Chinese labour law, local labour law, and international labour standards; and establishes a credible mechanism for monitoring and enforcing these provisions, including penalties sufficient to deter misconduct.

In line with this recommendation, many Chinese scholars have called for a law protecting the rights of Chinese workers sent overseas, particularly

those recruited by informal brokers and working abroad illegally (Feng et al. 2016; Yong 2016). Lacking formal contracts in China, these workers often have little or no recourse upon returning from an abusive experience. Those Saipan workers who, after returning to China, sought assistance in recovering the recruitment fees paid to dishonest labour brokers were often ignored by government authorities. Similarly, despite being employed by subsidiaries of Chinese firms, there was no action the workers could take against the Chinese parent companies for harms committed in Saipan. Legislation might help to fill some of these gaps.

Another possibility is that the Chinese development banks loaning money to BRI projects play a larger monitoring role. Mature lending institutions such as the Asian Development Bank and World Bank require borrowers to comply with certain labour standards in their projects, such as the core standards of the International Labour Organization (Chen 2016, pp. 109–28). Similarly, the Asian Infrastructure Investment Bank has adopted an "Environmental and Social Framework" requiring an assessment of working conditions, child and forced labour, and labour-management relations for each project (AIIB 2016). While proactive monitoring and enforcement by these banks is limited, most have a complaint mechanism that permits affected workers or civil society groups to raise violations of the loan terms.[32]

Although not active in the Saipan case, the China Development Bank and the Export-Import Bank of China are the largest funders of BRI projects. While their websites proclaim that they promote "win-win" cooperation and respect relevant laws and treaties in their operations, few details are provided about specific standards, due diligence and reporting requirements, or penalties.[33] Not surprisingly, when over 400 Chinese companies operating overseas were surveyed, 86 per cent of respondents stated their financial institution had no environmental or social sustainability requirements (UNDP 2017, p. 98). Therefore, similar to creating a robust Chinese domestic legal regime, conditioning project loans on clearly defined labour standards and aggressively enforcing adherence to those standards might improve the behaviour of Chinese companies.

Lastly, China might use the BRI label as a "carrot" to incentivize companies to uphold higher standards. Projects that comply with certain rules, as confirmed by an independent evaluator, would earn the right to use the BRI label, get access to preferential financing, or receive other benefits. Reports that rules are being drafted to define which projects are part of the BRI signal that China may be moving in this direction of building a BRI brand (Bloomberg 2019). However, these announcements have primarily focused on rules concerning financing, the environment, or transparency; labour standards have generally not been mentioned (Ruwitch 2019).

In conclusion, while China's overseas projects should be "win-win" for all parties, this is often not realized in practice. Chinese enterprises are "going out" without changing their own business practices, which often run afoul of international, Chinese, and local law. This noncompliance may obstruct not only the financial success of these projects, but also China's broader economic and foreign policy goals.[34] Achieving those larger objectives may require China to formally regulate its enterprises' overseas conduct, including by establishing clear rules for these investments, mechanisms to monitor and enforce those commitments, and penalties for violating them – or substantial rewards for observing them. If China takes that path, then the BRI holds promise to be a positive force in promoting labour rights in parts of the world where they are often disrespected. If not, the BRI will be seen by many as a force for depressing global labour standards.

NOTES

1. The initiative was initially referred to as the "One Belt, One Road Strategy" ("一带一路"战略), but Chinese officials later began to use the phrase "One Belt, One Road Initiative" ("一带一路"倡议), particularly for foreign audiences. This latter term is often shortened to "Belt and Road Initiative" (BRI) in English. *See* Liu Dewei (2016), 'Is the "Belt and Road" a Strategy or Initiative?' ['一带一路'到底是倡议还是战略？], 29 December (blog post), accessed at: https://cj.sina.com.cn/article/detail/3860416827/135959.
2. State Council 2012, Art. 20 (providing that aggrieved overseas workers can complain to the relevant government bureau, which should handle the issue and report back to the complainant). *But see* Liu 2018 (noting the inadequacy of the existing complaint mechanism for overseas migrant workers administered by the Ministry of Commerce).
3. Smith and Zheng 2016, p. 379 (noting that Chinese investment takes a variety of forms around the world, as Chinese firms may be state-owned or private, investments may be into developed or developing countries, and investment can mean acquiring a local company, establishing a subsidiary, forming a joint venture, or some other endeavour). *See also* Zou 2016 (reviewing the academic literature on this subject).
4. With regard to Zambia, though, Lee emphasizes that many of these deplorable labour conditions at Chinese firms are actually sanctioned by the host government, which has historically adopted investor-friendly policies, and are not necessarily worse than conditions at other foreign-owned firms in the country.
5. *See also* Jayaram et al. 2017 (noting instances of inhumane working conditions and labour scandals at Chinese firms operating in Africa).
6. *See* Smith and Zheng 2016, p. 376; Lee 2018, pp. 49–50 (recounting an example of a state-owned mining company in Africa making concessions to a striking local union); Pan and Chen 2018.
7. In the 1990s, the CNMI set its own minimum wage at US$2.15 per hour while the federal one was US$4.25. Federal minimum wage became applicable in the CNMI in 2007, with the rates set to eventually converge. However, in 2016, when the federal minimum wage was US$7.25 per hour, the rate was still US$6.55 in the CNMI.
8. There have been allegations of impropriety involving the procedures by which both the law was passed and the licence was issued to Imperial Pacific. *See* Campbell 2018.
9. *See* Gough and Li 2017 (discussing Gold Mantis); MCC n.d. ("[The company] undertook construction of dozens of projects along the 'Belt and Road,' including . . . the Saipan mega resort."); Beilida 2017 (referencing the Saipan project).

10. The US Department of Homeland Security permitted tourists from China to be "paroled" into the CNMI for 45 days without a visa. In practice, federal immigration authorities rarely went out searching for tourists who stayed beyond this time limit.
11. The most common promise was a wage of RMB300 per day and RMB50 per hour of overtime. I viewed several of these advertisements while conducting fieldwork in Saipan and on the internet.
12. "Eating bitterness" is a Chinese idiom commonly construed as enduring and overcoming hardship. While traditionally associated with performing hard physical work, scholar Miriam Driessen notes that overseas Chinese workers also use it to refer to the loneliness and monotony of their lives abroad. *See* Driessen 2019, pp. 158–61.
13. I am one of the lawyers representing the workers who brought this lawsuit.
14. *Acosta v. Imperial Pacific International Holdings, Ltd., et al.*, 19 Civ. 007, U.S. District Court for the Commonwealth of the Northern Mariana Islands, "Consent Judgment," Docket No. 2, April 11, 2019.
15. These labour abuses were raised at a hearing by the US Senate Committee on Energy and Natural Resources on 6 February 2018 concerning the bill to extend the CNMI-specific guest-worker visa programme. *See* US Senate Committee on Energy and Natural Resources 2018.
16. *See* He 2019, at pp. 183, 191 (discussing the not uncommon practice of labelling overseas projects that are "not strictly along the 'belt' or the 'road'" as "BRI" or even rebranding successful projects as part of the BRI after completion, because it may assist in advancing an official's career or provide companies with the political cover for activities they wish to undertake for other reasons).
17. *See*, *e.g.*, Dooley and Zhang 2018 (describing the MCC theme-park project in Indonesia that is part of the BRI).
18. *See* Li 2013, pp. 119–70 (applying the limiting case methodology to the legal context).
19. *See* Lee 2014, p. 46; Koran 2018 (quoting Deborah Bräutigam).
20. Deborah Bräutigam, a specialist on Chinese involvement in Africa, similarly argues that the rising price of Chinese workers pushes firms to hire more Africans and refutes the idea that Chinese investment in Africa has not created significant local employment (Bräutigam 2018).
21. *See* reference listing under Chinese Academy of International Trade and Economic Cooperation et al.
22. *See also* Broder 2019 (reviewing arguments on whether or not the BRI benefits local populations).
23. Imperial Pacific's own licence agreement with the CNMI Casino Commission requires that US citizens comprise 65 per cent of the workforce, but many in Saipan suggest that this provision has been violated. *See* Sablan 2018.
24. For a large development project in the Bahamas, the Pointe, the state-owned developer and contractor China Construction America also negotiated with the Bahamian government to allow Chinese to fill 60 per cent of the construction jobs. *See* Virgil 2016.
25. *See* Kliman et al. 2019, pp. 19–20, 23 (comparing the Lunganville Wharf built by a Shanghai firm with the Port Vila Wharf funded by the Japanese, Australians, and the Asian Development Bank).
26. *See* Zou 2016 (noting the high proportion of BRI countries that have not ratified the fundamental conventions of the International Labour Organization).
27. *See* Breuker and van Gardingen 2019, p. 11 (noting the reluctance of Pakistani media to report anything negative about the China–Pakistan Economic Corridor due to its political sensitivity).
28. *See*, *e.g.*, Burgoon and Raess 2014 (finding trade unionists in Europe to be cautiously optimistic about Chinese investments there).
29. *See* Vallegjo et al. 2018, p. 14 (describing how Sinohydro and a local union in Ecuador, after initially clashing, cooperated to improve some working conditions).
30. *See generally*, Horsley 2018, p. 16 (describing both Chinese government sources and databases maintained by foreign think tanks).

31. State Council 2012, Art. 37; Ministry of Commerce 2019b (listing only ten entities).
32. *See* Breuker and van Gardingen 2019, pp. 46–7 (finding labour violations on the M4 Highway project in Pakistan despite requirements by the Asian Development Bank that all contractors comply with international labour standards).
33. *See* Export-Import Bank of China website (http://english.eximbank.gov.cn/en/); China Development Bank website (http://www.cdb.com.cn/English/).
34. *See* Russel and Berger 2019 (arguing that it is in China's own interest to make BRI projects more compliant with international best practices, including protecting labour rights).

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