

The JAMESTOWN FOUNDATION

Volume 21 • Issue 9 • May 7, 2	2021
In This Issue:	
Tianhe Launch Marks a Key Step in China's Gr	owing Space Ambitions
By Elizabeth Chen	рр. 1-6
China's Port Investments in Sri Lanka Reflect	Competition with India
in the Indian Ocean	
By Anita Inder Singh	pp. 7-12
The PLA Navy's ZHANLAN Training S	Series in 2021:
Growing Emphasis on Joint Operations	on the High Seas
By Roderick Lee	рр. 13-21
Legal Obstacles to #MeToo Cases in (China's Courts
By Darius Longarino, Yixin (Claire) Ren and Changhac	<i>Wei</i> pp. 22-29
Tracking the Digital Component of the BRI in (Central Asia, Part Two:
Developments in Kazakhs	tan
By Sergey Sukhankin	pp. 30-36

+

简报 China Brief a journal of analysis and information

Tianhe Launch Marks a Key Step in China's Growing Space Ambitions By Elizabeth Chen

On April 29, a Long March 5B (长征五号B, *Changzheng wuhao* B) heavy rocket carrying the Tianhe 1 (天 和一号) core module of China's space station was successfully launched into low earth orbit from the Wenchang Spacecraft Launch Site, Hainan Province (Xinhua, April 29). It marks the first step in the construction of the China Space Station (CSS, 中国空间站, *Zhongguo kongjian zhan*), long seen as the culmination of a national manned spaceflight program that will aid in "realizing the shared vision of a community of destiny for the benefit of all mankind" in international space cooperation (<u>People's Daily</u>, June 20, 2019).



Image: The launch of a Long March 5B rocket carrying the Tianhe 1 core module of the China Space Station on April 29 from Wenchang Launch Site in Hainan Province. Once completed in 2022, it will be China's first "long-term" space station. After 2028, it may be the only international space station in orbit (Source: Xinhua).

China took a 30-year-long route toward developing an indigenous space station. Smaller "space laboratories" (空间实验室, *kongjian shiyan shi*) with shorter lifespans were launched in September 2011 (Tiangong 1 (天 宫一号), 8.5 tons) and September 2016 (Tiangong 2, 8.2 tons), which provided important lessons about cargo transportation, on-orbit fuel resupply and life support (Xinhua, September 17, 2016).[1] Following the launch failure of a Long March 5 rocket in 2017, the core module launch was delayed by three years (<u>GBtimes.com</u>, March 5, 2018).

Tianhe 1 was developed by the China Academy of Space Technology (CAST, 中国空间技术研究院, *Zhongguo kongjian jishu yanjiu yuan*), which is subordinate to the state-owned China Aerospace Science and Technology Corporation (CASC, 中国航天科技集团公司, *Zhongguo hangtian keji jituan gongsi*). It weighs 22.5 tons and includes components for space station command and control and life support. One Chinese hobbyist report took pains to note that its components are vastly more advanced than what is used on the ISS (<u>36kr</u>, April 29), which was launched in 1998.

The successful construction of a "long-term" and "large scale" Chinese space station is the third and final step of a "three step" development program for manned spaceflight (Project 921) that was laid out by the Politburo Standing Committee in 1992. Plans for the CSS were approved in September 2010 (<u>UNOOSA</u>, June 2016).

After its anticipated completion in 2022, it will have a planned service life of more than 10 years and a mass of 60-80 tons; it will be less than a quarter of the size of the International Space Station (ISS), which has a mass of around 420 tons.

Next Steps

According to the long-time China space watcher Andrew Jones, China plans a "high-density, highly challenging launch cadence with complex equipment and operations" completing 11 CSS-related launches over the course of 2021 and 2022 (Andrew Jones via Twitter, April 28). These will include the launch of two experimental models named Wentian (问天) and Mengtian (梦天), which will connect to Tianhe 1 to form a "t-shaped" space station, as well as four cargo shipments and four manned launches (People's Daily, January 14). The first cargo spacecraft Tianzhou 2 (天舟二号) will launch from Wenchang, Hainan in May, and the Shenzhou 12 (神州十二号) manned spacecraft will launch from Jiuquan, Gansu in June (163.com, April 30; The Paper, April 29). A space station telescope named Xuntian (巡天) that is expected to be 300 times larger than NASA's Hubble Telescope has a planned launch in 2024 and will be capable of docking with the CSS (Sixth Tone, April 29; Ccdi.gov.cn, March 29).



Image: An artistic rendering of the complete China Space Station shows two "experimental modules" and a "core module" in the center forming a "t-shape." (Source: <u>Csaspace.org.cn</u>).

Mission	Launch Date	Rocket Model and Notes
Tianzhou 2	May 2021	Long March-7
Shenzhou 12	June 2021	Long March-2F; carrying
		3 astronauts for a planned
		orbit of 3 months
Tianzhou 3	September 2021	
Shenzhou 13	October 2021	3 astronauts, 6 months
Wentian	2022	Long March-5B
Mengtian	2022	Long March-5B
Tianzhou 4 and 5	2022	
Shenzhou 14 and 15	2022	3 astronauts, 6 months
"Xuntian" Space Station Telescope	2024	

Table: Planned cargo supply and manned launches related to CSS over the next two years. (Sources: ThePaper and Andrew Jones via Twitter).

The Need for a Chinese Space Station

China has been banned from accessing the ISS since the U.S. National Aeronautics and Space Administration (NASA) decided to exclude it from international space cooperation activities in 2011, largely due to concerns about technology theft and national security. The CSS would allow China to conduct sustained scientific research in space, as well as giving it a leading edge in cooperation with other existing and emerging national space programs. In 2016, China signed an agreement with the United Nations Office for Outer Space Affairs (UNOOSA) to open the CSS to all UN member states, in addition to various other bilateral space cooperation agreements (<u>State Council</u>, December 27, 2016). Since then, China has widely touted its commitment to peaceful "space cooperation and the community of shared future for mankind" (<u>Xinhua</u>, March 28, 2018). In implicit contrast to other exclusionary space powers (i.e., the U.S.), China has said that the CSS "welcomes all nations of the world to join" (<u>Chinanews.com</u>, May 4). Notably, no U.S. projects were selected for the first nine scientific experiments scheduled to take place on the CSS, which will involve 17 countries with a wide range of spacefaring experience (<u>Space News</u>, June 13, 2019).[2]

As already mentioned, China has sought an independent space station since long before it was excluded from the ISS. Following the Tianhe 1 launch, *People's Daily* published a congratulatory message from Chinese Communist Party (CCP) General Secretary Xi Jinping which said that "building a space station and national space laboratory is an important goal...of China's manned space program" and harkened back to the Mao-era "two bombs one satellite" (两弹一星, *liangdan yixing*) strategy that emphasized self-reliance and innovation (People's Daily, April 30)—two national competition themes which remain in vogue today amid Xi's increasing push for technological and economic decoupling. Xi's message was a reminder that Chinese space programs have always been closely tied to issues of national security and global prestige. A 2016 white paper called for China to become "a space power in all respects" by the middle of the century, tying this goal directly to Xi's larger ambition to achieve the "China Dream" of "national rejuvenation" by 2049 (State Council, December 27, 2016).

Alongside the Beidou (北斗) satellite navigation system and the associated Belt and Road Space Information Corridor ("一带一路"空间信息走廊, *"yidai yilv" kongjian xinxi zoulang*); the Mozi (墨子) quantum satellite; the Chang'e (嫦娥) lunar program and the Tianwen (天问) Mars missions, the Tiangong space station symbolizes that China is becoming a "space power" (航天强国, *hangtian qiangguo*) (<u>CCTV</u>, April 24, 2020).

Growing Governing Influence as a Space Power

A 2020 joint study by the China Aerospace Studies Institute (CASI) and the Center for Naval Analyses (CNA) concluded that China has consistently pushed a narrative—aided in large part by its construction and promotion of the CSS—that it will be "a more inclusive space power" than the U.S. and that it stands as a proponent for peaceful cooperation in space, while simultaneously minimizing security aspects of its space program. China likely wishes to shape international debates on "space arms control, space sustainability, the commercial uses of space, and natural resource extraction,"[3] in addition to sidelining stricter international norms against anti-satellite (ASAT) and counterspace activities, which it continues to pursue (Lawfare, January 28). As more countries become involved in space activities (potentially aided by access to the CSS), China will have greater opportunities to expand its influence in space governance by "courting developing nations and proactively interacting with the United Nations."[4] According to the independent analyst Namrata Goswami, a permanent space station "signals to the world that China is openly contesting the United States for space leadership across the board, and that it is a capable partner for international cooperation in space" (The Diplomat, May 1).

Conclusion

It seems as though a new era of space cooperation (or competition) could be on the horizon. The international agreements currently governing the joint operation of the ISS will expire in 2024, and Russia recently announced that it plans to formally withdraw from the ISS after that and will seek to build its own space station (Moscow Times, April 19). India has also expressed interest in building an independent space station (June 13, 2019). Both of these countries have signaled their desire to join the CSS. Meanwhile, U.S. policymakers have grown increasingly concerned about plans to safely deorbit the ISS at the end of its lifetime, which is expected to be sometime after 2028 (Space.com, November 2, 2020). Chinese onlookers have rather cynically pegged the ISS's endpoint to 2024, at which point the CSS could be the only international space station in low earth orbit, making China—by at least one metric—the *de facto* global leader in space (The Paper, May 4).

Yet China's ability and willingness to be a responsible leader remains questionable. To give just one space-related example, it has been criticized for its failure to ameliorate space debris. As of the time of writing, the U.S. Space Command is closely tracking the return to earth of the Long March 5B that launched Tianhe 1, and a White House press briefing criticized China's continued failure to control the descent of its

rocket launches (White House, May 5). The Long March 5B's large size and uncontrolled re-entry has prompted concerns that large pieces of debris could fail to burn up in the atmosphere. While it is statistically unlikely that such falling debris would be dangerous to humans (as opposed to falling in the ocean), debris from the uncontrolled re-entry of China's first Long March 5B launch hit two villages in the Cote d'Ivoire last May (<u>SCMP</u>, May 14, 2020). When asked for comment about such concerns, a foreign ministry spokesperson replied unsatisfyingly that China "is always committed to the peaceful use of outer space and stands for international cooperation in this regard" (<u>PRC Foreign Ministry</u>, May 6).

Elizabeth Chen is the editor of China Brief. For any comments, queries, or submissions, feel free to reach out to her at: cbeditor@jamestown.org.

[1] Note that while reports commonly refer to the 2022 space station as *Tiangong*, or 'Heavenly Palace,' its official name is the China Space Station (中国空间站).

[2] The full list of countries includes Belgium, China, France, Germany, India, Italy, Japan, Kenya, the Netherlands, Norway, Mexico, Poland, Peru, Russia, Saudi Arabia, Spain and Switzerland, and the research topics include astronomy, biotechnology, microgravity fluid physics, microgravity combustion and space medicine (Space News, June 13, 2019).

[3] Kevin Pollpeter, Timothy Ditter, Anthony Miller, and Brian Waidelich, "China's Space Narrative: Examining the Portrayal of the U.S.-China Space Relationship in Chinese Sources and its Implications for the United States," China Aerospace Studies Institute and the Center for Naval Analyses China and Indo-Pacific Security Affairs Division, October 2, 2020, https://www.airuniversity.af.edu/CASI/Display/Article/2369900/chinas-space-narrative/.

[4] Ibid.

China's Port Investments in Sri Lanka Reflect Competition with India in the Indian Ocean

By Anita Inder Singh

Introduction

Located at the crossroads of global shipping lanes, Sri Lanka has become a significant recipient of Chinese economic and military influence in the Indian Ocean Region (IOR). For its part, Sri Lanka has largely welcomed China as a major investor and strategic partner in the past decade. China surpassed India to become Sri Lanka's largest source of foreign direct investment (FDI) in 2011 (Gateway House, December 1, 2016). Additionally, China is Sri Lanka's second largest source of trade imports and arms sales after India (SIPRI, accessed April 27; WITS, accessed April 27). In return, Sri Lanka has been a critical partner in China's expansive foreign policy and infrastructure-focused Belt and Road Initiative (BRI), although the relationship has been balanced by local tensions over Chinese influence. Sri Lanka has been held up as an example of China's so-called "debt trap diplomacy" model for foreign investment, but this narrative is insufficient to fully describe the complex situation unfolding, as well as obscuring the Sri Lankan government's own agency in balancing neighboring powers while simultaneously seeking investments for ambitious development goals (*China Brief, January 5, 2019, April 13, 2020*).



Image: An aerial photo taken on September 23, 2020 shows the construction of a park in Colombo Port City by China Harbor. (Source: <u>CHEC via Xinhua</u>).

Developments in Colombo

Recent news about the development of Sri Lanka's strategically important port in the capital city of Colombo further highlights Sri Lanka's delicate balancing act between China and India. In 2011, a consortium led by the state-owned enterprise (SOE) China Merchants Port Holdings Company signed a 35-year build, operate and transfer agreement to develop the deep water South Container Terminal, later called the Colombo International Container Terminal (CICT), at Colombo Port (<u>Sri Lanka Foreign Ministry</u>, accessed April 20). It promised an initial investment of \$500 million in exchange for an 85 percent stake in CICT, which is now the only state of the art deep water terminal in South Asia. China Harbor Engineering Company (CHEC)—a key competitor with China Merchants, responsible for building the controversial Hambantota port project and which has also been involved in land reclamation efforts around Colombo—signed an agreement late last year to develop a financial district in Colombo Port City (Xinhua, December 18, 2020). China Harbor's \$1.4 billion investment marks the first of a \$13 billion plan to develop Colombo Port City into a world-class financial and trade center (Xinhua, September 9, 2020). The agreement was promptly challenged by opposition parties, civil society groups, and labor unions alleging that the project violated Sri Lanka's sovereignty, constitution, and labor rights (*The Hindu*, April 17).

Colombo Port is particularly significant for India, as it handles roughly 40 percent of transshipped container cargo bound for the Indian market. Even as the government of Prime Minister Narendra Modi has sought to promote domestic transshipment hubs, it has also been determined to protect its dependence on Colombo port (*Hindu Business Line*, March 17). India, Japan and Sri Lanka signed a deal in 2019 for the Indian-based Adani Ports Group to lead the development of Colombo's long-anticipated East Container Terminal (ECT), although this was quickly stalled by labor protests and then parliamentary elections in August 2020 (Livemint, November 3, 2020). According to one foreign analysis, "for the 'Quad' to be meaningful, India or Japan will have to have a place in Colombo port," referring to the U.S.-India-Japan-Australia security framework that has been developed to counter China in the Indo-Pacific (*Hellenic Shipping News*, December 30, 2020).

But the India-Japan-Sri Lanka deal fell through in February, with the Sri Lankan government putting the blame on Adani after stakeholder negotiations failed (*Hindu Business Line*, March 2). Indian media reports, which frequently raise fears of outsized Chinese control over Sri Lanka, promptly claimed that this reneging was in fact due to Chinese influence.(*Hindu Business Line*, February 5;*Indian Express*, February 4). In March, Adani Ports and its subsidiary Special Economic Zones Limited (APSEZ) received a Letter of Intent to develop Colombo's West Container Port, pending cabinet approval, based on similar arrangement to China Holding's agreement to run the CICT (Adani, March 15). Some news reports saw this as a sop to Adani following the failure of the ECT negotiations (*The Print*, February 7).

Developing the ports in Colombo and Hambantota have remained key priorities for China's top leadership, as both are heavily linked to the Xi-driven BRI. In an early 2021 call with his counterpart, Chinese foreign minister Wang Yi called for Sri Lanka and China to cooperate in developing both ports into "twin engines" of

industrial development and economic growth and to stand together to "safeguard the legitimate rights and interests of developing countries" against the pressures of "some Western countries." The Chinese readout of the call reported that Sri Lankan Foreign Minister Dinesh Gunawardena "said that Sri Lanka regards China as its closest friend and sincerely thanks China for its long-term, selfless help for Sri Lanka's economic development, improvement of people's livelihood, and coping with internal and external challenges" (PRC Foreign Ministry, February 24). This notably followed media reports that Colombo was reconsidering the Hambantota deal amid concerns that "the previous government made a mistake on the Hambantota port deal" (*South China Morning Post*, February 25).

Just over a month later, Chinese President Xi Jinping held a telephone conversation with the Sri Lankan President Gotabaya Rajapaksa, calling on the latter to "steadily push forward major projects like the Colombo Port City and the Hambantota Port, and promote high-quality collaboration in jointly building the Belt and Road." Xi also noted that China and Sri Lanka had deepened their ties to help each other during the past year's coronavirus pandemic, "writing a new chapter of China-Sri Lanka friendship" (Xinhua, March 30).

The Indian Ocean's Strategic and Regional Importance

Access to the Indian Ocean's sea routes is critical to Beijing, as today China is the world's top oil importer, purchasing 542 million tons of crude oil in 2020 (General Administration of Customs, January 14). Last year, 53 percent of China's crude oil imports came from the Middle East (SP Global, June 26, 2020), and passed through the Indian Ocean on its way to China, leading one Chinese strategist to conclude that China's energy imports transit sea lanes controlled by other countries (CNKI, 2012). Unsurprisingly, maintaining friendly ports in the IOR is among China's top economic and security interests. China has expanded its economic and military presence in the Indian Ocean over the last decade, with a 2015 Defense White Paper explicitly confirming the link between national security and development interests for the first time. It goes on to highlight the importance of China's maritime interests, saying, "The traditional mentality that land outweighs sea must be abandoned, and great importance has to be attached to managing the seas and oceans and protecting maritime rights and interests" (Gov.cn, May 27, 2015).



Image: A map of regional Chinese port investments, sometimes referred to as a "string of pearls" in the Indian Ocean Region (Source: <u>Southasiajournal.net</u>).

In Sri Lanka, as in other states in the IOR, China has increased its influence through two main ways. First, it has built up trade and investment ties, developing ports in Pakistan, Sri Lanka and Myanmar. Second, it has expanded its naval presence. China's naval strength and capabilities outclass India's by most metrics, although India maintains a dominant position in the IOR, particularly near the Andaman Sea (<u>Naval Technology</u>, September 9, 2020).

From India's perspective, about 90 percent of India's trade by volume—and all of its vital oil imports—are carried by sea, so safe seaways are a strategic and economic imperative. Even the smallest signs of military cooperation between China and Sri Lanka are deeply worrying. Alarm bells went off in 2014 when Sri Lanka allowed two Chinese submarines to dock at Colombo port around the time of a state visit by Chinese President Xi Jinping (PRC Ministry of Defense, November 27, 2014; *Economic Times*, November 3, 2014). The Indian Navy has also raised concerns about the presence of Chinese research and survey vessels in Sri Lankan waters, which could be gathering data vital for the conduct of future naval operations, including submarine activity (*The Print*, November 14, 2020). Following Prime Minister Modi's own visit to Sri Lanka in 2017, Sri Lanka has not given permission for Chinese submarines to dock at Colombo (*South China Morning Post*, May 12, 2017).

Increase in Sino-Sri Lankan Military and Economic Ties

China's military ties with the Sri Lankan government have grown over the past 40 years, regardless of which political party holds power. Following the end of Sri Lanka civil war (1983-2009), during which India backed the Tamil secessionists, China began to gain limited military influence in Sri Lanka. This was demonstrated most recently by China's gift of a frigate to the Sri Lanka navy following a visit by then-President Maithripala Sirisena to Beijing in May 2019, which reportedly also included the signing of security protocols and a \$14 million deal for counter-insurgency surveillance technologies (*South China Morning Post*, July 8, 2019).

After the civil war, then-Prime Minister Mahinda Rajapaksa explained the attractions of Chinese investment: "China helped us for the sake of development, that is all. Our war had shattered our country, we needed help to develop; they were ready, so why not?"(*The Print*, February 9, 2020). While affirming its commitment to a foreign policy that prioritizes "India first," Sri Lanka has simultaneously maintained its right towards a so-called "policy of neutrality" with development as the top priority under the current president, Gotabaya Rajapaksa (brother of Mahinda Rajapaksa) (*Colombo Page*, September 30, 2020). Chinese investments in port capacity have enabled Sri Lanka to enhance its strategic position in the Indian Ocean and become a regional trading hub, with future plans to develop its ability to become a financial center as well (*Hindu Business Line*, December 16, 2014; Observer Research Foundation, July 22, 2019). However, it is important to note that Chinese investments in port facilities do not necessarily translate into military advantages (*China Brief*, April 13, 2020).

In addition to ports, China has invested in several other key economic sectors, including infrastructure, roads, and power, as well as dramatically ramping up its foreign aid and trade imports to Sri Lanka. By 2015, Chinese aid to Sri Lanka amounted to \$12 billion, compared with \$1.9 billion from India. Chinese FDI comprised 35 percent of Sri Lanka's total FDI, compared to India's 7 percent (<u>Gateway House</u>, December 1, 2016). In 2019,the value of cumulative Chinese infrastructure investment in Sri Lanka was equivalent to 14 percent of Sri Lanka's GDP, surpassing India's comparable \$1.2 billion in investment (<u>Chatham House</u>, March 2020; <u>Indian Ministry of External Affairs</u>, September 2019). At the same time, Chinese imports to Sri Lanka have grown consistently since 2011, and in 2019 were roughly comparable with India's (<u>The Diplomat</u>, August 1, 2019). In short, while Indian economic relations with Sri Lanka have either remained steady or weakened, trade, investment and foreign aid ties with China have grown rapidly in the last decade or so.

Last fall, President Rajapaksa once again denied that Chinese money created a "debt trap" subordinating Sri Lankan interests in the bilateral relationship, while also announcing that the two countries will move to restart free trade negotiations that have been on pause since 2017 (*South China Morning Post*, October 9, 2020). In October 2020, Rajapaksa asked Beijing for a \$90 million aid grant, which was personally delivered by Chinese Communist Party Politburo Member Yang Jiechi. The Chinese embassy in Colombo lauded the "timely grant," to be used for medical care, education and water supplies in Sri Lanka's rural areas and

"contribute to the well-being of [Sri Lankans] in a post-Covid era" (<u>South China Morning Post</u>, October 12, 2020).

Conclusion

Although Sri Lanka's recent decision to grant the Adani Group the rights to develop Colombo port's WCT reflects the government's wish to balance between India and China, it is unlikely that the project signals a substantial increase in Indian investment in Sri Lanka. To put it bluntly, India even before the coronavirus pandemic was facing an economic slowdown that would have impacted its ability to prioritize foreign policy goals and make it "vulnerable to adventurism from adversaries" active in its traditional regional and maritime spheres of influence (Observer Research Foundation, December 6, 2019).

In contrast, China's rising influence in the IOR stems from 40 years of sustained effort, buoyed by a top-down prioritization of its massive infrastructure-focused BRI. It has strengthened economic and military ties with Sri Lanka and other littoral and island states across the IOR. The effects of the recent pandemic mean that China's economic and military presence in Sri Lanka—and concomitant presence in the Indian Ocean—are likely to increase.

Anita Inder Singh, a citizen of Sweden, is a Founding Professor of the Center for Peace and Conflict Resolution in New Delhi. Previously, she was a Fellow at the National Endowment for Democracy and has taught the international relations of Asia and Europe at the graduate and doctoral levels at Oxford and the London School of Economics and Political Science. Her articles have appeared in many publications, including The Guardian, The Far Eastern Economic Review, The Wall Street Journal Asia and Nikkei Asian Review. Her books include The United States, South Asia and the Global Anti-Terrorist Coalition (2006). She is currently writing a book on the United States and Asia. More of her work may be viewed at: www.anitaindersingh.com.

The PLA Navy's ZHANLAN Training Series in 2021: Growing Emphasis on Joint Operations on the High Seas By Roderick Lee

Introduction

As part of its broader effort to develop a distant seas capability, China's People's Liberation Army Navy's (PLAN) held an annual Southern Theater Command (STC) far seas training exercise from late January to late February 2021. This event is likely the 2021 iteration of the ZHANLAN (湛蓝) series of far seas training exercises, which the PLAN has conducted annually since at least 2016.

As the only far seas training event that the PLA consistently reports on each year, the capabilities displayed at ZHANLAN serve as a useful metric for tracking the PLAN's progress in far seas operations over time. This article follows a previous piece discussing training evolution in ZHANLAN 2020 (*China Brief*, April 13, 2020). Careful observation of this year's ZHANLAN exercises reveals progress in the PLA's ability to command and employ joint forces at the tactical level. However, the exercises also highlight long standing issues that may hamper the PLA's ability to translate such progress into operational effectiveness in wartime.



Image: A naval formation underway during the 2021 ZHANLAN exercises with AOR-967, LPD-978, and AGI-857 visible (Source: <u>China Military Online</u>).

Overview of ZHANLAN 2021

Unlike in past years, the PLA did not identify a start or end date for ZHANLAN 2021. The official online publication *China Military* states that the event lasted over 30 days and that the task group covered 8,000 nautical miles (*China Military*, March 26). Given that Vice Admiral Wang Hai (王海)—who was seen embarked on the task group in early February—later attended the National People's Congress in early March, the task group likely left port in late January and returned in late February (*Military Report*, March 4).

	2016	2017	2018	2019	2020	2021
Time	04 - 27 May	02 Feb - 7 Mar	01 - 25 Feb	16 Jan - 18 Feb	17 Jan - 25 Feb	20 Jan- 25 Feb (Estimated)
Duration (days)	23	25	25	34	41	30+
Distance (NM)	8,000	8,000	8,000	10,000	14,000	8,000
Training Focus	Basic warfare disciplines	Formation air defense	Naval combined arms	Joint operations	Far seas combat support	Joint Operations
Integration	Basic integration of surface combatants and limited integration of embarked rotary wing assets.	Rotary wing assets now also used to provide early warning for surface combatants.	Integrates shore- based air defenses and fixed- wing early warning aircraft into task group operations.	Task group integrates Air Force, Rocket Force, and Strategic Support Force. STC Headquarters personnel present.	STC Headquarters staff play a larger role in task group command (task group deputy commander).	Task group exercises tactical control over STC Army and Air Force units.
Notes	Likely served as a baseline for future iterations.	Event likely complicated by ongoing PLA reforms.	First time "deep land attack" mentioned.	First time the task group is referred to as "joint" (联合, <i>lianhe</i>).	Transit calculations suggest task group could have reached Hawaii.	Builds on integration of joint forces at the tactical level.

Table: Comparison of ZHANLAN Exercises, 2016-2021

Source: Author's research.

The ZHANLAN-2021 training task group consisted of five vessels: the LUYANG III class (Type 052D) guided missile destroyer YINCHUAN (DDG-175); the FUYU class (Type 901) support ship CHAGAN HU (查干湖) (AOR-967); the JIANGKAI II class (Type 054A) guided missile frigate HENGYANG (FFG-568); the YUZHAO class (Type 071) amphibious transport dock WUZHI SHAN (LPD-978); and the DONGDIAO-class AGI (AGI-857) (*Morning Report on Defense*, March 2).

Little information is available about where the task group transited during its one-month deployment. The only known geographic reference is that at some point, it passed over the equator (*People's Navy*, February 25). Although it is possible that the task group transited out towards the Marshall Islands in the Central Pacific, it is more likely that the formation went south towards Australia and the Indian Ocean. The Central Pacific offers little in the way of simulated targets or messaging, while Australia affords greater opportunities for both. That being said, no publicly available evidence exists to corroborate this assumption.

Integrating Factors in 2021

The PLAN has clear aspirations of becoming a blue water navy capable of executing deep offensive strikes. Using the integrating factors necessary for "multi-mission air control, limited sea control, and deep strike proficiencies," identified in a 2000 RAND Corporation study, one can track the PLAN's recent progress in achieving these goals.[1]

Technologies	Integrating Factors
Advanced Carriers	Advanced Fleet Exercises
Underway Replenishment Ships	Joint Exercises
Basic Satellites	Advanced Damage Control and Anti-Air Warfare
Advanced Radars	Advanced Maintenance
Advanced Naval Missiles	Advanced Logistics
Advanced Datalinks	Underway Replenishment
	Advanced Intelligence

Table: Technologies and Integrating Factors Necessary for Blue Water Navy Capabilities

Source: <u>RAND</u>.

First, the task group continues to build competency in the subject of underway replenishment. Video footage of an underway replenishment training evolution shows AOR-967 CHAGAN HU once again transferring a probable HQ-10 short-range surface to air missile storage canister to DDG-175 YINCHUAN. (*People's Navy*, February 25). This continued emphasis on underway munitions replenishment indicates that the PLAN remains on track towards sustaining some magazine depth in far seas.

Second, the PLAN continues to train in using advanced intelligence assets. This year's evolution of ZHANLAN once again involved AGI-857 as well as probable elements of the PLA Strategic Support Force's (PLASSF) Network Systems Department (*Morning Report on Defense*, March 2). Limited evidence shows that the SSF's presence onboard the ZHANLAN 2020 task group consisted of elements of the PLAN's former 2nd Technical Reconnaissance Bureau (<u>Roderick Lee via Twitter</u>, March 1). The SSF's presence on the ZHANLAN 2021 task group is similar to what was seen on ZHANLAN 2020's task group, which suggests that

the same element participated in both evolutions. If this is the case, the SSF and AGI-857 may be providing signals intelligence support to the task group.

PRC media reports discuss how the task group completed training in now-typical areas such as air defense and counterpiracy operations (*China Military*, March 26). In addition, ZHANLAN 2021 notably featured a major push for increased jointness at the tactical level.

A Push for Joint Lethality

One of the crucial integrating factors identified by RAND is "joint exercise." The PLA has long pushed for its forces to become more joint and integrated, often under the mantra that "1+1>2" (*People's Daily APP*, November 27, 2020). One can clearly track the PLAN's progress in this integrating factor from ZHANLAN exercises from 2016, when the PLAN barely engaged in combined arms training, to when the training task group was first classified as a "joint far seas training task group" in 2019.

Press releases were ambiguous about how joint ZHANLAN 2019 truly was, stating nothing beyond reporting that the PLA Air Force (PLAAF), Rocket Force (PLARF), PLASSF and other services participated (<u>PRC</u> <u>Ministry of National Defense</u>, February 19 2019). ZHANLAN 2020 featured more tangible jointness by integrating STC staff into senior task group command positions and having an observable PLASSF presence (<u>China Brief</u>, April 13, 2020).



Image: A PLAN helicopter maintenance officer briefs PLAAF, PLARF, and SSF officers that are members of the task group command staff. (Source: <u>Morning Report on Defense</u>).

ZHANLAN 2021 placed joint operations in the limelight. The task group's command post command group director, senior captain Zhu Zhengzhong (朱正中), stated in an interview with CCTV-7 that this year's training featured three characteristics: first to allow forces to adapt to a joint training command mechanism; second to validate operational methods; and third to explore combat methods involving combined strengths. Similarly, senior colonel Zhang Jun (张军), a member of ZHANLAN's training guidance group, said that the training highlighted the need to unify training and operations, standardize joint training, and train troops as part of "system of systems" operations (*Morning Report on Defense*, March 2). This commentary clearly points to an emphasis on joint training at the tactical level.

Statements of the importance of jointness in the PLA also featured prominently in previous events, although measuring the true extent of jointness during these training events is nearly impossible. Still, the ZHANLAN series shows clear and distinct progress within the PLAN year-over-year.

A Joint Training Command Mechanism

ZHANLAN 2021's task group command post elevated the prominence of the joint element compared to previous years (<u>Roderick Lee via Twitter</u>, February 26). The task group command post positioned the joint element on the literal periphery during ZHANLAN 2019 and 2020. This year, the task group command post positioned the joint element in a centralized position in terms of protocol order (*see below*).



Image: Most elements of the task group command post on the helicopter deck of DDG-175 during the equator-crossing ceremony. Note the central prominence of the joint command element. (Source: <u>Weibo</u>)

The reason for this elevation in protocol is likely not only due to the elevated prominence of joint command, but also because of how much more joint the command group has become. Previous ZHANLAN iterations featured staff officers from the STC, but press reporting did not explicitly identify service representatives. In contrast, ZHANLAN 2021's command group included staff officers from the PLAAF, PLARF, PLASSF and STC headquarters organs (*Morning Report on Defense*, March 2). Although multi-service representation in a tactical command post is not new, the gradual institution of joint command elements within a tactical formation over time has been well-demonstrated through the evolution of the ZHANLAN training series.

More importantly, these multi-service command staff participants appear to be empowered with certain authorities over their respective service forces. CCTV-7 video reporting shows the Air Force command staff member ordering a PLAAF bomber to take off and participate in an air-maritime joint assault drill (*Morning Report on Defense*, March 2). The same reporting shows PLAN, PLA Army, and STC headquarters officers jointly planning what is likely the amphibious island landing drill that occurred towards the end of the training deployment.



Image: Members of the task group, including PLANMC officers, Army officers, and STC staff, plan out the small island seizure training event (Source: <u>Morning Report on Defense</u>).

Combined Strengths into a System of Systems

In addition to having the joint expertise and authorities within the task group's command post, ZHANLAN 2021 also featured the first publicized participation of forces from other services within this training series. This integration of actual forces in field training provides personnel with the crucial experience of operating within a joint force.

The most visually prominent joint participant in ZHANLAN 2021 was the PLA Army. An unidentified armored element, possibly from the 74th Group Army 16th Heavy Combined Arms Brigade, likely boarded a second landing platform dock (LPD) and joined the task group towards the end of the deployment. The PLA Army element then participated in a small island reef seizure training event on Pattle Island alongside an unidentified PLAN Marine Corps infantry company (*Morning Report on Defense*, March 2). This is far from the first instance of joint Army-Navy amphibious training, but it is the first time such an event has occurred in the ZHANLAN series.



Image: An H-6K taking off after receiving orders from the task group to participate in a air-maritime joint assault drill (Source: <u>Morning Report on Defense</u>).

Less noticeable but perhaps more important is the participation of at least one PLAAF H-6K bomber that participated in an air-maritime joint assault drill (*Morning Report on Defense*, March 2). Integrating H-6Ks with a naval task group to conduct joint fires greatly improves the PLA's ability to overwhelm maritime or land targets as far as the second island chain or even Australia. The presence of a PLARF officer in press reports suggests that simulated fires involving PLARF assets might have also occurred.

Finally, elements of the PLASSF Space Systems Department seem to have played some role in ZHANLAN 2021. The SSF lieutenant colonel Wang Dong, a staff officer under the task group's command group, discussed how he initially thought the PLAN prioritized precise location data. However, after participating in ZHANLAN, he grew to understand that the PLAN places greater value on precise time and time interval (PTTI) (*Morning Report on Defense*, March 2). The discussion of navigation and timing support by an SSF officer circumstantially suggests that some element of the SSF Space Systems Department's Base 35, the unit in charge of battlefield environment support that notably also oversees the military side of China's Beidou

Navigation Satellite System (BDS), was involved in ZHANLAN 2021 (<u>CASI</u>, June 24, 2020). This indicates that the PLA is training to improve its ability to push PTTI data out to distant seas formations. Better PTTI can in turn improve the task group's ability to operate in degraded electromagnetic environments, maintain secure communications, and synchronize time-sensitive fires.**[2]**

Potential Shortcomings

For all the growing competencies in joint operations demonstrated in ZHANLAN 2021, the event also reveals some potential issues that the PLA is currently grappling with or may face in wartime.

The first potential issue is identified by the PLA itself when describing this event: unifying training and operations. PLA training has long been hampered by heavy scripting.[3] Although more recent descriptions emphasize that PLA training has moved away from scripted events, this does not discount the possibility that some amount of scripting occurs or that extensive preparations are made before hand to ensure things go smoothly. In fact, the PLAN and PLA Army appear to have engaged in extensive "preparatory training" leading up to ZHANLAN 2021, including similar amphibious training involving PLA Army tanks that occurred sometime around November 2020 (*Sina*, November 25, 2020). Given this apparent extensive preparation, the PLAN's ability to leverage joint forces and authorities in a timely fashion during real world operations is questionable.

A second and more obvious issue remains the PLA's persistent tendency to send senior officers to oversee tactical formations. In 2019, the PLAN was forced to issue a document that prohibits units from sending senior commanders to oversee single-ship deployments (*PLA Daily*, April 16, 2019). The presence of senior officers overseeing actual unit commanders often hampers the unit commander's ability to command and is an unsustainable practice in wartime. Nevertheless, ZHANLAN 2021 saw Southern Theater Navy Commander vice admiral Wang Hai embark onboard DDG-175 as an observer (*Military Report*, February 9). The presence of such a senior officer likely distorts the actual formation commander's efficacy in exercising joint command authorities and hampers his ability to do his job.

Conclusion

These shortcomings point towards the growing recognition that the weakness of the PLA lies within its people and processes. In fact, the PLA's self-identified weaknesses tend to point to a lack of confidence in its "software" (*War on the Rocks,* February 18, 2019). Potential scripting, overplanning, and overbearing command all risk creating large discrepancies between observations of PLA training in peacetime and their projected performance in wartime. While the U.S. should be mindful of the progress shown in high-end training events like ZHANLAN, it should also watch carefully for where the PLA is inadvertently exposing its own flaws.

Roderick Lee is the Director of Research at the Air University's China Aerospace Studies Institute (CASI), where he oversees research on Chinese military aerospace forces and the Chinese civilian aerospace sector as it relates to the military. Prior to joining CASI, he served as an analyst with the United States Navy covering Chinese naval forces. He earned his Master of Arts degree from The George Washington University's Elliott School of International Affairs.

Notes

[1] Tellis, Ashley J., Janice Bially, Christopher Layne, and Melissa McPherson, *Measuring National Power in the Postindustrial Age*, Santa Monica, CA: RAND Corporation, 2000. <u>https://www.rand.org/pubs/monograph_reports/MR1110.html</u>.

[2] National Research Council, "Chapter 5: Defense Needs for PTTI" in *An Assessment of Precision Time and Time Interval Science and Technology*, Washington, DC: The National Academies Press, 2002, https://www.nap.edu/read/10541/chapter/7.

[3] Jana Allen and Kenneth Allen, *The PLA Air Force's Four Key Training Brands,* China Aerospace Studies Institute, June 14, 2020, <u>https://www.airuniversity.af.edu/Portals/10/CASI/Books/CASI Four Brands.pdf?ver=2020-06-14-134806-837</u>.

Legal Obstacles to #MeToo Cases in China's Courts

By Darius Longarino, Yixin (Claire) Ren, and Changhao Wei

Introduction

On March 8, a Shanghai court awarded \$15,000 to a plaintiff in a sexual harassment lawsuit against her colleague in a rare legal win for the #MeToo movement in China (<u>Sixth Tone</u>, March 10; <u>Washington Post</u>, March 20). Although China has enacted a string of legal provisions targeting sexual harassment over the past sixteen years, with the new Civil Code's Article 1010 being the most recent example, survivor suits against harassers are rare.[1] Meanwhile, successful labor contract suits against companies who fire employees for sexual harassment are numerous, as are defamation cases against survivors who make public allegations.[2]

Why the imbalance? Besides the social stigma and political sensitivity surrounding sexual harassment in China, legal rules play a significant role in hindering #MeToo (as they do elsewhere) (<u>SupChina</u>, January 28). To be sure, some reforms have improved access to courts. Since 2015, the case registration system has made it more difficult for courts to arbitrarily reject case filings.[3] And in 2019, the Supreme People's Court rolled out a new cause of action specifically for sexual harassment.[4] But once survivors get to court, the rules of evidence still work against them. When alleged harassers bring litigation for defamation or illegal termination, the rules give them an advantage.



Image: A scene from a sexual harassment trial in the People's Court of Yangpu District, Shanghai, which concluded with a rare win for the plaintiff on March 8, 2021 (Source: <u>The Paper</u>).

The Burden of Proof Is Heavy for Plaintiff Survivors

Generally, a plaintiff in civil litigation in China must prove the facts of the case to a "high degree of likelihood" to win.[5] "High degree of likelihood" does not have a universally agreed-upon definition, but some Chinese legal scholars have described it as the court having a certainty of "85 percent" or more.[6] Last year in the *Procuratorate Daily*, a local legal official described it as when "the probative force of one party's evidence far exceeds that of the other party."[7] China's standard of proof is arguably similar to that of some other civil law countries, like Germany, whose Federal Supreme Court stated that judges should reach a certainty "that silences doubt without completely excluding it."[8] In contrast, Anglo-American common law uses the "preponderance of the evidence" or "balance of probabilities" standard. The plaintiff just needs to prove the facts claimed are more likely than not to have occurred—even if more likely just by a hair.

Structural differences help explain the two systems' respective standards. In the common law system, judges do not conduct investigations. Litigants are solely responsible for gathering evidence and constructing arguments to convince the jury or judge of their case. By contrast, civil law judges, including Chinese judges, have the power to gather evidence, call and question witnesses and then make determinations of fact. Since it is often easier to convince oneself of something than to convince someone else, it makes sense that judges in this dual role should be required to attain a high degree of certainty.

Although Chinese judges can conduct investigations, they infrequently do so. Chinese judges have crushing caseloads and neither the time nor resources for evidence collection. Since the 1990s, trials in China have also been moving toward an adversarial model where the litigants take a more proactive role. Although the work now falls on the litigants, they do not have the same evidence collection tools as the courts, and plaintiffs still need to meet the "high degree of likelihood" standard.

Collecting Evidence Favored by Courts Is Difficult

Sexual harassment often occurs in private, leaving little evidence. In cases that boil down to the litigants' two conflicting accounts, the party who carries the burden of proof will almost certainly fail.[9] The Supreme People's Court's rules on evidence in civil litigation provide that the testimony of a litigant cannot be the sole basis for establishing a fact in a case.[10] Chinese courts also strongly disfavor witnesses related to a litigant, including friends, family, or employees.[11] China does not have restrictions on the use of so-called "character evidence."[12] Lawyers can ask plaintiffs probing questions about their personal life and sexual history to insinuate that they had "invited" the sexual advance or to generally undermine their credibility before the judge. In a 2018–2020 case against Liu Meng (刘猛), a prominent NGO figure, Liu's lawyer brought up the plaintiff's social media posts, including an article about *The Vagina Monologues*. The plaintiff later told a journalist that the lawyer's goal was "to demonstrate that I am a [sexually] open woman, therefore establishing that [the defendant's] behavior did not constitute sexual harassment" (Sohu, July 15, 2019).

Survivors have a much higher chance of success if they have recorded evidence, as in last month's Shanghai case where the defendant sent disturbing text messages to the plaintiff almost daily for six months (*Workers' Daily*, March 18). In the case against Liu Meng, the plaintiff texted him after he had touched her inappropriately: "Just now, your behavior made me very uncomfortable. If you do something like that again, I will call the police." Liu immediately responded, "I'm sorry," which buttressed the plaintiff's account (*Beijing News*, July 10, 2020). The court ruled in favor of the plaintiff, and ordered Liu Meng to apologize to her (he never did) (*The Paper*, February 2).



Image: People gather outside the Haidian People's Court on December 2, 2020, holding signs that say "#MeToo" and "Together, we demand an answer for history" to support the pseudonymous Xianzi (弦子), whose sexual harassment case against the prominent media personality Zhu Jun (朱军) became a rallying point for the #MeToo movement in China. Zhu has counter-sued Xianzi for damages to his reputation and mental harm. After more than ten hours of testimony in a closed trial, the court adjourned without a verdict, and the case is still ongoing (Source: <u>China Digital Times</u>).

Employers Who Fire Alleged Harassers Are Often Sued for Illegal Termination, and Bear the Burden of Proof

Employees who have been fired for sexual harassment have regularly brought cases against their employers for illegal termination, contending that the allegations against them are baseless. China does not have an "employment-at-will" system. Instead, the Labor Contract Law (中华人民共和国劳动合同法, *zhonghua renming gongheguo laodong hetong fa*) allows an employer to fire an employee only for certain reasons, such as a serious violation of company policy (<u>Pkulaw</u>, December 28, 2012). And it is the employer—not the

claimant employee, as would be the case under the general rule of civil litigation—who bears the burden of proof in an illegal termination suit. If the employer cannot meet its burden, the employee can demand reinstatement and lost wages or double severance pay.

Just like individuals who sue their harassers, employers in these cases have a hard time meeting the burden of proof. One person's account—no matter how credible the company considered it as a basis for its termination decision—is not strong enough to win in court.[13] Even if there are other employees who witnessed the incident, courts often consider their accounts insufficiently credible because of their employment relationship with the company. Having several witnesses whose accounts corroborate each other can overcome this disadvantage.[14] Still, a company that fires an alleged harasser needs to be prepared to incur the costs of litigation. On the other hand, no employers to date have been sued, let alone successfully sued, for failing to adopt anti-sexual harassment policies or for failing to respond to a sexual harassment incident (The Diplomat: March 9; December 4, 2020).

#MeToo Survivors Sued for Defamation Bear the Burden of Proof

On multiple occasions, people who have made public allegations of sexual harassment against named individuals have been sued for defamation.[15] Under the general rule for civil litigation, the plaintiff should bear the burden of proof and no law or judicial interpretation expressly says the rule should be different for defamation suits. Courts nonetheless often reverse the burden of proof in these cases.[16] The reasoning is that it is much harder to prove that something did not happen than to prove that something did happen.

For example, in 2018, Zhou Fei (周非), former Chief Program Officer at the World Wildlife Fund, sued a former colleague, Wang Qi (王琪), for defamation because she posted an account of how Zhou accosted her on a business trip in 2016 to the microblogging platform Weibo. An internal investigation by an outside law firm concluded that it was impossible to determine definitively whether or not the incident had occurred, since no evidence besides the parties' accounts existed. Yet the court put the burden of proof on Wang, ruling that since she failed to provide sufficient evidence to prove her allegations, she had spread "false information." The court ordered Wang to delete her post and give Zhou a written apology.[17]

In a similar 2018–2020 case, He Qian (何谦) had published an account online, with help from a friend, Zou Sicong (邹思聪), of an incident that occurred a decade earlier. He Qian recounted how Deng Fei (邓飞), her former supervisor and a well-known journalist, asked her to enter his hotel room to discuss work but then began to forcibly kiss, grope and undress her. Deng brought a defamation suit in response. The court ruled against He:

"He Qian has to the best of her ability recalled for the court from her "first-hand" perspective the incident in that closed room that is described in the article, but except for He Qian's own description of an incident that happened almost ten years ago, the two defendants have not provided any other direct evidence . . .

the indirect evidence provided by [He and Zou] is also insufficient to allow someone to firmly believe without any hesitation that what was described truly happened" (<u>Sohu</u>, January 6).

The court ordered He Qian to delete her account of the incident, apologize to Deng, and pay damages in the amount of RMB 11,712 (roughly \$1,800) for Deng's hurt feelings and litigation costs. He Qian's lawyer bluntly assessed the judgement: "This is equal to telling someone who was humiliated, who was hurt, that if you don't have audio recordings or videos of the event, then you better hurry up and shut your mouth" (<u>AP</u>, January 7).

The court ordered He Qian to delete her account of the incident, apologize to Deng, and pay damages in the amount of RMB 11,712 (roughly \$1,800) for Deng's hurt feelings and litigation costs. He Qian's lawyer bluntly assessed the judgement: "This is equal to telling someone who was humiliated, who was hurt, that if you don't have audio recordings or videos of the event, then you better hurry up and shut your mouth" (AP, January 7).

Conclusion

Growing awareness about sexual harassment is likely to lead to more #MeToo cases landing in China's courts, but the above mentioned rules will continue to thwart survivors who do not have smoking gun evidence. These rules are also likely to discourage employers and survivors from disciplining alleged harassers or speaking out, because they know they might be sued and be made to carry a heavy burden of proof. Without reasonable adjustments to give survivors a fair shot at winning in court or diminishing the risk of chilling litigation, legal rules—alongside ongoing social and political pressures—will continue to hold back China's #MeToo movement.

Darius Longarino is a Research Scholar in Law at Yale Law School and a Senior Fellow of the Paul Tsai China Center. Prior to joining the Center, he worked for the American Bar Association Rule of Law Initiative in Beijing where he managed legal reform programs promoting LGBT rights and worked cooperatively with a number of Chinese public interest law organizations.

Yixin (Claire) Ren is a Research Associate with the Paul Tsai China Center of Yale Law School and a Master's graduate of Cambridge University. Her work has appeared in The Diplomat and The Yale Review of International Studies.

Changhao Wei is a Postdoctoral Fellow at Yale Law School's Paul Tsai China Center, where he focuses on China's legislative process and constitutional enforcement mechanisms. He is the founder, manager, and editor of <u>NPC Observer</u>, a website that provides reporting, analysis, and original research on China's national legislature, the National People's Congress. He holds a J.D. from Harvard Law School.

Notes

[1] Civil Code of the People's Republic of China (中华人民共和国民法典), effective January 1, 2021. The original Chinese version available is at http://www.npc.gov.cn/npc/c30834/202006/75ba6483b8344591abd07917e1d25cc8.shtml, and official English translation at http://www.npc.gov.cn/englishnpc/c23934/202012/f627aa3a4651475db936899d69419d1e/files/47c16489e18 6437eab3244495cb47d66.pdf; Beijing Yuanzhong Gender Development Center (北京源众性别发展中 心). Breaking the Silence and Refusing to Compromise: A Research Report on China's Laws and Judicial Cases on Preventing Sexual Harassment in the Workplace (打破沉默,拒绝妥协——中国防治职场性 骚扰法律与司法审判案例研究报告), June 13. 2018. 7. р. https://cnlqbtdata.com/files/uploads/2019/07/%E6%89%93%E7%A0%B4%E6%B2%89%E9%BB%98%E6%8 B%92%E7%BB%9D%E5%A6%A5%E5%8D%8F.pdf.

[2] See: Li Xi (李曦) & Yu Ning (于宁), "Study on Employers' Response to Sexual Harassment in the Workplace: From the Perspective of Adjudicating Labor Dispute Cases (用人单位应对职场性骚扰问题 探究——以劳动争议案件审理为视角)," *Journal of China Women's University* (中华女子学院报), no. 1, 2020, pp. 32–38.

[3] Susan Finder, "New Docketing Procedures Come to the Chinese Courts," Supreme People's CourtMonitor(最高人民法院观察),June18,2015,https://supremepeoplescourtmonitor.com/2015/06/18/new-docketing-procedures-come-to-the-chinese-courts/

[4] Zhang Chenyang (张辰扬), "Cause of Action: Index List of Chinese Case Classification," *China Justice Observer* (中国司法观察), July 5, 2019, <u>https://www.chinajusticeobserver.com/a/cause-of-action-index-list-of-chinese-case-classification</u>.

[5] Article 108, paragraph 1 of the Interpretation of the Supreme People's Court on the Application of the Civil Procedure Law of the People's Republic of China (最高人民法院关于适用《中华人民共和国民事诉 讼法》的解释) provides: "If the competent people's court, through an examination of the evidence provided by a party bearing the burden of proof and in light of the relevant facts, is convinced that it is highly likely that the facts to be proved by such evidence have occurred, the people's court shall find that such facts do exist (对负有举证证明责任的当事人提供的证据,人民法院经审查并结合相关事实,确信 待证事实的存在具有高度可能性的,应当认定该事实存在)."

[6] Huo Haihong (霍海红), "Theoretical Reflections on Raising the Standard of Proof in Civil Litigation (提高 民事诉讼证明标准的理论反思)," China Legal Science (中国法学), no. 2, 2016, pp. 258–279.

[7] Sun Yongshang (孙永上), "How to Accurately Understand the High Probability Standard of Civil Evidence (如何准确理解民事证据高度盖然性标准)," *The Procuratorate Daily* (检察日报), May 10, 2020, <u>https://www.spp.gov.cn/spp/llyj/202005/t20200510_460701.shtml</u>.

[8] Mark Schweizer, "The Civil Standard of Proof—What Is It, Actually?," *The International Journal of Evidence* & *Proof*, 2016, Vol. 20(3), pp. 217–234, https://journals.sagepub.com/doi/full/10.1177/1365712716645227.

[9] See, e.g.: Gao Daxue (高大学) v. Medtronic (Shanghai) Management Co. Ltd. (美敦力(上海)管理 有限公司), (2019) Hu 0115 Civil First No. 62266 ((2019) 沪0115民初62266号) (Shanghai Municipality, Pudong New District People's Court (上海市浦东新区人民法院), September 27, 2019); Taconic Advanced Material (Suzhou) Co. Ltd. (泰康利复合材料(苏州)有限公司) v. Jin Gang (金刚), (2017) Su 0591 Civil First No. 9774 ((2017) 苏0591民初9774号) (Suzhou Industrial Park People's Court (苏州工 业园区人民法院), April 20, 2018); John Deere (Tianjin) Co. Ltd. (约翰迪尔(天津)有限公司) v. Liu Jinzhu (刘金柱), (2017) Jin 0116 Civil First No. 83656 ((2017) 津0116民初83656号) (Tianjin Municipality, Binhai New District People's Court (天津市滨海新区人民法院), February 6, 2018).

[10] See: Article 90, item 1 of the *Provisions of the Supreme People's Court on Evidence in Civil Litigation* (最高人民法院关于民事诉讼证据的若干规定), effective May 1, 2020, <u>http://www.court.gov.cn/zixun-xiangging-212721.html</u>.

[11] See: Lu Jiefeng (卢杰锋), "Research on Proving Workplace Sexual Harassment Cases (职场性骚扰 案件证明问题研究)," Women Studies Series (妇女研究论丛), no. 5, 2019, pp. 80–88.

[12] Ibid.

[13] See, e.g.: Gao Daxue v. Medtronic (Shanghai) Management Co. Ltd.

[14] See, e.g., Lu Weiming (陆伟明) v. Celanese (Shanghai) International Trade Co. Ltd. (赛拉尼斯(上海)国际贸易有限公司), (2019) Hu 0115 Civil First No. 30279 ((2019) 沪0115民初30279号) (Shanghai Municipality, Pudong New District People's Court (上海市浦东新区人民法院), January 16, 2020).

[15] See: Beijing Yuanzhong Gender Development Center, Breaking the Silence and Refusing to Compromise, p. 7. See also, e.g.: Ren Guangjian (任光建) v. Yan Qingxia (严青霞), (2020) Zhe 0604 Civil First No. 431 ((2020) 浙0604民初431号) (Zhejiang Province, Shaoxing City, Shangyu District People's Court (浙江省绍兴市上虞区人民法院), April 23, 2020); An Rongtian (安容天) v. Gao Shuang (高爽), (2020) Jing 03 Civil Final No. 2021 ((2020)京03民终2021号) (Beijing No. 3 Intermediate People's Court (北京市第三中级人民法院), April 9, 2020).

[16] See, e.g.: Li Tailun (李太伦) v. Lu Lihui (鲁立惠), (2019) Chuan 0116 Civil First No. 994 ((2019) 川 0116民初994号) (Chengdu City, Shuangliu District People's Court (成都市双流区人民法院), September 2, 2019). For a discussion of the reversal of burden of proof in defamation cases, see generally: Wang Baoqing (王宝卿), "The Difficulties of Applying the Truth Defense in Cases of Infringement of the Right of Reputation by News and the Solutions Thereto (真实性抗辩在新闻侵害名誉权案中的适用困境与出路)," Journal of Jishou University (Social Sciences) (吉首大学学报(社会科学版)), no. 5, 2020, pp. 143–152, DOI: 10.13438/j.cnki.jdxb.2020.05.017.

[17] Wang Qi (王琪) v. Zhou Fei (周非), (2020) Jing 02 Civil Final No. 3536 ((2020)京02民终3536号) (Beijing No. 2 Intermediate People's Court (北京市第二中级人民法院), April 30, 2020).

Tracking the Digital Component of the BRI in Central Asia, Part Two: Developments in Kazakhstan

By Sergey Sukhankin

Introduction

This is the second of a three-part series describing the People's Republic of China's (PRC) growing digital presence in Central Asia—part of a larger project commonly referred to as the Digital Silk Road (DSR, 数字 丝绸之路, *shuzi sichou zhi lu*) that supplements the wide-ranging geo-economic and foreign policy Belt and Road Initiative (BRI). Part One of this series focused on Central Asia's most populous country, Uzbekistan (<u>China Brief</u>, February 11). In this article, special emphasis will be put on the region's most affluent and resource endowed actor, Kazakhstan, which has had a particular importance for the BRI since the initiative was first launched by Chinese President Xi Jinping during his state visit to Kazakhstan in 2013 (<u>PRC Ministry of Foreign Affairs</u>, September 7, 2013).



Image: Kazakh President Kassym-Jomart Tokayev attended presentations on some of Hikvision's technology products, including surveillance systems that he later praised, during a state visit to China on September 12, 2019 (Source: Office of the President of the Republic of Kazakhstan).

Background: Deepening Sino-Kazakh Relations and Technology Cooperation

Kazakhstan's ties with Beijing have been boosted after the 2019 election of President Kassym-Jomart Kemeluly Tokayev, a professional sinologist who spent time studying in the PRC during the 1980s

(Ru.sputnik.kz, June 17, 2019). Under Tokayev's leadership, the bilateral relationship was elevated to a "comprehensive strategic partnership" in 2019. Cooperation in the realm of new digital technologies has rapidly become yet another facet strengthening bilateral ties. Both sides have their own interests in boosting technological cooperation: for China "cooperation in the fields of digital economy, e-commerce and artificial intelligence" opens up a new and rapidly developing market for its domestic technology companies seeking to become competitive players in the global market (Xinhua, January 22) as well as being a means of boosting Chinese influence in Central Asia more generally. China has also relied on Kazakhstan to support a variety of international technology issues, including a global initiative on data security and "jointly combatting disinformation" following the COVID-19 pandemic (Xinhua, September 13, 2020), as well as promoting a concept of internet sovereignty that is friendly to authoritarian control of the Internet (CPO Magazine, August 1, 2019).

For Kazakhstan, access to inexpensive Chinese software and hardware—as well as operating expertise—serves as one of the main sources of technological modernization that will be indispensable for developing the country's heavily resource dependent economy. Increasing the government's capacity to survey and control its increasingly online population also aligns with larger efforts to boost cybersecurity; although previous efforts to intercept and control Internet traffic in 2015 and 2019 failed, the government tried again to force citizens in Nur-Sultan to install a digital certificate on their devices before accessing foreign internet services in 2020 (ZD Net, December 6, 2020).

Unravelling the Kazakhstani Agenda: Modernization From Above

Kazakhstan's technological modernization program is primarily guided by objectives outlined in the state-promoted program "Digital Kazakhstan" (2018-2022), which is viewed by the Kazakhstani government as the country's main path toward much needed economic diversification. The program sets forth goals such as accelerating economic growth, upgrading living standards and creating conditions for the nationwide transition to a digital economy (<u>Digitalkz.kz</u>, accessed March 17).

A key pilot project—and an essential stepping stone in realizing the national strategy—is the digitalization of the capital, Nur-Sultan (previously called Astana). But progress has been slow. During the convention of a meeting on the "Digital Kazakhstan" program last March, President Tokayev severely criticized the pace and tempo of digitalization, noting that, "being in demand among the population and business, digitalization is being implemented in areas that are most prone to corruption. This applies primarily to the issuance of land plots, services of natural monopolies, public transport fare systems and other areas," and specified the "need to create a unified monitoring system that unites all state bodies." (Akorda.kz, March 4, 2020).

In 2019, Tokayev visited the offices of Hangzhou Hikvision Digital Technology Company (杭州海康威视数 字技术股份有限公司) during a trip to China (<u>Office of the President of the Republic of Kazakhstan</u>, September 12, 2019), and afterwards spoke glowingly of the company's surveillance capabilities. Tokayev

instructed Kazakhstan's development planners to follow China's example and deepen the collection of citizens' personal identification information (Fergana Agency, October 8, 2019).[1] He especially noted Chinese progress in areas such facial recognition, the usage of biometric and medical data, and the collection of employment and credit history—information which, if systematically collected and stored, would allow the government to track its citizens at a granular level—and held up these advances as a model for Kazakhstan (Kursiv.kz, October 8, 2019).

During the sixth meeting of the Chinese-Kazakh business council, Tokayev said that Kazakhstan was strategically interested in "[the] establishment of joint innovation companies, techno[logy] parks and information technology (IT) centers. In our capital we have opened up an international techno[logy] park for IT start-ups, "Astana Hub" and highlighted work on "big data, Internet of Things (IoT), artificial intelligence (AI), cloud technologies and supercomputers" (Ru.sputnik.kz, September 11, 2019). In response to Tokayev's enthusiasm, Chinese Ambassador to Kazakhstan Zhang Xiao (张霄) said that China occupies a leading position in development of high technologies and is eager to share its experience with Kazakhstan. "President Kassym-Jomart Tokayev voiced his interest in development of our bilateral relations in telecommunications, artificial intelligence, big data, blockchain, the internet of things and digital transformation [...] Kazakhstan is a priority for China and the development of relations with Kazakhstan is highlighted in the agenda" (Kazakh-tv.kz, October 1, 2019).

Achievements and Mounting Concerns in Digitalizing Kazakhstan

For now, digital technologies in Kazakhstan are mainly used for the realization of "Smart City" programs that prioritize increasing the accessibility of public services and improving traffic controls (Egov.kz, accessed May 4; <u>Astana.gov.kz</u>, accessed May 4). Intermediary results suggest positive findings. A report from 2020 quoted the Kazakh Minister of Digital Development, Innovations and Aerospace Development Aksar Zhumagaliyev as saying that by 2019, "most of the big work" of digitalization had been accomplished, and that "82 percent of all public services have been automated" (<u>Astana Times</u>, June 18, 2020). According to a municipal representative of the digitalization and public services department of Nur-Sultan, Aymira Muksulova, road traffic in the capital has become the safest in the country, largely owed to the integration of new technologies. Muksulova also noted that after adding 16,000 video surveillance cameras, the number of registered crimes in the capital decreased by 30 percent in 2020 (<u>Inform.kz</u>, February 25).



Image: (Left) A screenshot taken from a video titled "Smart Astana—City of the Future," produced by the Youtube channel Digital KZ (Source: <u>Youtube</u>). (Right) The homepage of the Smart Astana mobile app, which is designed to provide citizens with easy access to digitized public services including transportation, healthcare, and notifications about local events such as school closures (Source: <u>Astana Times</u>).

A major local provider of the "Sergek" surveillance systems undergirding these developments is Korkem Telecom, which partners with the Chinese company Zhejiang Dahua Technology (浙江大华技术, *Zhejiang Dahua jishu*). The aforementioned Hikvision has also maintained direct sales offices in Kazakhstan since 2015, although according to its 2020 Annual Report the company has invested relatively little in developing its subsidiary business there (<u>Hikvision</u>, accessed May 4). Although Kazakhstan's opaque government does not readily provide details about the sources of procurement for its new surveillance systems, media reports assert that Kazakhstan's video surveillance systems mainly use Chinese products (<u>Central.asia-news.com</u>, December 11, 2019). As in other countries, the pace of adopting smart technologies for public health surveillance was also sped up during the coronavirus pandemic (<u>EDM</u>, April 8, 2020).

Yet civil society advocates and local experts have raised their concerns both with China's increasing role in the domestic technology sector and with the real intentions behind Kazakh authorities' prioritization of cybersecurity and mass surveillance. The IT expert Rymbek Izghali has argued that Smart City and similar initiatives that extensively rely on placing surveillance cameras and other data-collection devices across Kazakh cities are less concerned with improving security, and more aimed at tracking (potential) protestors, given the growing protest movement in the country. Izghali's criticism was shrugged off by a member of the Mazhilis (the lower house of Kazakhstan's parliament), Nurlan Dulatbekov, who said that the president is chiefly concerned with security, not oppressing human rights in the country (<u>Rus.azattyq.org</u>, October 10, 2019). This opinion was repeated by the official representative of Hikvision in Kazakhstan, Leonid Tan, who

assured a journalist that the only function of China-produced cameras used in Smart City project was improving traffic security (<u>Central.asia-news.com</u>, December 11, 2019).

Still, independent critics believe that China has a variety of ulterior motives for exporting its technologies to Kazakhstan, including gaining access to Kazakh citizens' personal data. Specifically, it was alleged that a hacking attempt on Kazakh telecommunication networks was due to Chinese efforts to collect information about the travels of Uyghur tourists across Central Asia and in Kazakhstan in particular (<u>EA Daily</u>, September 9, 2019). The representative of the Kazakhstan International Bureau for Human Rights and Rule of Law (KIBHR), Andrey Grishin, has said that following the 2019 anti-Chinese protests in Kazakhstan, China's interest in Kazakhstan's internal affairs has grown exponentially. Serikzhan Bilash, head of the Atajurt Kazakh Human Rights Organization, argues, "China is eager to increase its surveillance capabilities in Kazakhstan primarily due to the fact that this is the historical motherland of many residents of Xinjiang Uygur Autonomous Region in China. The number of ethnic Kazakhs, who are trying to emigrate from China to Kazakhstan—as an attempt to escape suppression—has been rising, and Beijing is trying to confront this trend" (<u>Central.asia-news.com</u>, December 11, 2019).

China's Interests: Beyond the DSR

First and foremost, it needs to be underscored that Kazakhstan (alongside Pakistan) has been seen by Beijing as a keystone of the land-based dimension of the BRI initiative from the very beginning (<u>Css.ethz.ch.</u> September 4, 2019). To ensure Kazakhstan's full commitment to participating in the BRI, China has used a variety of tools ranging from large foreign direct investments (FDI) in energy and infrastructure to technology cooperation initiatives and educational exchanges (<u>China Brief</u>, November 19, 2019; <u>Asia Times</u>, June 5, 2020). The practical results of China's efforts are already evident: Kazakhstan is the only state in Central Asia to have established an "all-around strategic partnership," also known as "a permanent comprehensive strategic partnership," with China (<u>CGTN</u>, September 11, 2019).

Beijing understands that reliance on a single tool will not yield the desired result of maintaining strong relations with Kazakhstan—instead, it uses a comprehensive approach based on the integrated employment of various political, social and economic levers. Given Kazakhstan's domestic drive toward modernization (prioritizing the digitalization of all major spheres of public life) technology-based cooperation may become China's greatest competitive advantage over neighboring Russia as it seeks to cement its influence in Kazakhstan.

At the same time, this emphasis on technology aligns well with China's development of "Smart Cities" and the DSR. Chinese media sources assert that "building regional ecology of digital economy has been a key part of infrastructure connectivity, and...a new engine for economic growth in Belt and Road regions" (Xinhua, May 4, 2018). Chinese state officials have tied the export of information technologies to long-standing strategic aims to become a "network great power" (网络强国, wangluo qiangguo) and build a "community with a

shared future in cyberspace" (网络空间命运共同体, wangluo kongjian mingyun gongtong ti), aiming to leverage China's growing strengths in IT to build international network infrastructure systems and enhance China's ability to influence global digital governance and standard-setting (<u>Cyberspace Administration of China</u>, February 1).

A 2015 article published by the official Xinhua News Agency defined the BRI as encompassing "five connectivities and three communities" (五通三同, *wutong santong*): connectivity in infrastructure, trade, finance, 'people's hearts' and policy; and the community of interest, destiny and responsibility (Xinhua, March 29, 2015). In 2020, a report by the Netherlands' Clingendael Institute of International Relations argued that "Smart cities [are also] an integral part of China's DSR," and that by focusing on the development of sustainable urbanization through the use of digital technologies including AI, 5G telecommunications networks and IoT, Chinese companies have been able to expand their market access to various parts of the world, including Central Asia and Russia, Africa, the Middle East, and even Europe (<u>Clingendael</u>, accessed March 17).

Conclusion

By extensively relying on Chinese technologies, including cutting-edge surveillance systems, Kazakhstan is becoming even more dependent on China. Compared to FDI and/or infrastructure investments, this "digital dependency" might have far-reaching consequences. According to Niva Yau, a researcher at the OSCE Academy in Bishkek, the increasing reliance on Chinese technologies is closely tied to long-standing elite ties and demonstrates an overarching and near complete dependency of Central Asian countries (Caa-network.org, March 16). She argues that this trend, if it continues to develop, will likely have several serious consequences for Central Asian countries. First, China's technological domination could result in local cyber laws becoming effectively subordinated to Chinese priorities. Second, given the close connections between technology and military, China will increase its security influence in the region as well. Finally, China could acquire direct access to incredibly detailed data on local populations, simultaneously improving its own development of data-centric technologies such as AI while also undermining the independent sovereignty of Central Asian states.

Dr. Sergey Sukhankin is a Fellow at the Jamestown Foundation and an Advisor at Gulf State Analytics (Washington, D.C.). He received his PhD in Contemporary Political and Social History from the Autonomous University of Barcelona. His areas of interest include Kaliningrad and the Baltic Sea region, Russian information and cyber security, A2/AD and its interpretation in Russia, the Arctic region, and the development of Russian private military companies since the outbreak of the Syrian Civil War. He has consulted or briefed with CSIS (Canada), DIA (USA), and the European Parliament. He is based in Edmonton, Alberta, Canada.

Notes

[1] Hikvision, along with other Chinese technology companies, has played a key role in the expansion of oppressive surveillance systems in the majority-Muslim Xinjiang Uyghur Autonomous Region (XUAR), and was sanctioned by the U.S. government for its involvement in the state perpetration of human rights abuses against Muslim minority groups in 2019 (Nikkei Asia, October 8, 2019). Norway and most recently the EU Parliament have also recognized Hikvision's involvement in human rights abuses (IPVM, April 29), while the company has doubled down on its massive surveillance projects and even boasted that foreign sanctions helped boost company sales in 2020 (IPVM, November 30, 2020).
