

Mapping the Cosmopolitan Legal Imaginary: Recent Chinese Scholarship on Dispute Resolution

INTERNATIONAL ACADEMY OF THE BELT AND ROAD, DISPUTE RESOLUTION MECHANISM
FOR THE BELT AND ROAD (Hong Kong, 2016)

WEIXIA GU, DISPUTE RESOLUTION IN CHINA: LITIGATION, ARBITRATION, MEDIATION,
AND THEIR INTERACTIONS (Routledge, 2021)

ZHIQIONG JUNE WANG & JIANFU CHEN, DISPUTE RESOLUTION IN THE PEOPLE'S REPUBLIC
OF CHINA: THE EVOLVING INSTITUTIONS AND MECHANISMS (Brill, 2019)

Reviewed by Matthew S. Erie

In recent years, China has led a not-so-silent revolution in internationalizing its dispute resolution mechanisms, including its courts, arbitration commissions, and mediation bodies, to facilitate cross-border investment and trade. These advancements are startling considering that merely forty years ago, China suffered from a kind of legal nihilism. Whereas states and firms conducting international business in the past relied on primarily Anglo-American institutions (e.g., the WTO Dispute Settlement Body, ICSID, LCIA, NY and DE courts, UK privy council, etc.), the Chinese government has made onshoring disputes involving Chinese state agencies, state-owned enterprises, and private companies, a priority. These new Chinese mechanisms for resolving commercial and investment disputes include not only the much-discussed China International Commercial Court, but also “special courts” in Shenzhen and Shanghai, and “international” arbitration commissions that offer investor-state dispute settlement. Less publicized are the gradual reforms to the people’s courts, which include more judicial training in foreign law and conflict of laws. Rounding out the picture, China has championed the Singapore Mediation Convention as business mediation has become a mainstay across a number of Chinese industrial and service sectors. These developments are notable given that in China, the Chinese Communist Party is the source of a higher-level normative order than state law, and this normative pluralism is globalizing along with China’s dispute resolution institutions. All of this begs the question: are Shenzhen and Xi’an the new Delaware and London?

One place to start to make sense of these innovations, to assess their viability and practicality, and potential long-term implications for global trade and investment, is with the growing body of literature on dispute resolution and its cross-border applications, written by Chinese legal scholars.ⁱ The purpose of this essay is not to provide a comprehensive literature review, but to spotlight a few monographs that suggest what I call the Chinese “cosmopolitan legal imaginary.” By “cosmopolitan legal imaginary,” I mean that Chinese legal scholars are creative producers—ranging from the exhortatory to the critical—of how their society views its institutions of law, which are, on the one hand, rooted in notions of Chineseness and, on the other hand, globally ecumenical.ⁱⁱ This inquiry is not to engage in methodological nationalism or legal orientalism but, rather, to

give greater attention to a stream of scholarship that is under-represented in the “divisible college,” and one poised to shape international law into the future.ⁱⁱⁱ Further, as Jacques Lacan demonstrated, the imaginary, like fantasy and image-work, is not divorced from social reality but is, instead, constitutive of it.^{iv} In brief, intellectual projects may become versions of legal institutions, and in this case, dispute resolution mechanisms. This is especially so for what historian Thomas Mullaney once called China’s “establishment intellectuals,” those who inform policy.^v

By way of caveat, Chinese legal scholars are far from uniform in their conception of dispute resolution mechanisms, and they occupy different positions vis-à-vis political and cultural authorities. This is particularly the case for the Chinese diaspora. Nationalism may play a role in certain instances of academic knowledge production but it is variegated rather than monolithic.

In what follows, I identify two modes of scholarship in regards to China’s new international commercial dispute resolution institutions that exemplify different aspects of the cosmopolitan legal imaginary. The first generates cartographies of legal landscapes and prescribing institutions to optimize security for global Chinese capital. The example I choose is the International Academy of the Belt and Road’s *Dispute Resolution Mechanism for the Belt and Road* (2016). The second describes and analyses the fruits of the cosmopolitan legal imaginary in terms of the reforms and experiments that have been implemented. Both Gu Weixia’s *Dispute Resolution in China: Litigation, Arbitration, Meditation, and the Interactions* (2021) and Zhiqiong June Wang and Jianfu Chen’s *Dispute Resolution in the People’s Republic of China: The Evolving Institutions and Mechanisms* (2019) exemplify this latter type, with different interpretations.

Dispute Resolution Mechanism for the Belt and Road is the result of a unique international collaboration, the International Academy of the Belt and Road (IABR), and it is concerned chiefly with developing an ideal dispute resolution institution for China’s “Belt and Road Initiative” (BRI), an amorphous commercial and foreign policy strategy commenced in 2013 to integrate Sinocentric global supply chains into overseas markets and facilitate Beijing’s geoeconomic goals through the provision of infrastructure, labor, financing, and digital standards and platforms. The IABR is the brainchild of Professor Wang Guiguo, a senior scholar of international economic law who holds positions at both Zhejiang University Guanghua Law School in China and Tulane Law School in the U.S. The IABR is comprised of approximately 50 law professors, barristers, general counsels, government advisors, business executives, and other leaders including those self-identified as Chinese Communist Party officials. More than a third are from the People’s Republic of China, and several of those work in the China Council for the Promotion of International Trade (CCPIT). The IABR has produced a number of projects, including an encyclopaedic series of studies on the legal systems of the BRI states.^{vi} Such mapping exercises identify those jurisdictions with stronger or weaker regimes for contract enforcement, IP protection, ease of doing business and so on, exercises that are helpful for conceptualizing alternative designs for dispute resolution.

The bilingual English-Chinese *Dispute Resolution Mechanism for the Belt and Road* contains, first, a general introduction to the problem of commercial and investment disputes in the BRI, then the procedural rules for the proposed mechanism, and annexes with additional rules, and lastly, appendices including policy papers written by members of the IABR. Having surveyed the existing mechanisms for resolving commercial and investment disputes, finding them sub-optimal,^{vii} *Dispute Resolution Mechanism for the Belt and Road* proposes bespoke “good offices” throughout the BRI to settle disputes.^{viii} “Good offices” are a standard feature of international law whereby a third-party conciliates between the disputants.^{ix} The good offices proposed by the IABR introduce a number of innovations by giving standing to private parties, addressing both trade and investment disputes, and including an appeal system.^x Importantly, the good offices offer mediation, “a product of Eastern culture”: “The Belt and Road Initiative was launched by China and includes a large number of countries influenced by Eastern culture. Therefore, emphasis on mediation in the Belt and Road Initiative dispute resolution mechanism is appropriate to reflect this culture.”^{xi} However, the proposal would offer disputants the option of either mediation or arbitration, as well as their combination (i.e., “med-arb”).^{xii}

The bulk of the monograph consists of detailed rules for the procedures for both mediation and arbitration, including *inter alia*, the initiation of the claim, commencement of mediation, independence and impartiality of the mediator, conduct of the mediation, notice of arbitration, third party funding, expedited procedure, composition of the arbitral tribunal, arbitral proceedings, the award, appeal procedures, and implementation of the award.^{xiii} The introduction calls for adopting the 1980 UNCITRAL Conciliation Rules and 2002 UNCITRAL Model Law on International Commercial Mediation^{xiv} as well as the UNCITRAL Arbitration Rules, respectively. To address existing deficiencies in med-arb, namely, problems attending to a mediator who learns confidential information subsequently serving as the arbitrator to the same dispute, the rules provide for the transition of a mediation into an arbitration, including prohibiting a mediator from serving in the subsequent arbitration.^{xv} Centrally, the proposed dispute resolution mechanism involves the participation of members from BRI states at both the level of its design and in its staffing.^{xvi}

To date, the “good offices” have not materialized, and one can imagine that creating such institutions across the BRI, involving a broad swath of developing countries with complicated politics, would require a level of coordination of which Beijing, in the current political climate, is not capable. Rather, Beijing has established two dispute resolution mechanisms in China that mirror aspects of what is envisioned in *Dispute Resolution Mechanism for the Belt and Road*. These include the China International Commercial Court (CICC) in Xi’an and Shenzhen, a tribunal established under the Supreme People’s Court (SPC), to handle international commercial disputes through not just litigation but also mediation and arbitration and the International Commercial Dispute Prevention and Settlement Organization (ICDPSO), established by the CCPIT and China Chamber of International Commerce (CCOIC) and based in Beijing, which offers mediation and arbitration services to both commercial and investment disputes in the BRI and beyond. While one cannot draw a straight line between the IABR’s “good offices” and the CICC and ICDPSO, there is overlap in their respective designers. For

example, Wang Guiguo is also a member of the International Expert Committee of the CICC, which includes mediators and arbitrators from many BRI states, and a member of the expert group that drafted the ICDPASO rules. To summarize, Beijing has sought to create domestic institutions that can onshore commercial and investment disputes, while also incorporating expertise from outside of China, and in particular, but not limited to, host states for Chinese investment.

While *Dispute Resolution Mechanism for the Belt and Road* is mainly a primary source supplemented with expert commentary, and serves as a blueprint for a dispute resolution mechanism for outbound Chinese capital, there are a number of studies which analyse some of the concepts and institutions which serve as building blocs for initiatives like the good offices, CICC, and ICDPSO. These studies identify a Chinese cultural repertoire of disputing that both responds to currents elsewhere and may also set global trends in the future. Scholars hold different opinions as to the merits of Chinese approaches to dispute settlement and their implications for global inclusion.

Professor Weixia Gu's *Dispute Resolution in China: Litigation, Arbitration, Mediation, and their Interactions* is an academic study of the laws and development of Chinese dispute resolution mechanisms as well as their various procedural intersections. Gu is an expert on private international law, with a particular focus on international commercial arbitration, based at Hong Kong University Faculty of Law. She has written extensively on the problem of commercial and investment disputes in Chinese overseas business and has been a leading voice for Chinese solutions to these problems.^{xvii} Gu's main argument is that whereas what she terms "civil dispute resolution" (i.e., litigation, arbitration, and mediation, as well as their overlap) demonstrates a "law and development" approach and specifically progress toward "rule of law," aspects of the system are politicized to varying degrees, and, as a result, arbitration—the least political—offers the greatest potential for China's contribution to dispute resolution.^{xviii} To make this claim, Gu analyses official databases, including the SPC's annual reports and Chinese arbitration commissions' statistics, as well as an extensive English and Chinese language secondary literature along with comparative examples outside of China. In addition, Gu conducts her own empirical analysis of, for example, the number of "negative" enforcement cases under the pre-reporting system in Chinese courts, based on chinalawinfo.com, a database compiled by Peking University Law School.^{xix}

Dispute Resolution in China: Litigation, Arbitration, Mediation, and their Interactions is organized into four parts. The first provides a background on dispute resolution in China, with a particular focus on the various economic, political, and cultural forces which have shaped the reform of China's civil dispute resolution. For example, Gu assesses the five rounds of reforms the SPC has proposed, from 1999 to 2023.^{xx} This snapshot is helpful to dispel the idea that judicial reform in China is somehow teleological; instead, it is contingent on political will. This part further introduces the intersections of courts with both arbitration and mediation. For the former, it notes that the SPC issues judicial interpretations that fill gaps in the legislation and that courts also issue interim measures, rule on the validity of arbitration agreements, and enforce or set aside awards.^{xxi} For the

latter, judges often rely on mediation as a means of dispute resolution prior to formal litigation (so-called “judicial mediation”).^{xxii}

In the following part, Gu elaborates on the normative sources and development trajectories of the three channels of dispute resolution. Beginning with civil litigation, which, in the Chinese system, includes both civil and commercial disputes, she explains the legislative basis for reform, namely, the introduction into the 2012 Civil Procedure Law of the Chinese equivalent to public interest litigation (*gongyi susong*).^{xxiii} Gu explains the reason for this reform as a response to bottom-up social pressure, especially in the areas of environmental awareness and consumer protection, and identifies this orientation as a major trend for civil litigation reform.^{xxiv}

Part three also includes a discussion of arbitration and mediation. In Gu’s analysis, given that the 1994 Arbitration Law is an outdated law, much of the dynamism of arbitration in China is left to the arbitration commissions themselves with the SPC playing catch-up through the various normative documents it issues. The arbitration commissions, of which there are over 200 in China, are technically “private institutions” (*minjian jigou*) that are market-driven although their budgets are linked, in most cases, to municipal governments. Gu acknowledges the problematic nature of arbitration commissions’ status, and while noting progress made in relative autonomy (as in the case of the Beijing Arbitration Commission and as illustrated in the 2012 “civil war” between the China International Economic Trade Commission in Beijing and its branches in Shenzhen in Shanghai), she calls for greater institutional autonomy for these organizations.^{xxv}

In the chapter on mediation, Gu explains mediation as a non-uniform regime heavily influenced by Chinese traditions of “evaluative” practices. Mediation includes a number of forms and permutations, including people’s mediation, administrative mediation, judicial mediation, mediation plus arbitration (med-arb), international business mediation, and private mediation.^{xxvi} It is in mediation where Chinese culture is most regnant as the mediator plays an active role in adjudicating disputes. Mediation, further, is exposed to political pressure, particularly at the grassroots level, including people’s mediation of social conflicts and labor disputes, not to mention “grand mediation” (*da tiaojie*).^{xxvii}

In part three, Gu analyses the hybrid elements of civil dispute resolution through the interaction of litigation, arbitration, and mediation. These procedural overlaps include judicial mediation, courts’ enforcement of arbitration agreements and awards, and med-arb. As with her earlier introductory chapter, the chapter on judicial mediation shows how oscillating currents of legal populism and formalism put greater or lesser emphasis on mediation in courts. Some of Gu’s most interesting findings are in the chapter on judicial enforcement of arbitration. For example, the SPC has evolved a pre-reporting system such that if any lower court decides not to recognize and enforce a foreign-related arbitral award, then that decision must be reviewed by a higher-level court. Of the 55 cases Gu identified from 2009 to 2018, 20 cases were confirmed not to be enforced by the SPC whereas in 29 cases, the SPC reversed the judgment of the lower court and enforced the awards.^{xxviii} This statistic shows that the pre-reporting system is doing some

amount of work in providing a check on local protectionism. Along these lines, Gu explains that the CICC shall have judicial review of BRI-related arbitration cases, when arbitration was administered by one of five Chinese arbitration commissions.^{xxxix} The central idea is that foreign parties have recourse to the CICC, as headed by those Chinese judges who have the most amount of experience with private international law and foreign law, and thus provide some confidence to those conducting business with Chinese parties. Moreover, the CICC is tasked with addressing some of the deficiencies of Chinese-style med-arb by introducing med-arb wherein the procedures are conducted by separate mediation and arbitration institutions.^{xxx}

For Gu, the “diversified”^{xxxi} approach to dispute resolution that integrates mediation, arbitration, and litigation, holds significant potential for resolving conflicts along the BRI. She writes, “Given the inconsistencies of laws and legal cultures across the BRI jurisdictions, China is expected to build dispute resolution mechanisms and institutions that could accommodate [the] BRI’s demands and realities. The solution suggested is a ‘diversified (hybrid)’ dispute resolution proposal to satisfy the range of disputes that the BRI will produce.”^{xxxii} In summary, a selective use of Chinese dispute resolution pathways, including combinations thereof, and especially those that emphasize arbitration, may address some of the challenges encountered by outbound Chinese capital.

Whereas Gu perceives the integrated approach to dispute resolution as holding potential to mitigate some of the risks generated by greater cross-border business, Zhiqiong June Wang and Jianfu Chen (hereinafter, “Wang and Chen”), in their *Dispute Resolution in the People’s Republic of China: The Evolving Institutions and Mechanisms*, have a more critical appraisal. Wang and Chen, legal scholars based in Australia, take as their focus what they term the “Mechanism for Pluralist Dispute Resolution” (PDR), the sum total of the SPC’s efforts to link litigation and mediation. In contrast to Wang Guiguo and Gu, Wang and Chen identify the PDR as a “national strategy for comprehensive social control.”^{xxxiii} This assertion, they further claim, should shed light on how China, and its dispute resolution systems, is regarded as a rising power in global commerce.^{xxxiv}

Dispute Resolution in the People’s Republic of China: The Evolving Institutions and Mechanisms takes a broad view of Chinese dispute resolution, including its long historical development and the political and cultural factors which have shaped its evolution. In terms of their sources, the authors mainly cite to the relevant laws and regulations as well as policy documents that have shaped dispute resolution in China, in addition to the secondary literature. Chapter 1 provides the deep context of Chinese dispute resolution through recourse to the traditional Chinese political philosophies and Chinese legal history, which, they point out, has led—according to the CCP—to the establishment of a “socialist system of laws with Chinese characteristics” in 2010.^{xxxv} Chapter 2 provides a comprehensive overview of the relationship between the CCP and the government, including the Politico-Legal Committees which place all legal institutions under the leadership of the Party.^{xxxvi} The authors note the paradox of the increasing transparency of such systems while also strengthening the overall administrative control of the Party over all aspects of government through the 2018

establishment of the supervision commissions which are a united supervisory power, including both Party and state elements.^{xxxvii} Against this backdrop, Chapter 3 introduces the judicial institutions noting the absence of judicial independence in China, and, as with the first chapter, provides an overview of the status of the judiciary throughout the broad sweeps of Chinese history. Similarly, Chapter 4 locates the vexed status of lawyers in Chinese society, including law firms and foreign lawyers, against this broader backdrop.

Beginning with Chapter 5, on negotiation and mediation, Wang and Chen address the issue of dispute resolution proper. From the outset, the authors note that alternative dispute resolution (ADR) in China, within which they include arbitration, is rooted in Chinese culture but also in commercial necessity, as arbitration was transplanted from outside China.^{xxxviii} Wang and Chen observe that starting in 2013, the SPC sought to build a PDR to integrate mediation, arbitration, administrative ruling, administrative reconsideration, and litigation.^{xxxix} The rationale was that different dispute resolution strategies could transition into each other to provide optimal coverage of any given conflict.^{xl} This approach is “going out” along with Chinese companies conducting business overseas, as reflected in CCPIT arrangements with other countries and the SPC’s coordination with Chinese chambers of commerce.^{xli}

Chapter 6 provides a helpful detailed history of arbitration in China and its legal framework and regulation. The authors observe that since its inception, arbitration in China has been viewed more as an administrative process than a private arrangement.^{xlii} They further describe and explain the arbitration commissions and the arbitration process, with a particular focus on CIETAC which has historically administered the largest number of foreign-related cases.^{xliii} Chapter 7 on civil litigation and Chapter 8 on enforcement of judgments further complete the picture, and especially through an appraisal of foreign-related litigation and enforcement of foreign judgments.^{xliv} In their conclusion, Wang and Chen opine that the Chinese government’s PDR is at odds with dispute resolution reform given that PDR is aimed more at social control than it is at providing equitable and transparent dispute resolution.^{xlv}

Assessing these works as a whole, it is clear that the Chinese Party-State is building out its dispute resolution institutions for cross-border commerce if not geoeconomic order and that this approach takes the form of, alternatively, “diversified,” “organic,” or “plural” dispute resolution mechanisms, including mediation, arbitration, and litigation. The SPC itself has embraced the concept of the “one-stop shop” for resolving international commercial disputes.^{xlvi} As with the discourse on artificial intelligence technologies in China generally but also as increasingly applied to dispute resolution in particular, there exists a vision of the “one-stop shop” as a problem-solving machine. For the proponents of this approach, the Chinese cultural repertoire of disputing is procedurally malleable and can accommodate diverse disputes and parties, regardless of their cultural or economic background. Conceptions of culture, then, play a vital role in these projects, and in shaping preferences for different types of mechanisms or their combination. For example, for Wang Guiguo, mediation is a product and practice of Chinese culture, and one that is flexible and responsive enough to address conflicts involving parties of

different national and legal backgrounds. Yet for Gu, the cultural basis of mediation may be a liability rather than a selling point.

Gu, instead, points to arbitration primarily because it is in the hyper-competitive industry of arbitration in China where market forces are most active. However, the idea of arbitration as a-cultural may rest on a Tylorian notion of culture, as a set of objectified attributes, rather than a dynamic process or as itself a legitimating discursive practice.^{xlvii} For instance, according to my own interviews with Chinese arbitrators, the service and methodology of handling proceedings in Chinese arbitration commissions is quite different from those of institutions based in places like Paris or London, as the arbitration commission has much more power to manage the case than the tribunal. In other words, Chinese arbitration illustrates a certain kind of bureaucratic “culture.” Top-top controls are not limited to the arbitration commission itself, as Gu herself shows, in the case of the absence of “negative” enforcement cases in 2017 and 2018 due to the government’s mandate to promote the BRI.^{xlviii} Reflecting more generally, the three projects each demonstrate in different ways the pivotal role of culture in both shaping dispute resolution institutions in China and also in the way that those institutions are, in turn, discussed, debated, and promoted.

Lastly, one could interrogate further the specific nature of the versions of the “one-stop shop” envisioned in the different projects. Chief among the problems is the presence of the state in managing such mechanisms. For instance, the rules for Wang Guiguo’s dispute resolution mechanism include provisions for transparency,^{xlix} yet the role of the state in establishing and operating the good offices, particularly when many disputes in the BRI involve state agencies and state-owned enterprises, is unclear.¹ In parallel, there is some ambiguity in the way in which Wang and Chen approach the PDR. Despite the fact that it is the unifying concept of their study, and is described in detail in the introduction, it is strangely elusive in the following substantive chapters. As the authors themselves insist, the PDR has both broad and narrow meanings,^{li} and the former is perhaps intentionally un-defined. Yet as an analytical concept, it would have been helpful to have more explicit lines drawn between the PDR as a government project and the various channels of dispute resolution.

Notwithstanding the concerns raised above, these works, as primary and secondary sources, will help inform future studies of China’s entry into the markets and cultures of international commercial dispute resolution. As an academic question, China’s growing dispute resolution capabilities may shape global governance. From a practitioner’s perspective, questions of China as an arbitral seat, people’s courts’ enforcement of foreign judgments, and Chinese law as governing law may impact decisions regarding contract formation and drafting. Indeed, while Chinese institutions may garner a spectrum of academic views, it is these practical considerations which will determine whether or not forums like Shenzhen and Xi’an can attain global legitimacy.

ⁱ See e.g., Liu Jingdong (刘敬东), Goujian gongzheng heli de “Yidaiyilu” zhengduan jie jue jizhi (构建公正合理的“一带一路”争端解决机制) [Building a fair and reasonable dispute settlement mechanisms for the Belt and Road Initiative], 25 TAIPING YANG XUEBAO (太平洋学报) [Pacific Ocean Journal] 13 (2017); Xiangzhuang Sun, *A Chinese Approach to International Commercial Dispute Resolution: The China International Commercial Court*, 8 CH. J. COMP. L. 45, 45 (2020); Shi Jingxia (石静霞) & Dong Nuan (董暖), “Yidaiyilu changyi” xia touzi zhengduan jie jue jizhi de goujian (“一带一路倡议”下投资争端解决机制的构建) [The Construction of the Investment Dispute Resolution Mechanism under the BRI proposal], Wuhan Daxue Guojifa yanjiusuo (武汉大学国际研究所) [Wuhan University International Law Research Institute](2018), available at http://www.pkulaw.cn:83/fulltext_form.aspx?Gid=1510186323&Db=qikan; Qian Yan (钱颜), Yufang yu jie jue guoji shangshi zhengduan yaoyou Zhongguo fang'an (预防与解决国际商事争端要有中国方案) [Preventing and Resolving International Commercial Disputes Must Have a Chinese Method], Zhongguo Maoyi Bao (中国贸易报) [China Trade News] (2018), available at <http://www.chinatradenews.com.cn/shangshi/201805/15/c19162.html>.

ⁱⁱ On the notion of the “imaginary” as the self-institution of society, see generally, CORNELIUS CASTORIADIS, *IMAGINARY INSTITUTION OF SOCIETY* (1998).

ⁱⁱⁱ See ANTHEA ROBERTS, *IS INTERNATIONAL LAW INTERNATIONAL?* 2 (2017). See also Matthew S. Erie, *China and International Comparative Law: Between Social Sciences and Critique*, CHI. J. INT'L L. (forthcoming).

^{iv} See generally, JACQUES LACAN, *THE FOUR FUNDAMENTAL CONCEPTS OF PSYCHOANALYSIS: THE SEMINAR OF JACQUES LACAN BOOK XI* (1973).

^v THOMAS S. MULLANEY, *COMING TO TERMS WITH THE NATION: ETHNIC CLASSIFICATION IN MODERN CHINA* 11 (2011).

^{vi} See Wang Guiguo (王贵国) et al., “Yidaiyilu” yanxian guojia falü jingyao (一带一路沿线国家法律精要) [Essentials of BRI States' Law] (2017).

^{vii} Id at 295 (finding that the WTO dispute settlement body and ICSID are weak on enforcement).

^{viii} INTERNATIONAL ACADEMY OF THE BELT AND ROAD, *DISPUTE RESOLUTION MECHANISM FOR THE BELT AND ROAD* 35 (2016).

^{ix} See Rules of Procedure for Conciliation and Good Offices of the International Chamber of Commerce (1922), in INTERNATIONAL CHAMBER OF COMMERCE, *RULES OF CONCILIATION (GOOD OFFICES) AND ARBITRATION* (Fourth Ed.) (1922).

^x See Wang et al., *supra* note vi at 35-39.

^{xi} Id at 39.

^{xii} Id at 41.

^{xiii} Id at 49-229.

^{xiv} The *Dispute Resolution Mechanism for the Belt and Road* was written before the promulgation of the 2018 rules and the 2018 UN Convention on International Settlement Agreements Resulting from Mediation.

^{xv} See Wang et al., *supra* note vi at 75.

^{xvi} Id at 303 and 375.

^{xvii} See e.g., Weixia Gu, *China's Belt and Road Development and A New International Commercial Arbitration Initiative in Asia*, 51 VANDERBILT J. TRANSNATIONAL L. 1306, 1351 (calling the BRI “a golden opportunity for China to take the lead in considering the possibility of harmonizing the public policy exception in international commercial arbitration”).

^{xviii} WEIXIA GU, *DISPUTE RESOLUTION IN CHINA: LITIGATION, ARBITRATION, MEDIATION AND THEIR INTERACTIONS* 4, 5, 8-10, 248 (2021).

^{xix} Id at 189-191.

^{xx} Id at 30-41.

^{xxi} Id at 42-43.

^{xxii} Id at 43-44.

^{xxiii} Id at 60-61.

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- xxiv *Id* at 74.
- xxv *Id* at 116-117.
- xxvi *Id* at 126.
- xxvii *Id* at 136-145.
- xxviii *Id* at 190.
- xxix *Id* at 201.
- xxx *Id* at 232.
- xxxi *Id* (citing the 2018 Provisions of the SPC on Several Issues Concerning the Establishment of the International Commercial Courts, art. 11).
- xxxii *Id* at 235.
- xxxiii ZHIQIONG JUNE WANG AND JIANFU CHEN, *DISPUTE RESOLUTION IN THE PEOPLE’S REPUBLIC OF CHINA: THE EVOLVING INSTITUTIONS AND MECHANISMS* ix (2019).
- xxxiv *Id.*
- xxxv *Id* at 46.
- xxxvi *Id* at 50.
- xxxvii *Id* at 64.
- xxxviii *Id* at 130.
- xxxix *Id* at 141.
- xl *Id.*
- xli *Id* at 143-144. *See also* *id* at 159-160 (discussing the CCPIT/CCOIC Conciliation Center, a permanent body for the mediation of commercial and maritime disputes, which has links with 18 countries).
- xlii *Id* at 170.
- xliii *Id* at 197-210.
- xliv *Id* at 240-247 and 268-276.
- xlvi *Id* at 279.
- xlvi Zuigao renmin fayuan (最高人民法院) [Supreme People’s Court], Guanyu sheli guoji shangshi fating ruogan wenti de guiding (关于设立国际商事法庭若干问题的规定) [Regulations on Certain Issues in Establishing an International Commercial Court] art. 11 (2018)) (calling the CICC a “one-stop shop” (*yizhanshi*)).
- xlvi *See e.g.*, Sally Engle Merry, *Human Rights Law and the Demonization of Culture (And Anthropology Along the Way)* 26 *POL. & LEGAL ANTHRO. REV.* 55 (2003); ADAM KUPER, *CULTURE: THE ANTHROPOLOGIST’S ACCOUNT* 14, 56-7 (1999).
- xlvi *See supra* note xviii at 191.
- xlvi *Id* at 243-257.
- ¹ On the problem of public-private blurring in new commercial courts and arbitration institutions more generally, *see* Pamela K. Bookman, *Arbitral Courts*, *VA. J. INT’L L.* (forthcoming).
- ^{li} *See supra* xxxiii at 9-10.