

The Emerging Role of Chinese Transnational Corporations as Non-state Actors in Transnational Labour Law: A Case Study of Huayou Cobalt in the Global Cobalt Supply Chain

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This article aims to investigate the emerging role of Chinese transnational corporations in navigating labour norms in the context of global economic shifts. Based on a transnational labour law approach, this article conducts a case study on Huayou Cobalt, a transnational cobalt refiner headquartered in China. Since being targeted in a research report by Amnesty International in 2016, Huayou Cobalt has shown a proactive engagement with other actors along the global cobalt supply chain, as well as a rapid update of its social responsibility related corporate policies. By investigating recent regulatory updates made by Huayou Cobalt, this case study demonstrates that normative settling and behavior changes regarding labour regulation have emerged at Huayou Cobalt during the period between 2016 and 2020. Furthermore, this case study suggests that regulatory updates made by Huayou Cobalt could create both challenges and opportunities for developing a responsible global cobalt supply chain.

Keywords: *Chinese transnational corporations, global cobalt supply chain, labour norms, transnational labour law*

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Introduction

Cobalt is a critical component of lithium-ion batteries, which power our daily lives through a wide array of electric devices, from everyday mobile technologies to electric vehicles. Global cobalt demand is anticipated to experience a further boost in the coming decades, primarily due to lithium-ion battery consumption. The global cobalt market is highly concentrated, with more than half of the cobalt being mined in the Democratic Republic of the Congo (DRC), and almost half of the cobalt being refined by Chinese refiners (Van den Brink et al. 2020, p. 3). According to a recent study by Van den Brink et al, in 2016, at least 23 refinery companies produced cobalt (Van den Brink et al. 2020, p. 3). Eight of these 23 refinery companies are headquartered in China.¹

Mining in the DRC is problematic from a social point of view. Besides industrial mining, an estimated 15% of the total cobalt production in the DRC comes from artisanal mining, a sector with high risks of labour abuses, particularly the use of child labour (BGR 2019, p. 4). Research contributions by scholars, as well as international governmental and non-governmental organizations have provided extensive evidence of labour and human rights abuses associated with cobalt mines in the Katanga region of the DRC (Cheyns et al. 2014). A recent empirical study finds that different forms of child labour have been observed at artisanal or small-scale copper and cobalt mine sites (OECD 2019, p. 6). A recent mapping of the artisanal copper-cobalt mining sector detects the presence of children in 17 of 102 artisanal mines investigated (BGR 2019, p. 43). The mapping finds that many of those children carried out work related to artisanal mining (BGR 2019, p. 43).

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Analysis in this article reflects developments up to December 2020. Remaining shortcomings and any errors are my responsibility.

¹ Among the identified 23 refinery companies, the following eight companies are headquartered in China: Quzhou Huayou Cobalt New Material Co., Ltd., Jiangsu Cobalt Nickel Metal Co., Ltd., Zhejiang Huayou Cobalt Co., Ltd., Lanzhou Jinchuan Advanced Materials Technology Co., Ltd., Ganzhou Tengyuan Cobalt New Material Co., Ltd., Ganzhou Yi Hao Umicore Industry Co., Ltd., Nanjing Hanrui Cobalt Co., Ltd., Tianjin Maolian Technology Co., Ltd.. Furthermore, Quzhou Huayou Cobalt New Material Co., Ltd. is a wholly owned subsidiary of Zhejiang Huayou Cobalt Co., Ltd..

In January 2016, Amnesty International, jointly with African Resources Watch, released a research report titled *'This is What We Die for': Human Rights Abuses in The Democratic Republic of the Congo Power the Global Trade in Cobalt* (hereafter referred to as "Amnesty International Report (2016)" or "the report") (Amnesty International 2016). This report revealed severe labour and human rights abuses at the bottom of the global cobalt supply chain in cobalt mines in the DRC. The report found that "children as young as seven scavenge for rocks containing cobalt in the discarded by-products of industrial mines and wash and sort the ore before it is sold" (Amnesty International 2016, p. 16). The report identified a total of 26 companies which may be connected to the sourcing of processed cobalt ore products from artisanal cobalt mines in the DRC (Amnesty International 2016, p. 8). These companies are headquartered in China, Germany, Japan, South Korea, the United Kingdom, and the United States. They encompass a wide range of established and emerging transnational corporations (TNCs), including some of the world's largest and best-known electronics companies such as Apple Inc., Dell Inc., Samsung, and Huawei. Among these companies, the report identified Zhejiang Huayou Cobalt Co., Ltd. (Huayou Cobalt), a transnational cobalt refiner headquartered in China, as being in a key position and therefore a "choke point" of the global cobalt supply chain (Amnesty International 2016, p. 8). The report argued that "[Huayou Cobalt] is failing to respect human rights and there is a high risk that Huayou Cobalt is buying (and subsequently selling) cobalt from artisanal mines in which children and adults work in hazardous conditions" (Amnesty International 2016, p. 9).

The Amnesty International Report (2016) has refocused the international community's attention on the contentious labour issues along the copper and cobalt belts in the DRC. The increased international attention on labour practices has sparked updates of policies and other measures by both state and non-state actors along the global cobalt supply chain (Amnesty International 2017). Notably, since being targeted in the report, Huayou Cobalt has proactively engaged with other actors, and has rapidly updated its corporate social responsibility (CSR) related policies. Two years later, the policy updates and practical changes made by Huayou Cobalt have been acknowledged by both Amnesty International and third-party auditors (e.g., Amnesty International 2017; LG Chem 2018).

Since being targeted by Amnesty International, Huayou Cobalt has received considerable attention from the international community and academia. Increasing media coverage has paid attention to labour rights and other social impact of Huayou Cobalt in the global cobalt supply chain (e.g.,

Sky News February 28, 2017; *Reuters* August 12, 2020). Research contributions by international non-governmental organizations, research institutions, and governmental agencies have focused on Huayou Cobalt as an example when investigating the changing transnational labour regulatory environment and due diligence requirements through mineral supply chains (e.g., Renwick, Gu, and Hong 2018; Michailova and Stringer 2018; BIICL 2020; IPIS 2020; World Economic Forum 2020). Emerging academic literature has also used Huayou Cobalt as a case example for analyzing topics relevant to labour norms and labour practices in the global cobalt supply chain (e.g., Mann 2017; Hancock et al. 2018; Van den Brink et al. 2020; Baumann-Pauly and Iyi 2020) and Chinese outward mining investment in resource-rich countries in Africa (e.g., Ericsson, Löf and Löf 2020; Straube 2020). These emerging discussions have underlined the importance of the Huayou Cobalt case and its broader implications for labour regulation across the global cobalt supply chain and in transnational spheres generally. Therefore, Huayou Cobalt has been selected for an in-depth case study to illustrate the emerging role of Chinese TNCs in navigating labour norms in the era of economic globalization.

The Huayou Cobalt case sheds new light on both existing and emerging debates on transnational labour regulation along global supply chains (e.g., Blackett 2001; ILO 2016, 2021). First, it provides new angles of the emergence and proliferation of transnational private labour regulation along global supply chains, as well as its legitimacy, sufficiency, and effectiveness in improving labour compliance (e.g., Locke 2013; Locke and Samel 2018; Amengual and Distelhorst 2019, 2020). During the past three decades, the proliferation of transnational private labour regulation has generated heated debates on the legitimacy, sufficiency, and effectiveness of such regulation. However, most of the existing in-depth investigations and debates are grounded in case examples of established TNCs such as Apple Inc., and Gap Inc. (e.g., Backer 2008, 2013; Amengual and Distelhorst 2019, 2020). It is important to point out that transnational private labour regulation is neither present in all supply chains nor in all TNCs. This article finds that, in the case of Huayou Cobalt, transnational private labour regulation has only begun to emerge in recent years. In-depth investigations of Huayou Cobalt could help us identify the development of transnational private labour regulation in Chinese TNCs and its potential implications on debates regarding transnational labour regulation along global supply chains. Second, it enlightens us to rethink the complex interactions between public and private forms of governance, which often encompass tensions, displacement,

complementarity, and synergy (e.g., Kolben 2015a; Gereffi and Lee 2016). The Huayou Cobalt case could help us better understand the production and flow of labour norms across various sites and levels of law in transnational spheres. Findings from the Huayou Cobalt case have indicated that transnational private labour regulation has emerged at the corporate level in China. During a short timeframe between 2016 to 2020, public labour norms generated at the international level and the national level in China have been incorporated into CSR-related corporate policies and mechanisms at Huayou Cobalt. Third, it highlights the emerging trends in transnational labour regulation in the context of global economic shifts, particularly the rise of emerging TNCs in global supply chains (e.g., Sinkovics et al. 2014; Nadvi 2014; Lee and Gereffi 2015). A concrete case study of Huayou Cobalt could help us evaluate how regulatory updates made by emerging TNCs might influence the governance of labour rights along the global cobalt supply chain. This case study shows that recent regulatory updates by Huayou Cobalt could create both challenges and opportunities for developing a responsible global cobalt supply chain.

This article consists of the following three sections. The first section maps out the context surrounding the development of Huayou Cobalt, to illustrate how the company has developed from a small domestic Chinese corporation to a large transnational refiner in the global cobalt supply chain. The second section investigates the company's recently updated CSR-related corporate policies and practical measures, to identify the normative settling and behavior changes regarding labour regulation at Huayou Cobalt between 2016 and 2020. The third section critically assesses the regulatory updates made by Huayou Cobalt, to evaluate their impacts on labour rights and broader implications for the global cobalt supply chain.

Building on a transnational labour law approach, this article theorizes the role of Chinese TNCs as non-state actors in the changing transnational labour regulatory environment in the era of economic globalization. Transnational labour law is "a form of multilevel governance, including the international, the regional, the national, and the shop floor" (Blackett and Trebilcock 2015, p. 4). A transnational labour law approach recognizes not only the role of states but also the emerging role of non-state actors, such as international organizations and TNCs, in the multilevel governance of labor rights in transnational spheres (Blackett and Trebilcock 2015).

One of the challenges of this article is the limited access to comprehensive and reliable data on labour practices, policies, and practical measures taken by TNCs. To ensure the neutrality and accuracy of data, this article benefits

from data triangulation, which suggests the collection and application of data from multiple sources (Johnson 1997). Relevant data was collected through websites of international organizations, NGOs, governmental agencies, industry associations, and websites of TNCs, especially Huayou Cobalt, as well as its suppliers, clients, and partners.

Chinese Transnational Corporations in a Time of Turbulence: The Rise of Huayou Cobalt in the Global Cobalt Supply Chain in the 21st Century

This section situates Huayou Cobalt in the context of China's economic engagement in Africa, a contested transnational sphere where state and non-state actors compete, negotiate, and consistently create and recreate labour norms in rapidly changing regulatory environments. This section articulates the rise of Huayou Cobalt in the global cobalt supply chain and the emerging role of Huayou Cobalt as a non-state actor in transnational labour law. First, it introduces the development of Huayou Cobalt as a cobalt refiner in the context of China's economic engagement in Africa in the 21st century. Second, it illustrates the contentious labour issues in the artisanal mines in the DRC that can be traced back to the 1990s. Third, it provides an overview of actions taken by Huayou Cobalt between 2016 and 2020, after being targeted by the Amnesty International Report (2016). The development process of Huayou Cobalt, the historical context of mining in the DRC, and the company's responses to the report help us identify and understand the updates to corporate policies and mechanisms made by Huayou Cobalt. This also helps us evaluate the capability and potential of Huayou Cobalt in shaping the production and flow of labour norms in the global cobalt supply chain.

The Rise of Huayou Cobalt in the Global Cobalt Supply Chain: From Small Chinese Domestic Corporation to Leading Transnational Refiner (2002-2020)

Huayou Cobalt is a Chinese private and listed company headquartered in Tongxiang, Zhejiang Province, China. Huayou Cobalt is a new high-tech enterprise specializing in the manufacturing of lithium-ion battery materials and new cobalt materials. Its corporate slogan reads "Rooted in China, Making Friends All over the World" (Huayou Cobalt 2020a). A close investigation into the company's history shows that Huayou Cobalt has

developed from a small domestic corporation to a leading transnational refiner during the past two decades.

Huayou Cobalt was founded by Mr. Weitong Xie and Mr. Xuehua Chen according to Chinese company law. Mr. Xuehua Chen has been the legal representative of the company. In May 2002, Huayou Cobalt was registered in Tongxiang as “Zhejiang Huayou Cobalt-Nickel Material Co., Ltd” with registered capital of USD 3.19 million. During the past two decades, Huayou Cobalt has undergone several mergers and acquisitions. On April 14, 2008, through shareholding system reform, Huayou Cobalt became “Zhejiang Huayou Cobalt Co., Ltd” with registered capital of CNY 360 million (about USD 54 million) (Huayou Cobalt 2015). Since then, the controlling shareholders of Huayou Cobalt have been two private Chinese companies, Dashan (controlled by Mr. Weitong Xie) and Huayou Investment (controlled by Mr. Xuehua Chen). Through Dashan and Huayou Investment, Weitong Xie and Xuehua Chen have been joint controllers of Huayou Cobalt. On January 29, 2015, Huayou Cobalt became a listed company on the Shanghai Stock Exchange. Huayou Cobalt is becoming a leading cobalt refiner in China and one of the world’s largest manufacturers of cobalt products. Between 2013 and 2019, Huayou Cobalt’s total assets have quadrupled, from CNY 5,931,037,014.10 (about USD 0.9 billion) in 2013 to CNY 23,266,984,327.79 (about USD 3.5 billion) in 2019.

Domestically, Huayou Cobalt has been an award-winning company as a result of its rapid development as well as its increasing contributions to the economic, social, and cultural development of China, at municipal, provincial, and national levels.² Internationally, Huayou Cobalt has been expanding its transnational business activities, especially in resource-rich countries in Africa. In June 2006, Huayou Cobalt established Congo Dongfang International Mining SARL (CDM) in the DRC. CDM (a crude refiner) is a wholly owned subsidiary of Huayou Cobalt (a fine refiner). Due to the critical position of CDM in connecting the upstream and downstream of the supply chain, Huayou Cobalt was identified by Amnesty International as a “choke point” in the global cobalt supply chain.

CDM is located in Lubumbashi in the DRC. Like its parent company, CDM has also experienced rapid development since its establishment. The registered capital of CDM has grown from USD 6 million in 2006 to USD

² For instance, in 2013, Huayou Cobalt was awarded the “Model Enterprise of Harmonious Employment Relationship” at the municipal level. In December 2019, Huayou Cobalt was awarded “Top 500 Chinese Listed Companies”. In both 2018 and 2019, Huayou Cobalt was awarded “Top 500 China Private Enterprises in Manufacturing Industry”, with the rank of 425th and 359th respectively.

26.1 million in 2019 (Shanghai Stock Exchange 2020). Furthermore, CDM's total assets have grown from CNY 1,582,381,918.04 (about USD 236 million) in 2013 to CNY 3,773,679,828.74 (about USD 563 million) in 2019 (Shanghai Stock Exchange 2020). CDM is now one of the largest companies at the centre of cobalt trade markets in Lubumbashi, as well as one of the largest crude refiners in the global cobalt supply chain.

Labour Issues at the Bottom of Global Mineral Supply Chains during the 1990s-2020s: "Human Rights Abuses in The Democratic Republic of the Congo Power the Global Trade in Cobalt"

Global mineral supply chains have long been criticized due to the serious labour and human rights abuses that have been reported as occurring at the bottom of the chains. For instance, the copper and cobalt belts in Zambia and the DRC have been the subject of heated discussions regarding the above-mentioned issues (e.g., Elenge and De Brouwer 2011; Di Lorenzo 2018; Hofmann, Schleper, and Blome 2018; Van den Brink et al. 2019; OECD 2019).

During the past three decades, a group of mining TNCs from North America, Europe, and Asia have entered the mining industry in the DRC. Since the 1990s, mining TNCs from developed countries have been major foreign investors in the mining industry in the DRC, for instance, Glencore (Switzerland), Freeport-McMoRan (United States), and Eurasian Natural Resources Corporation (United Kingdom). Starting in the early 21st century, a couple of Chinese state-owned enterprises began to enter the mining industry in the DRC as emerging investors, for example, China Railway Group Limited, Minerals and Metals Group, and Jinchuan Group.

Huayou Cobalt started its transnational business activities in the DRC as a newcomer to the global cobalt supply chain. However, due to its critical role as a refiner, Huayou Cobalt has been identified as a "choke point" which connects the upstream and the downstream of the global cobalt supply chain. In recent years, Huayou Cobalt became one of the major players in the cobalt refining sector in the DRC.

Refocused international attention following the release of the Amnesty International Report (2016) has prompted actors along the global cobalt supply chain to take new actions and make new commitments to fulfil labour and human rights responsibilities. Both states and non-state actors have started to take measures in response to the reported labour issues at the artisanal mines in the DRC (Amnesty International 2017). There was a flurry of activity following the release of the report, including commitments by the

DRC government to protect human rights, a call to action by the Organisation for Economic Co-operation and Development (OECD), and pledges by companies to undertake human rights due diligence in their cobalt supply chains (Amnesty International 2017). Notably, a group of large companies have started to take various actions in response to the Amnesty International Report (2016). Some companies have chosen to join existing and emerging industry-led initiatives on responsible cobalt sourcing, such as the Responsible Minerals Initiative, the Responsible Cobalt Initiative, the Global Battery Alliance, and the Fair Cobalt Alliance. Other companies have aimed to become more transparent by providing information about their suppliers. Among these companies, Huayou Cobalt has shown a proactive and close engagement with both state and non-state actors in responding to the reported labour issues in the DRC.

Recent Regulatory Updates by Huayou Cobalt: Signs of Normative Settling and Behavior Changes regarding Labour Regulation?

In early 2015, when Huayou Cobalt became a listed company on the Shanghai Stock Exchange, the company provided little information about labour and human rights in its outreach materials and communications. On July 9, 2015, Huayou Cobalt received a letter from Amnesty International that questioned its efforts to address labour and human rights issues in the global cobalt supply chain. Among other issues relevant to artisanal mining in the DRC, Amnesty International questioned Huayou Cobalt about its investigations and follow-up measures in response to the claims made in the 2008 Bloomberg news report regarding CDM's purchasing of cobalt mined by children (Amnesty International 2016, pp. 53-54). On August 19, 2015, Huayou Cobalt provided a response letter signed by its President Mr. Xuehua Chen (Amnesty International 2016, pp. 71-74). In the letter, Huayou Cobalt provided the following response to Amnesty International:

Our Company has taken positive actions since we became aware of the 2008 Bloomberg report regarding CDM's purchase of cobalt mined by children in artisanal mines in the DRC. For example, we have gradually closed down the procurement sites and all of them have been closed by now. Currently the ores for CDM are mainly from mining rights holders and traders.

Huayou Cobalt (Amnesty International 2016, p. 71)

Since being targeted by Amnesty International, updates to CSR-related

policies and mechanisms have emerged at Huayou Cobalt. First, Huayou Cobalt established a CSR department, which focuses on policies, mechanisms, and other issues related to CSR. Second, Huayou Cobalt started to develop and publish its annual CSR reports. Third, Huayou Cobalt started to publicize CSR-related information through a variety of channels, for instance, the CSR section of its website, annual CSR reports, as well as annual reports on the Shanghai Stock Exchange. Fourth, Huayou Cobalt joined a variety of initiatives, for instance, the Responsible Cobalt Initiative (2016), the Global Battery Alliance (2019), and the Fair Cobalt Alliance (2020). These updates were initiated primarily in response to the Amnesty International Report (2016) and increased attention from the international community.

An overview of the updates at Huayou Cobalt has revealed important trends in the global cobalt supply chain. It has identified the settling of public labour norms at Huayou Cobalt, during which public labour norms from the international and national level tend to be internalized and reflected in policies and mechanisms at the corporate level. The next section investigates Huayou Cobalt's CSR-related corporate policies and practical measures to identify and articulate the normative settling and behavior changes regarding labour regulation at Huayou Cobalt.

Chinese Transnational Corporations in the Evolving Multilevel Governance of Labour Rights in Transnational Spheres: Huayou Cobalt as a Subject and an Emerging Source of Transnational Labour Law

To understand the dynamic role of Huayou Cobalt in the changing transnational labour regulatory environment, this case study observes Huayou Cobalt as both a subject and an emerging source of transnational labour law (Backer 2008; Blackett and Trebilcock 2015). As a subject of transnational public labour regulation, Huayou Cobalt has started to actively engage with labour regulatory initiatives at the international and national level. This enhanced engagement has contributed to regulatory updates at the corporate level. Furthermore, as an emerging source of transnational private labour regulation, Huayou Cobalt has started to produce CSR-related policies and mechanisms at the corporate level, with a focus on labour and human rights. In light of Huayou Cobalt's multifaceted role within the realm of transnational labour regulation, this section identifies and analyzes the

following two major changes at Huayou Cobalt during the period between 2016 and 2020: (a) the enhanced engagement with labour regulatory initiatives at both the international and national level, and (b) the rapid improvement of CSR-related policies and mechanisms, especially an updated labour and human rights policy and an innovative supply chain due diligence system.

Chinese Transnational Corporations as Subjects of Transnational Labour Law: The Emerging Role of Huayou Cobalt in Engaging with the Operation of Transnational Public Labour Regulation in the Context of China's Economic Engagement in Africa

Transnational public labour regulatory initiatives have emerged from various public sites and levels of law in the context of China's economic engagement in Africa. Typical examples include conventions, declarations, and guidelines, which are produced by public actors such as states and international organizations.

Over the past decade, public labour regulatory initiatives have been notably enhanced at both the international level and national level in China. At the international level, a group of international organizations have strengthened their efforts to produce and disseminate public labour norms to guide TNCs. The emerging policy framework on decent work in global supply chains is a notable effort of the International Labour Organization (ILO) in standard-setting in an era of economic globalization (ILO 2020). The ILO policy framework consists of international labour standards enshrined in a total of 190 ILO conventions, a wide range of protocols and recommendations, as well as a variety of guidelines and declarations. Among these instruments, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (ILO MNE Declaration) is the only ILO legal instrument that provides direct guidance to enterprises (multinational and national) on social policy and inclusive, responsible and sustainable workplace practices (ILO 2017). In 2017, the 5th edition of the ILO MNE Declaration expressly referred to the United Nations Guiding Principles on Business and Human Rights (United Nations Guiding Principles) and its framework of state duty to protect, corporate responsibility to respect, and access to remedy. In addition to the ILO, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the OECD have made considerable efforts to provide applicable norms and practical guidance to TNCs with respect to labour rights in their

transnational business activities. For instance, the United Nations Guiding Principles provides normative requirements and practical guidelines for corporations with respect to human rights (OHCHR 2011). The OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (3rd Edition, 2016) lays out a five-step supply chain due diligence framework for minerals from conflict-affected and high-risk areas (OECD 2016).

At the national level in China, the regulatory framework for Chinese outward investment is emerging (Bernasconi-Osterwalder, Johnson and Zhang 2013). Chinese agencies have issued several regulatory documents that call for improvements in the implementation of all overseas investment projects (Sauvant and Chen 2014). Social and environmental safeguards can be identified in the framework, particularly in recently developed policy documents (Zou 2016; Chen and Liukkunen 2019; IDI 2019). Some important regulatory updates have emerged in the Chinese mining industry (Liang 2019, p. 66; Tu and Chen 2020, pp. 260-262). These regulatory updates aim to guide and monitor Chinese outbound mining investment in establishing social responsibility management systems, disclosing social responsibility information, and integrating social and environmental considerations into overseas investment (Liang 2019; Tu and Chen 2020). In October 2014, the Chinese Guidelines for Social Responsibility in Outbound Mining Investments (Chinese Guidelines for Social Responsibility) were issued by the China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters (CCCMC) (CCCMC 2014). In December 2015, the Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains (Chinese Due Diligence Guidelines) were issued by the CCCMC to operationalize provision 2.6 of the Chinese Guidelines for Social Responsibility (CCCMC 2015). The Chinese Due Diligence Guidelines use the above-mentioned United Nations Guiding Principles and OECD Due Diligence Guidance as a foundation, to align Chinese companies' due diligence with international standards and allow for mutual recognition with existing international initiatives and legislation. Even though China is not a member of the OECD, the Chinese Due Diligence Guidelines acknowledge the OECD Due Diligence Guidance as "the recognized international framework" for supply chain due diligence in the mining sector (CCCMC 2015, p. 7).

Incentivized by the Amnesty International Report (2016), Huayou Cobalt started to actively engage with various initiatives and platforms relevant to transnational public labour regulation. In contrast to its relative silence and low profile in the international community prior to 2016,

representatives from Huayou Cobalt have begun to actively participate in international forums and conferences as speakers (Table 1). Notably, at the international level, Huayou Cobalt's participation in the sixth United Nations Forum on Business and Human Rights marks the first example of formal participation by a company headquartered in mainland China.³ For the first time, on November 27, 2017, a panel dedicated to human rights and due diligence requirements in the supply chains of Chinese TNCs was organized in the forum (OHCHR 2017). This panel is the first of its kind in the six-year history of the most important international forum on business and human rights. The panel was organized by two active national and industrial associations in China: The China National Textile and Apparel Council and the CCCMC. Participants in the panel included representatives of these two agencies, as well as representatives from Huayou Cobalt, the United Nations Working Group on Business and Human Rights, Handa (Yangon) Garment Co., Ltd., Beijing Rongzhi CSR Institute, and the OECD (OHCHR 2017). The panel discussed policy updates at national and industrial levels, as well as updates on the due diligence practices of Chinese TNCs in both the garment and mining industries.

Furthermore, at the national level in China, Huayou Cobalt has also strengthened its cooperation and dialogues with Chinese agencies. Since 2016, Huayou Cobalt has started to develop labour and human rights policies at the corporate level and throughout its supply chains. A notable example is its engagement with the CCCMC, an industrial association for Chinese mining industry and an affiliation of the Ministry of Commerce of China. In 2017, Huayou Cobalt was selected as a pilot due diligence program of the CCCMC-led Responsible Cobalt Initiative. Huayou Cobalt also contributed to the pilot test for developing the CCCMC-led Chinese Guidelines for Cobalt Smelters Supply Chain Due Diligence (Version 1.0, 2019) (CCCMC 2019).

³ The UN Forum on Business and Human Rights is the global platform for yearly stock-taking and lesson-sharing on efforts to move the United Nations Guiding Principles on Business and Human Rights from chapter to practice. Held annually since 2012, it has been the most famous and reputable forum dedicated to addressing human rights issues in relation to TNCs. The central theme of the 6th Forum (27-29 November 2017, Geneva) was "Realizing Access to Effective Remedy".

TABLE 1
A TIMELINE OF THE ENGAGEMENT BETWEEN HUAYOU COBALT AND
TRANSNATIONAL INITIATIVES (2016-2020)⁴

Time (mm/yy)	Initiatives, dialogues, and platforms	The role of Huayou Cobalt
01/2016	Release of Amnesty International Report (2016)	One of 26 companies identified by Amnesty International as relevant to the global cobalt supply chain
06/2016	On-site visit to Huayou Cobalt' CDM in the DRC, by a group of representatives from the CCCMC, World Wildlife Fund, and Congo Representative Office	The recipient company of the on-site visit
11/2016	Responsible Cobalt Initiative	One of the founding members, vice chairs of the board, as well as an active coordinator, and a pilot project of the initiative
02/2017	On-site visit and training about responsible cobalt due diligence management, conducted by the CCCMC	The recipient of the on-site visit and participant in the training
06/2017	The 12 th International CSR Forum organized by GoldenBee	A recipient of the "GoldenBee Enterprise Award"
10/2017	The Responsible Minerals Initiative Annual Conference 2017	Keynote speaker on "Application of due diligence in emerging areas: Cobalt"
11/2017	Release of Amnesty International Report (2017)	One of 28 companies identified by Amnesty International as relevant to the global cobalt supply chain

⁴ Since the release of the Amnesty International Report (2016), Huayou Cobalt has strengthened its engagement with labour regulatory initiatives generated from different sites and levels of law in the context of China's economic engagement in Africa. The information for this timeline was compiled from and cross-checked through a group of reliable public records. For instance, Amnesty International Report (2016), Amnesty International Report (2017), as well as the websites of the OECD, the CCCMC, Huayou Cobalt, and industry-led initiatives.

11/2017	The 6 th United Nations Forum on Business and Human Rights	One of the speakers on the panel “Operationalizing the UNGPs-regional experiences: human rights due diligence in investment and supply chains of Chinese business”
03/2018	A nine-day training conducted by the CCCMC	One of the participants in the training “Sustainable Mining Action Plan”
04/2018	The OECD 12 th Forum on Responsible Mineral Supply Chains	One of the speakers on the panel “Cobalt—Establishing effective links between upstream and downstream due diligence”
10/2018	The Responsible Minerals Initiative Annual Conference 2018	One of the speakers of the panel “Cobalt Refiner Due Diligence”
06/2019	The Global Battery Alliance	One of the members of the Alliance
10/2019	The Responsible Minerals Initiative Annual Conference 2019	One of the speakers in the workshop “How to expand and deepen your minerals due diligence program?”
10/ 2019	A third-party due diligence audit on Huayou Cobalt’s supply chain, organized by the Responsible Cobalt Initiative and the Responsible Minerals Initiative	The recipient of the third-party audit (document review and on-site assessment at both Huayou Tongxiang factory and Quzhou factory in China)
11/2019	On-site visit in the DRC, organized by the CCCMC	One of the participants in the on-site visit
08/2020	Fair Cobalt Alliance	One of the three founding members of the Alliance

Chinese Transnational Corporations as Emerging Sources of Transnational Labour Law: The Emerging Role of Huayou Cobalt in Engaging with the Operation of Transnational Private Labour Regulation along the Global Cobalt Supply Chain

In recent decades, various forms of private labour regulation have emerged in transnational spheres to address the “governance deficit” between public regulatory supply and demand in the context of economic globalization

(Gereffi and Mayer 2004). Transnational private labour regulation refers to “various forms of non-state, privately generated labour law rules and enforcement systems that are utilized to address labour conditions that do not meet the normative expectations of the Primary or of its stakeholders” (Kolben 2015b, p. 363). CSR-related policies issued by TNCs form important parts of transnational private labour regulation. While transnational private labour regulation has proliferated in lead TNCs in global supply chains during the past three decades, in the case of Huayou Cobalt, it is only emerging in recent years.

When developing its CSR-related policies and mechanisms, Huayou Cobalt has tended to engage closely with existing and emerging public regulatory initiatives, specifically those developed by United Nations entities, the OECD, and Chinese agencies. Since the release of the Amnesty International Report (2016), Huayou Cobalt has taken several substantive steps to establish labour policies and supply chain due diligence mechanisms in line with international standards in order to investigate and mitigate labour and human rights risks associated with artisanal mining. For instance, Huayou Cobalt has selected the following four public guidelines as its sources of corporate policies and mechanisms: (a) United Nations Guiding Principles on Business and Human Rights (United Nations Guiding Principles, 2011), (b) OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (OECD Due Diligence Guidance, 2016), (c) Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains (Chinese Due Diligence Guidelines, 2015), and (d) OECD Practical Actions for Companies to Identify and Address The Worst Forms of Child Labour in Mineral Supply Chains (OECD Practical Actions for Companies, 2017) (Huayou Cobalt 2020a). Furthermore, Huayou Cobalt has developed corporate policies and mechanisms consistent with the model supply chain mechanisms set out in the OECD Due Diligence Guidance and the Chinese Due Diligence Guidelines. The updates done by Huayou Cobalt to its corporate policies and mechanisms have shown a tendency towards normative settling and behavior changes regarding labour regulation.

(1) Updates to Labour and Human Rights Policies

In recent years, Huayou Cobalt has demonstrated its improvement from merely *knowing* the importance of labour rights to *showing* what has been done throughout its transnational business activities. According to my investigation using public records and resources, most of its labour and human rights policies were produced during the period between 2016

and 2020, following the issuance of the Chinese Guidelines for Social Responsibility in 2014 and the Chinese Due Diligence Guidelines in 2015, as well as the release of the Amnesty International Report (2016) in January 2016.

At the corporate level, Huayou Cobalt has started to publicize its commitments to labour and human rights. Since late 2016, Huayou Cobalt has updated its corporate policies on its website, focusing on labour rights. In December 2019, Huayou Cobalt released the most recent version, titled “Labor Practices and Human Rights Policy.” While this 2019 version is brief at only three pages in length, it highlights the company’s commitments to labour and human rights, as well as its intentions to operationalize the commitments through both its subsidiaries and suppliers. Through this corporate policy document, Huayou Cobalt commits itself to the labour rights of all its employees as well as labour rights in the global cobalt supply chain. The document states that Huayou Cobalt undertakes “to respect all employees’ labour rights and human rights” (Huayou Cobalt 2020b, p. 1). Furthermore, it reads that Huayou Cobalt requires its suppliers “to respect the labour rights and human rights of all their employees” (Huayou Cobalt 2020b, p. 1). Notably, this document acknowledges both substantive rights and procedural rights. For instance, it underlines a group of substantive rights, including working time, salary, and welfare, as well as various communication and complaint channels to ensure these rights. Furthermore, it underscores a set of organizational rights, including freedom of association and collective bargaining. The document states as follows:

The employees shall be entitled to make a choice on applying to join the labour union and the party and league organizations or not. We shall, according to relevant provisions, support and take part in the labour union collective negotiations involving the collective labour agreement, the special subject of salary, the protection of female employees and other matters.

Huayou Cobalt (Huayou Cobalt 2020b, p. 3)

In addition to substantive and procedural rights, this document also provides a general commitment to continuous efforts in constructing, promoting, and implementing labour rights and other social rights. The document states that the company “shall continue to promote the protection of the employees’ rights and interests according to the national laws and regulations, labor policies, industrial codes, the customers’ requirements, etc.” (Huayou Cobalt 2020b, p. 3). Furthermore, to ensure the implementation of

the document, the last section of the document requires that an annual review be conducted by the social responsibility office and the human resources department of Huayou Cobalt (Huayou Cobalt 2020b, p. 3).

Besides its stated dedication to labour and human rights, Huayou Cobalt has publicly announced its commitments to a broader range of social and environmental rights as well. Huayou Cobalt issued corporate policy documents for a couple of CSR-related topics, including the environment, business ethics, community engagement, and a management system (Huayou Cobalt 2020a). These documents have to some extent addressed labour rights considerations. For instance, a sub-section of its “Business Ethics Code of Conduct” highlights the importance of abiding by applicable employment and labour laws. In this document, Huayou Cobalt commits itself to “make sure not to use any forced labour, contractual labor or debt-paying labour” (Huayou Cobalt 2020c).

(2) The Improvements of Supply Chain Due Diligence Policies

During the period from 2016 to 2020, Huayou Cobalt publicized three interrelated policy documents to operationalize its commitments to a responsible cobalt supply chain: (a) Supplier Code of Conduct, (b) Supplier Standard for Responsible Cobalt Sourcing (Supplier Standard), and (c) Supply Chain Policy for a Responsible Global Supply Chain of Cobalt from High-Risk Areas (Supply Chain Policy). While the whole set of supply chain policies were based on the Chinese Due Diligence Guidelines and the OECD Due Diligence Guidance, these policies go beyond the two due diligence guidelines.

The Supplier Code of Conduct provides guidance for addressing social issues in supply chains, including labour and human rights, environment, business ethics, and other aspects of corporate governance. It expressly references a couple of internationally recognized labour and human rights standards, covering both international conventions and soft standards. International conventions that are referenced include the United Nations Convention on the Rights of the Child, the ILO Minimum Age Convention, 1973 (Convention No. 138), and International Labor Standards, as well as the United Nations Convention against Corruption. International soft standards that are referenced include the United Nations Global Compact, and the ILO Guidelines for the Safety and Health (Huayou Cobalt 2020d, p. 2).

(3) The Establishment of a Six-Step Supply Chain Due Diligence Management System

The concept of due diligence relevant to this article is to “identify, prevent, mitigate and account for” adverse corporate impacts on human rights and the environment. It was introduced through the United Nations Guiding Principles (OHCHR 2011). Frequently used due diligence measures include contractual clauses, corporate codes of conducts, and third-party audits.

The concept of due diligence has been increasingly incorporated into international and national regulatory initiatives, such as the OECD Guidelines for Multinational Enterprises, the OECD Due Diligence Guidance, the ILO MNE Declaration, and the French Duty of Vigilance Law, as well as the two Chinese guidelines for social responsibility in outward mining investment. Drawing insights from the OECD Due Diligence Guidance, the Chinese Due Diligence Guidelines understands due diligence as “an on-going process along supply chains whereby companies take reasonable steps and make good faith efforts to identify and respond to potential risks of contributing to conflict, serious human rights abuses and to serious misconduct” (CCCMC 2015, pp. 12-13).

Prior to 2016, Huayou Cobalt was new to due diligence regarding labour and human rights in supply chains. After the worldwide focus on labour and human rights in artisanal and small-scale mining supply chain brought on by the Amnesty International Report (2016), Huayou Cobalt realized that it “cannot just focus on the governance of internal CSR, but also need[s] to engage actively in the due diligence management of entire supply chain” (Huayou Cobalt 2017, p. 3). Since early 2016, Huayou Cobalt has been actively exploring practical ways to address risks in its supply chains (Huayou Cobalt 2019, p. 57). Within only two years, Huayou Cobalt has managed to make substantive improvements in responding to social risks in supply chains. Huayou Cobalt has established a due diligence management system to address labour and human rights issues in the cobalt supply chain. In 2017, Huayou Cobalt became the first company in the industry which completes a third-party audit of its due diligence management system of the cobalt supply chain, and it also started to run the first responsible due diligence management system of the cobalt supply chain in the industry (Huayou Cobalt 2019, p. 58).

Among other practical mechanisms, Huayou Cobalt has developed a six-step Supply Chain Due Diligence Management System for a responsible cobalt supply chain. Steps one through five are developed according to the five-step due diligence framework provided in the Chinese Due Diligence

Guidelines, which was informed by the OECD Due Diligence Guidance.⁵ The five-step due diligence framework developed by the OECD focuses on key points in the supply chain. However, Huayou Cobalt suggests that the five-step approach does not adequately address the root cause of risks, namely poverty. Huayou Cobalt argues that attention should be paid not only to supply chain management, but also to specific local conditions in investment destination countries and the root causes of risks facing those countries, to address the fundamental vulnerabilities in supply chains (Huayou Cobalt 2019, p.59). Huayou Cobalt suggests that companies should not only comb the supply chain map to avoid risks, but also to work with stakeholders to address the root causes of such risks. Citing a research report on the causes of child labour in the cobalt supply chain in the DRC (CEGA 2017), Huayou Cobalt underlines that “poverty is the root cause of human rights abuses including child labor” (Huayou Cobalt 2020a). In this regard, Huayou Cobalt points out that “we should not only build the due diligence system of cobalt supply chain and model mining template, but also take a part in on-site projects such as community construction and education training to improve the local livelihood” (Huayou Cobalt 2020a). Therefore, beyond the widely known five-step due diligence framework, Huayou Cobalt has developed a further step, which it calls “community intervention projects” (Huayou Cobalt 2020a). Through the sixth step, Huayou Cobalt aims to make contributions to both the economic and social development of local communities in the DRC. For instance, Huayou Cobalt has provided occupational trainings, personnel protection equipment, and medical service for local staff. It has also provided charity donations to bolster infrastructure, basic public services, and agricultural development in local communities.

The Emerging Role of Chinese Transnational Corporations as Non-state Actors in Transnational Labour Law: A Critical Approach to Regulatory Updates at Huayou Cobalt

The rise of Chinese TNCs in the global economy facilitates the emerging role of Chinese TNCs as non-state actors in transnational labour law. The Huayou

⁵ The Chinese Due Diligence Guidelines outlined the five-step risk-based supply chain due diligence framework as follows: Step 1: Establish strong company risk management systems, Step 2: Identify and assess risk in the supply chain, Step 3: Design and implement a strategy to respond to identified risks, Step 4: Carry out independent third-party audit at identified choke points in the supply chain, Step 5: Report on the process and results of supply chain risk management.

Cobalt case exemplifies the dynamic role of Chinese mining TNCs in navigating labour norms along the global cobalt supply chain. This section provides a critical assessment of recent regulatory updates made by Huayou Cobalt, to evaluate their practical impacts on labour rights and broader implications for the global cobalt supply chain.

Considering the dynamic role that Huayou Cobalt plays as both a subject and emerging source of transnational labour law, the case study of Huayou Cobalt provides important findings on the following: (a) the normative settling and behavior changes regarding labour regulation at Huayou Cobalt, and (b) the implications for the governance of labour rights along the global cobalt supply chain. Based on my investigations during the past five years, this case study demonstrates that normative settling and behavior changes regarding labour regulation have emerged at Huayou Cobalt between 2016 and 2020. Furthermore, the case study implies that normative settling and behavior changes at Huayou Cobalt could generate considerable influence, affecting its suppliers, partners, and networks, which could create both challenges and opportunities for developing a responsible global cobalt supply chain.

The Emerging Normative Settling and Behavior Changes Regarding Labour Regulation at Huayou Cobalt

The case study demonstrates that normative settling and behavior changes regarding labour regulation have emerged at Huayou Cobalt between 2016 and 2020. It finds that public labour norms have been diffused from the international level to national and local levels in China and have then settled down at the corporate level in the form of CSR-related corporate policies and mechanisms.

Normative settling and behavior changes have emerged rapidly following the release of Amnesty International's Report (2016). During the period between 2016 and 2020, Huayou Cobalt developed a comprehensive system of CSR-related policies and mechanisms, highlighting the importance of labour and human rights during its transnational business activities. First, Huayou Cobalt has improved labour and human rights policies as key components of its CSR framework. Since 2016, Huayou Cobalt has released different versions of its labour and human rights policies, which apply to the parent company, its subsidiaries, as well as suppliers. Compared to the previous versions, the current version, titled "Labor Practices and Human Rights Policy" (2019), is a more concrete version with specific labour and

human rights requirements at both the corporate and supply chain level. Huayou Cobalt has also developed a set of corporate policy documents to operationalize these requirements. For instance, the “Supplier Code of Conduct” expressly references internationally recognized standards relevant to labour and human rights, covering both international conventions and soft standards. Second, Huayou Cobalt has developed a concrete six-step supply chain due diligence management system to operationalize its corporate policies. This due diligence management system goes one step further than the widely known five-step framework developed by the OECD. The sixth step underscores the importance of on-site projects such as community construction and education training to improve the local livelihood. Third, Huayou Cobalt has increased its transparency through publicizing CSR-related policies, mechanisms, as well as practical challenges and achievements. The updated CSR-related information is accessible through a variety of channels, including the company’s website, its annual CSR reports, as well as the annual reports of Huayou Cobalt as a listed company on the Shanghai Stock Exchange.

At this initial stage, the observed normative settling and behavior changes are characterized by the incorporation of public labour norms into CSR-related corporate policies and mechanisms. During the past five years, Huayou Cobalt has to a considerable extent applied public labour norms when developing its CSR policies and mechanisms. These norms are mostly learned and adopted from transnational public labour regulatory initiatives led by international organizations, particularly United Nations agencies such as the ILO and the OHCHR, as well as inter-governmental organizations such as the OECD.

Furthermore, some features of the normative settling and behavior changes at Huayou Cobalt are notable: (a) the mixture of different groups of rights under the umbrella term of corporate social responsibility, (b) the prioritization of norms relevant to the worst forms of child labour, and (c) the preference of soft law over hard law. First, on its website, Huayou Cobalt has presented a mixed set of CSR-related policies under the umbrella section of “corporate social responsibility”, including labour rights, human rights, environmental rights, and business ethics. The mixture of rights has led to a broad generalization of norms relevant to labour and human rights, as well as other CSR-related norms. Second, in its CSR-related policies and mechanisms, Huayou Cobalt has initially prioritized norms relevant to the worst forms of child labour. Since the Amnesty International Report (2016) highlighted the severity of the worst forms of child labour at the bottom of

the global cobalt supply chain, regulatory updates by Huayou Cobalt have provided particular responses for regulatory issues relevant to those most serious forms of abuses. It is also worth noting that the evolving labour and human rights policies at Huayou Cobalt have taken steps beyond the initial focus on the worst forms of child labour. While largely characterized by generalization, policy considerations have been extended to include broader labour and human rights concerns. Third, when introducing public labour norms into CSR-related policies and mechanisms, Huayou Cobalt has preferred soft law rather than hard law. Multiple forms of public labour regulation have been incorporated into Huayou Cobalt's corporate policies and mechanisms, including conventions, principles, and guidelines. Among these regulatory instruments, Huayou Cobalt has chosen four guidelines as the guiding instruments in developing its own CSR-related policies and mechanisms.⁶ In particular, Huayou Cobalt has taken the OECD Due Diligence Guidance and Chinese Due Diligence Guidelines as its main guidance. Only two of six CSR-related policies have expressly referenced ILO legal instruments. For instance, the three-page "Labor Practices and Human Rights Policy" (2019) is general and does not expressly reference any ILO conventions or human rights treaties. The "Supply Chain Policy" references the ILO Worst Forms of Child Labour Convention, 1999 (Convention No. 182) and its accompanying Recommendation No. 190. The "Supplier Code of Conduct" references a couple of ILO legal instruments, including the use of the general term "International Labor Standards," as well as specifying the ILO Minimum Age Convention, 1973 (Convention No. 138) and the ILO Guidelines for the Safety and Health. Notably, while a broader range of ILO conventions are explicitly referenced as resource documents in the Chinese Due Diligence Guidelines, they have not been explicitly acknowledged and referenced in Huayou Cobalt's CSR-related policies.

The Implications for the Governance of Labour Rights along the Global Cobalt Supply Chain

While the normative settling and behavior changes regarding labour regulation are in their initial phase, the regulatory updates made by Huayou Cobalt could generate practical impacts on labour rights and have broader

⁶ As outlined in previous sections, the four guidelines are as follows: (a) United Nations Guiding Principles (2011), (b) OECD Due Diligence Guidance (2016), (c) Chinese Due Diligence Guidelines (2015), and (d) OECD Practical Actions for Companies (2017).

implications for the global cobalt supply chain. This sub-section provides a preliminary analysis for the emerging role of Huayou Cobalt as a non-state actor in transnational labour law and its implications for the global cobalt supply chain.

(1) An Emerging Non-state Actor in Transnational Labour Law?

The normative settling and behavior changes regarding labour regulation were neither the result of a singular top-down approach in international law, such as coercion or persuasion, nor the product of Huayou Cobalt's unilateral intervention in the governance of labour rights in transnational spheres. Instead, they are the result of a combination of external pressures and internal motivations. The release of the Amnesty International Report (2016), which targeted Huayou Cobalt as a "choke point" of the global cobalt supply chain, is a source of direct external pressure for Huayou Cobalt to take action and develop applicable labour policies at the corporate level (Huayou Cobalt 2019, p. 57). Meanwhile, the enhanced external transnational labour regulatory environment, which highlights the need to further regulate TNCs with respect to labour rights, has informed Huayou Cobalt's response to the changing regulatory environment. Furthermore, the role of Huayou Cobalt as a newcomer to the global cobalt supply chain has internally motivated the emerging TNC to seek socialization and legitimacy during its internationalization (Aguilera-Caracuel, Guerrero-Villegas and García-Sánchez 2017).

As illustrated in the previous sub-section, the normative settling and behavior changes at Huayou Cobalt appear to a large extent as the incorporation of public labour norms into CSR-related policies and mechanisms at the corporate level. Huayou Cobalt does not seem to change or interpret public labour norms. Seen at this initial stage, Huayou Cobalt seems more like a "norm-taker" and "norm-adaptor" rather than a new "norm-maker" in the global cobalt supply chain.

However, emerging examples have also indicated the capability and potential of Huayou Cobalt in shaping labour norms and practices in transnational spheres. For instance, Huayou Cobalt tends to be selective in introducing public labour norms into its corporate policies. Notably, Huayou Cobalt has prioritized a group of labour rights which are relevant to child labour. Furthermore, Huayou Cobalt is innovative in adopting practical guidelines from transnational public labour regulations. For instance, instead of fully relying on the original five-step supply chain due diligence framework provided in the OECD Due Diligence Guidance and the Chinese

Due Diligence Guidelines, Huayou Cobalt established “community intervention” as the sixth step of its supply chain due diligence system. This innovative development of a sixth step shows that Huayou Cobalt not only applies existing mechanisms but also attempts to reconstruct these mechanisms according to its own practices and perceptions. It also implies that on future occasions Huayou Cobalt will be capable of inserting its own interpretation of labour norms and mechanisms into the global cobalt supply chain. Moreover, regulatory updates made by Huayou Cobalt continue to evolve and appear to generate impacts on the global cobalt supply chain. During the past few years, actions taken by Huayou Cobalt have been replicated by both upstream and downstream companies in the global cobalt supply chain, including Chinese TNCs such as China Molybdenum Co., Ltd (China Molybdenum), Nanjing Hanrui Cobalt Co., Ltd., and Guizhou Zhenhua E-chem Inc. (ZEC), as well as non-Chinese TNCs such as Fairphone, Signify, and BMW. For instance, China Molybdenum, a Chinese peer of Huayou Cobalt and one of the largest cobalt producers in the world, has developed similar policies and mechanisms at the corporate level. ZEC, which sources cobalt products from Huayou Cobalt, has recently developed similar sections of its website, CSR reports, labour policies, as well as supply chain due diligence management schemes. These updates are practically influenced and generated by the ongoing practices of Huayou Cobalt.

These emerging examples imply that Huayou Cobalt is capable of shaping the production and flow of labour norms in the global cobalt supply chain. The capability and potential of Huayou Cobalt not only depends on its ambition in setting new labour standards through its subsidiaries, suppliers, and partners, but also depends on the counter power from other actors in the global cobalt supply chain.

(2) Towards a Responsible Cobalt Supply Chain?

Labour norms are increasingly incorporated into Huayou Cobalt’s CSR-related policies and mechanisms. Compared to its limited consideration of labour policies and mechanisms prior to 2016, regulatory updates at Huayou Cobalt could be considered as positive signs towards responsible cobalt sourcing. Furthermore, the normative settling and behavior changes at Huayou Cobalt seem to have had a positive influence across the global cobalt supply chain. However, while having identified these positive changes at the corporate level, the following research questions remain: (a) how and to what extent can Huayou Cobalt operationalize its commitments to labour and human rights? (b) how and to what extent would policies and mechanisms at

Huayou Cobalt generate positive impacts on practices at the local mine level? (c) would policies and mechanisms at Huayou Cobalt enhance and/or undermine the role of public labour norms in the global cobalt supply chain? Answers to these questions would not only deepen our understanding of the emerging role of Huayou Cobalt in navigating labour norms along the global cobalt supply chain, but also shed new light on the long-standing debates regarding the legitimacy, sufficiency, and effectiveness of transnational private labour regulation in global supply chains.

Therefore, while identifying positive trends at Huayou Cobalt, this article takes a critical approach to the normative settling and behavior changes at Huayou Cobalt. Updates to policies and mechanisms at the corporate level do not necessarily lead to the implementation of labour norms in practice. When policies and supply chain due diligence mechanisms are in place, the effectiveness of these policies and mechanisms are to be monitored, investigated, and evaluated. At this initial stage, corporate policies at Huayou Cobalt are simply general acknowledgements, rather than comprehensive guidelines to operationalize labour rights. Furthermore, only a few examples of these policies and mechanisms have expressly referenced legally binding instruments. For instance, the three-page “Labor Practices and Human Rights Policy” (2019) provides selective acknowledgement of a group of rights. While acknowledging the effort and progress made by Huayou Cobalt, Amnesty International noted that: “much more concrete detail is needed about potential and actual risks the company has identified in the DRC, as well as results of Huayou Cobalt’s risk assessment activity” (Amnesty International 2017, p. 45). For example, while generally acknowledging the risk of child labour, substantive information remains unreported, such as the names and locations of buying houses, artisanal and small-scaling mining sites, as well as specific findings regarding child labour and safety issues. Without this information available to the public, it is difficult to assess the quality and effectiveness of Huayou Cobalt’s corporate policies, risk assessment, and mitigation work (Amnesty International 2017, p. 46). A recent third-party audit report of Huayou Cobalt found that the establishment of a supply chain due diligence system is “significant but not sufficient” in addressing labour issues in the global cobalt supply chain (LG Chem 2018, p. 28).

Concluding Remarks

Limitations and Benefits of the Case Study of Huayou Cobalt

Tracking the footprints of rapid regulatory updates made by Huayou Cobalt, this article identifies Huayou Cobalt as an advanced example of the emerging normative settling and behavior changes regarding labour regulation in the global cobalt supply chain.

Focusing on one single case has several limitations. The first notable limitation is the limited generalizability of findings. Focusing on Huayou Cobalt limits the ability to closely observe other TNCs' approaches and practices regarding transnational private labour regulation in the global cobalt supply chain. This may give rise to the possibility that the findings are Huayou Cobalt-specific and thus not generalizable. To reduce the chance of this risk, I drew on a couple of examples of other Chinese mining TNCs, such as China Molybdenum and ZEC. I thus believe that findings from Huayou Cobalt are not random examples but represent emerging trends amongst Chinese mining TNCs. To minimize any risks of unnecessary generalization of findings from a single case, this article focuses on articulating the observed normative settling and behavior changes regarding labour regulation at Huayou Cobalt, and it also makes efforts to provide careful concluding remarks for the future investigations. The second notable limitation is the limited access to data at both the corporate level and supply chain level. Access to data has been a general issue for all research projects related to leading TNCs, as frequently stressed by scholars from a variety of fields. However, as presented in this article, emerging literature on social issues and regulatory updates relevant to the global cobalt supply chain have provided rich resources for this case study. The increased transparency of company data through company websites, annual reports on stocks exchanges, as well as public online meetings have also enabled this in-depth case investigation. This limited access to information highlights the importance of increasing transparency at the corporate level. It also confirms how important it is to compile available data for a case study despite these difficulties.

Based on the available data, this article has managed to present an in-depth case study of Huayou Cobalt. The Huayou Cobalt case provides unique and meaningful contributions to the future investigations of Chinese mining TNCs as well as other TNCs. The Huayou Cobalt case provides comprehensive data about the rise of a Chinese cobalt refiner in the global

supply chain. An evaluation of this development process has highlighted the role of many emerging TNCs, specifically their lack of experience in managing responsible sourcing transnationally, and their increasing capability to make regulatory changes. The rapid regulatory changes at Huayou Cobalt have also demonstrated that emerging TNCs are capable of adapting to the changing transnational regulatory environment. If well developed, the Huayou Cobalt case could be one of good practices for other emerging TNCs to learn from. Furthermore, the valuable resources and findings developed through the case study can facilitate future research on the effectiveness of transnational private labour regulation generated at the corporate level in China.

Main Findings

This article presents a comprehensive investigation of the rise of Huayou Cobalt in the global cobalt supply chain and its implications for the governance of labour rights in transnational spheres. It shows that between 2016 and 2020 Huayou Cobalt has been actively engaged with transnational labour regulatory initiatives in the context of China's economic engagement in Africa. Furthermore, the study develops two major findings according to the dynamic role of Huayou Cobalt as both a subject and an emerging source of transnational labour law. First, this study finds that normative settling and behavior changes regarding labour regulation have emerged at Huayou Cobalt during the period between 2016 and 2020. Through interactive processes, public labour norms have been diffused from the international and the national level to the corporate level and have then settled down at the corporate level in the form of CSR-related corporate policies and mechanisms. Second, this study finds that the normative settling and behavior changes at Huayou Cobalt may generate considerable influences over its suppliers, partners, and networks, which could create both challenges and opportunities on the road to responsible cobalt sourcing. Emerging examples have indicated the capability and potential of Huayou Cobalt in shaping labour norms and practices in transnational spheres. This article suggests that the capability and potential of Huayou Cobalt not only depend on its ambition in setting new labour standards through its subsidiaries, suppliers, and partners, but also depend on the counter power of other actors in the global cobalt supply chain. Follow-up investigations would deepen our understanding of the emerging role of Huayou Cobalt in navigating labour norms along the global cobalt supply chain.

Having identified the rapid regulatory updates made by Huayou Cobalt

and the positive impacts they have had in terms of diffusing labour norms along the global cobalt supply chain, this study takes a critical approach to the normative settling and behavior changes at Huayou Cobalt. While regulatory updates by Huayou Cobalt have indicated a positive trend towards a responsible cobalt supply chain, theoretical implications and practical effectiveness of this emerging transnational private labour regulation must be monitored, investigated, and evaluated. This article suggests that we should continuously observe the life cycles of labour policies and due diligence supply chain mechanisms developed by Huayou Cobalt. By doing so, we can gain a comprehensive understanding of the production and flow of labour norms in the global cobalt supply chain. Meanwhile, it is important to keep in mind that investigations should be conducted both at the corporate level and along Huayou Cobalt's supply chains, both upstream and downstream.

Recommendations for Future Research Directions

The present case study of Huayou Cobalt lays a solid foundation for further investigations of the emerging role of Chinese TNCs as non-state actors in transnational labour law. It also paves the way for comparative case studies within and amongst Chinese TNCs, other emerging TNCs, and established TNCs (e.g., Akorsu and Cooke 2011). This article concludes by providing three recommendations for further investigation into the dynamic role of TNCs in navigating labour norms in the global cobalt supply chain. First, the investigation of Huayou Cobalt should be continued, to evaluate the sufficiency, effectiveness, and practical impacts of its commitments to labour and human rights. Second, Huayou Cobalt should be compared with its Chinese peers, to theorize and understand the emerging role of Chinese TNCs as non-state actors in transnational labour law. Third, Huayou Cobalt should be compared with its international peers, to understand the similarities and differences of emerging and established TNCs in navigating labour norms in the era of economic globalization.

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