

MNC Lawsuit Outcomes in Authoritarian Courts: Evidence from New Litigation Data

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- But emerging economies with weak judicial institutions do not very often appear as the defendants in ISDS lawsuits.
- The total number of supranational investment arbitration is also relatively small, given the volume of cross-border economic transactions.
 - 676 ICSID (International Centre for Settlement of Investment Disputes) and non-ICSID cases in 1990–2014 (Wellhausen 2016).

UNCTAD Investor-State Disputes

Country name	Cases as respondent	Cases as home state of claimant
Argentina	61	5
Spain	50	53
Venezuela, Bolivarian Republic of	48	1
Czechia	38	5
Egypt	34	5
Mexico	32	4
Poland	30	7
Canada	28	50
Ukraine	25	12
Russian Federation	24	24
India	24	7
Ecuador	23	0
Kazakhstan	19	5
Libya	17	0
United States of America	17	178
Romania	16	1
Peru	16	3
Hungary	16	1
Bolivia, Plurinational State of	16	1
Kyrgyzstan	14	0

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- But MNCs engage with many other actors.
- Domestic legal mechanisms are an important but overlooked venue of dispute resolution for foreign investors.

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- We focus on MNCs' corporate structure and political connections.

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- H2: All else equal, MNCs with political connections are more likely to win lawsuits than foreign firms without political connections.

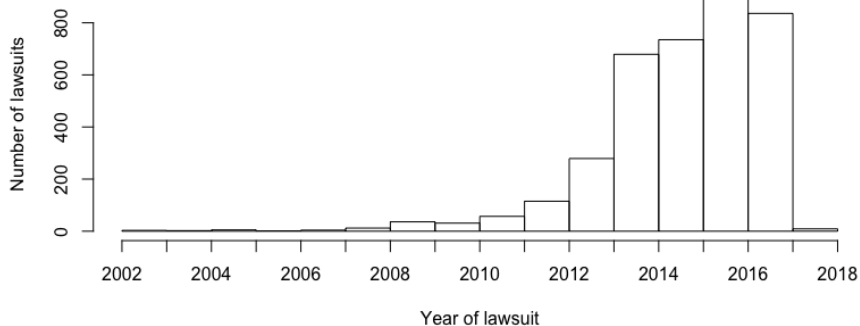
MNC Litigation Dataset

- A new dataset on foreign firms' litigation activities in China.
- Lawsuits involving firms from major FDI origin countries as either plaintiffs or defendants.
- Obtained from China Judgment Online
- 3,719 cases, 2002–2017
- The first systematic analysis of MNC litigation activities in China

MNC Lawsuit Origin Countries

Country	Number of Lawsuits
Japan	1320
South Korea	924
U.S.	527
Singapore	236
Germany	235
France	198
U.K.	125
Australia	114

Annual Distribution of MNC Lawsuits



- DV: Lawsuit win
 - Legal opinion of the court
 - Whether the plaintiff paid fewer court-related fees and expenses
 - Whether any amount of monetary compensation is awarded
 - Whether the plaintiff received more than $\frac{1}{4}$, $\frac{1}{2}$, or full amount of the compensation sought

- IV: Corporate structure
 - General JV
 - JV partnering with SOE
 - Foreign firms with fixed asset investments
 - Foreign firms without fixed asset investments

Preliminary Results

- Judicial bias:

Plaintiff Win Rate (all cases)

	F v. All	F v. D	F v. F	D v. F
Judgement	0.544	0.529	0.653	0.472
Court fee	0.238	0.240	0.201	0.113
Comp. > 0	0.313	0.320	0.243	0.229
Comp. > $\frac{1}{4}$ claim	0.212	0.210	0.198	0.175
Comp. > $\frac{1}{2}$ claim	0.180	0.176	0.176	0.142
Comp. \geq full claim	0.122	0.120	0.120	0.095
Number of cases	2343	2014	300	1388

Note: F: Foreign firms; D: Domestic firms

Preliminary Results (cont'd)

- Judicial bias:

Plaintiff Win Rate (other cases)

	Administrative	IPR (suing domestic)	IPR (sued by domestic)
Judgement	0.292	0.515	0.182
Court fee	0.140	0.246	0.077
Comp. > 0	0.026	0.274	0.073
Comp. > $\frac{1}{4}$ claim	0.023	0.107	0.040
Comp. > $\frac{1}{2}$ claim	0.020	0.061	0.040
Comp. \geq full claim	0.017	0.031	0.028
Number of cases	648	1102	293

Preliminary Results (cont'd)

- Local connections and judicial advantages:

MNC Lawsuit Outcomes against Domestic Entities

	All MNCs	General JV	JV with SOE	W/ Fixed Assets	W/o Fixed Assets
Judgement	0.529	0.638	0.600	0.548	0.487
Court fee	0.240	0.245	0.426	0.254	0.218
Comp. > 0	0.320	0.283	0.611	0.345	0.268
Comp. > $\frac{1}{4}$ claim	0.210	0.181	0.514	0.231	0.162
Comp. > $\frac{1}{2}$ claim	0.176	0.156	0.486	0.195	0.135
Comp. \geq full claim	0.120	0.108	0.343	0.132	0.095
Number of cases	2014	401	105	1400	593

Regression Results

- Logit regressions with firm- and case-level controls
- Unit of analysis: lawsuit
- Controlling for firm size and a battery of fixed effects:
 - province, year, court type, appealed cases, ruling procedure, plaintiff industry, defendant industry, contract lawsuits, IPR lawsuits, administrative lawsuits
- Robust standard errors clustered within province.

Regression Results (cont'd)

- Political Connections and Lawsuit Outcomes:

	<i>Judgement</i>	<i>Court fee</i>	<i>Comp > 0</i>	<i>Comp > $\frac{1}{4}$</i>	<i>Comp > $\frac{1}{2}$</i>	<i>Comp \geq full</i>
SOE JV	0.593** (0.256)	-0.037 (0.326)	0.474** (0.176)	0.555*** (0.165)	0.716*** (0.201)	0.441** (0.196)
Against domestic	0.302* (0.165)	1.175*** (0.231)	1.307*** (0.262)	0.901*** (0.210)	0.908*** (0.218)	0.710*** (0.231)
Num. obs.	1966	1346	1299	1276	1276	1283
<i>+ Controlling for defendant political connection</i>						
SOE JV	0.667** (0.308)	-0.148 (0.442)	0.479* (0.254)	0.513** (0.209)	0.582** (0.273)	0.389** (0.194)
Against domestic	0.503*** (0.157)	1.375*** (0.230)	1.451*** (0.270)	0.982*** (0.232)	0.989*** (0.224)	0.711** (0.290)
Defendant PC	-0.621*** (0.149)	-1.154*** (0.298)	-1.536*** (0.439)	-0.856** (0.372)	-0.832** (0.393)	-0.668*** (0.231)
Num. obs.	1855	1276	1235	1213	1213	1220
<i>+ Controlling for plaintiff political connection</i>						
SOE JV	0.587 (0.301)	-0.183 (0.409)	0.407 (0.260)	0.421* (0.228)	0.521* (0.271)	0.288 (0.198)
Against domestic	0.518*** (0.155)	1.367*** (0.250)	1.456*** (0.267)	0.997*** (0.225)	0.992*** (0.220)	0.728** (0.300)
Defendant PC	-0.632*** (0.156)	-1.225*** (0.280)	-1.584*** (0.423)	-0.914** (0.361)	-0.886** (0.381)	-0.742*** (0.233)
Plaintiff PC	0.213 (0.148)	0.183 (0.278)	0.297 (0.169)	0.362** (0.183)	0.255 (0.198)	0.422** (0.201)
Num. obs.	1829	1254	1228	1206	1206	1213

Comparative Results

- Data from the World Bank Enterprise Survey (WBES)
- DV: “The court system is fair, impartial and uncorrupted.”
 - *Strongly disagree* (1), *Tend to disagree* (2), *Tend to agree* (3), *Strongly agree* (4)
- IV:
 - *Foreign owned*: a binary indicator of whether “foreign individuals, companies or organizations” own more than 50% of the firm’s stakes.
 - *State ownership (%)*: a standardized measure of the percentage of stakes owned by the government
 - *Sales*: a standardized measure of the firm’s annual total sales
 - *Informal payment*: the firm’s reported percentage of total annual sales paid as “gifts or informal payments to public officials to ‘get things done’.”
 - *Use foreign technology*: whether the firm uses technology licensed from a foreign-owned company.

Comparative Results (cont'd)

- Comparing Firms' Perceptions of the Court System:

	China (average)	China (median)	Other Countries (average)	Other Countries (median)	t-score (Welch t-test)
All surveyed firms	2.635	3	2.260	2	27.812
W/ foreign investments	2.681	3	2.263	2	6.743
W/ foreign majority ownership	2.820	3	2.244	2	7.536
Number of obs	2,700		141,311		

Comparative Results (cont'd)

- Corporate Capabilities and Judicial Advantages:

	<i>DV: Perception of the Court System</i>				
	In China				
	(1)	(2)	(3)	(4)	(5)
Foreign-owned	0.257** (0.102)	0.234** (0.102)	0.258** (0.102)	0.318*** (0.118)	0.354*** (0.114)
State ownership		-0.108*** (0.019)			
Sales			0.006 (0.018)		
Informal payment (% of sales)				-0.117*** (0.022)	
Use foreign technology					-0.006 (0.059)
City and Industry FEs			✓		
Observations	2,649	2,648	2,649	1,853	1,661

Note:

* $p < 0.1$; ** $p < 0.05$; *** $p < 0.01$

Comparative Results (cont'd)

- Corporate Capabilities and Judicial Advantages:

	<i>DV: Perception of the Court System</i>				
	In Other Countries				
Foreign-owned	0.029*** (0.010)	0.030*** (0.010)	0.029*** (0.010)	0.040*** (0.013)	0.023* (0.013)
State ownership		0.018*** (0.003)			
Sales			0.0001 (0.011)		
Informal payment (% of sales)				-0.037*** (0.003)	
Use foreign technology					0.027*** (0.009)
Country and Industry FEs			✓		
Observations	116,080	116,054	116,043	79,293	80,032

Note:

*p<0.1; **p<0.05; ***p<0.01

Conclusion

- Foreign firms do resort to domestic judiciary to pursue their claims against both private and public entities.
- Conditional on filing lawsuits, on average, foreign firms are not less likely to win lawsuits than domestic firms.
- Foreign firms in JV with SOE are more likely to win lawsuits and receive substantial compensations, compared with other types of foreign firms.
- The "liability of foreignness" thesis needs to be reexamined in light of the value of weak institutions for foreign investors, especially when the latter possess certain capabilities and resources.

- Matching methods?
- Exploit exogenous variations for stronger identification: diplomatic events between China and MNC home state (filing date – adjudication date)
- Heterogeneous effects across court levels, administrative regions, and characteristics of judges
- Expand the dataset to other countries

Thanks!

Appendix: MNC lawsuit distribution by province

Province	Count
Anhui	14
Beijing	1,155
Chongqing	11
Fujian	60
Gansu	7
Guangdong	530
Guangxi	7
Guizhou	1
Hainan	8
Hebei	34
Heilongjiang	14
Henan	54
Hubei	143
Hunan	9
Inner Mongolia	19
Jiangsu	124
Jiangxi	17
Jilin	31
Liaoning	73
Shaanxi	54
Shandong	283
Shanghai	455
Shanxi	31
Sichuan	43
Tianjin	120

Appendix: MNC lawsuit distribution by court type

Court type	Count
Basic	736
Intermediate	1,062
High	810
Supreme	189
Maritime	540
Intellectual property rights	369
Railway	3

Appendix: MNC lawsuit distribution by ruling procedure

Ruling procedure	Count
First instance	2,266
Second instance	1,018
Retrial, retrial review, and trial supervision	205
Others	217

Appendix: MNC lawsuit distribution by issue

Issue	Count
Intellectual property rights	1,449
Contract	1,205
Administration	781
Infringement	762
Others	544
Civil disputes	283
Labor	181
Special procedures	127
Compensation	117
Property	24
Socialist economic order	5
Bribery	1
Malfeasance	1