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BRI vs. COVID-19

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Key Points:

- The novel coronavirus (COVID-19) has been a major disruption to Chinese trade and investment, and has had a number of negative effects including unlinking global supply chains, causing labor shortages, and exacerbating Sinophobia.
- China and its allies have adopted a number of strategies, ranging from the diplomatic to legal, to mitigate these effects.
- While the situation is evolving rapidly, the pandemic may be a tipping point between Chinese economic globalization and U.S.led pushback, with China positioning itself to lead an economic reglobalization.

Connectivity Interrupted

When Xi Jinping, the President of the People's Republic of China (PRC or China) proclaimed the "Silk Road Economic Belt" in 2013 in Kazakhstan, the first announcement pertaining to what would later be known as the "Belt and Road Initiative," he was not thinking about *Yersinia pestis*. This bacterium was the principal agent that caused the bubonic plague or "Black Death" in the midfourteenth century. Passing from one human host to another via fleas that feasted on human blood and facilitated by rats that carried the fleas, *Yersinia pestis* travelled up and down the trade routes of the historic "Silk Road," from Ireland to China, killing millions.

It may seem hyperbolic to compare the novel coronavirus or COVID-19 to the bubonic plague. In terms of the impact on the health of the affected population, the latter had a mortality rate of about 60% and killed approximately 25 million in Europe alone¹ whereas the former has a mortality rate of about 3.4% and, as of this writing, has killed over 16,000 worldwide.² Yet regarding secondary concerns of the economic fallout of the infectious diseases and their geopolitical implications, the disruptive effects of the diseases bear some comparison.

Having killed some one-third of Europe's population, the bubonic plague effectively wiped out the existing economic order. The labouring class was erased, the landed gentry lost their revenue, and trade ceased to exist. Fast-forwarding to the present, in a period of hyper-globalization,

 $^{^{1}}$ Peter Frankopan, The Silk Roads: A New History of the World 190 (2015).

² World Health Organisation (March 24, 2020, 17.30 GMT), https://www.who.int/emergencies/diseases/novelcoronavirus-2019.

the economic effects of the coronavirus have been no less dramatic. Although economists are developing different models to understand the coronavirus' global financial toll, at the extreme end, they estimate that the total loss could be \$2.7 trillion, equivalent to the entire GDP of the U.K.³

Whereas a central goal and method of the Belt and Road Initiative (BRI) has been "connectivity" (i.e., policy, infrastructure, trade, financial, and "peopleto-people"4), the coronavirus has brought the opposite: closed borders, travel bans, self-isolation, economic stagnation, disinformation, and xenophobia. In the BRI states across Eurasia, pursuant to the outbreak in China in December 2019, Chinese laborers and managers who had returned home to celebrate the Chinese New Year, could not subsequently, due to travel restrictions, return to project sites overseas. As a result, Chinese parties invoked force majeure and projects were stalled, causing losses and creating knock-on effects throughout local economies. Chinese investment in BRI host states similarly contracted. Meanwhile, Chinese factories, which were closed following the epidemic, could not keep up with demand, resulting in shortages of goods. In terms of flows of trade and investment as well as labor, migration, and technology transfer, COVID-19 has become a kind of BRI antimatter.

In this Research Brief, I will first define the impact of the coronavirus in light of the BRI in general terms, and then identify the specific effects on the BRI as China's signature program for economic globalization. Next, I will assess the PRC government's response to date to grapple with the challenge. Lastly, I will hazard some potential longterm effects of COVID-19 on China's globalization.

The Problem

Whereas the BRI has faced a number of challenges in terms of political, legal, and economic risk, poor implementation and non-coordination, pushback from established Western powers and even resistance within recipient or host states, and the BRI (in perhaps an increasingly modest form) has survived each such challenge, a highly infectious disease—that incidentally started in China—is perhaps the one exogenous shock that could unravel Xi Jinping's global aspiration.⁵ In terms of impact on China's domestic economy, since the initial outbreak in Wuhan in December 2019 and following a national lockdown, industrial production, services production, retail sales, and fixed asset investment declined by 13.5%, 13%, 20.5%, and 24.5% year-on-year, respectively, making it the most severe economic reduction since the start of the "opening and reform" policy in 1978.⁶

For a national economy that was already slowing down before the crisis, the coronavirus has effectively ended decades of China's double-digit growth. Given the decrease in both supply and demand, the coronavirus may cut China's firstquarter growth in half to 3.5% year-on-year, a sharp dive from 6% in the previous quarter.⁷ A significant economic slow-down is a major concern to the Chinese Communist Party (CCP), which has, over the past several decades, established its legitimacy based on its economic performance.

http://www.xinhuanet.com/politics/2017-05/14/c_1120969677.htm. and Development, HARV. INT'L L.J. (forthcoming),

³ Tom Orlik et al., *Coronavirus Could Cost the Global Economy* \$2.7 *Trillion. Here's How*, BLOOMBERG (Mar. 6, 2020, 3:00 PM), <u>https://www.bloomberg.com/graphics/2020-coronavirus-</u> pandemic-global-economic-risk.

⁴Xi Jinping, Xieshou tuijin 'yidaiyilu' (携手推进'一带一路'建 设) [Join Hands to Advance the 'Belt and Road Initiative'] (May 14, 2017, 1:44PM),

⁵ For more on the risks exporters of Chinese capital face, and their mitigation strategies, *see* Matthew S. Erie, *Chinese Law*

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3552044 ⁶ National Bureau of Statistics of China, *National Economy*

Withstood the Impact of COVID-19 in the First Two Months (Mar 16, 2020),

http://www.stats.gov.cn/english/PressRelease/202003/t20200 316_1732244.html.

⁷ Reuters, *Economic Paralysis: Coronavirus Slams Breaks on China Economy*, AL JAZEERA (Mar. 16, 2020),

https://www.aljazeera.com/ajimpact/economic-paralysiscoronavirus-slams-brakes-china-economy-200316030817713.html.

The coronavirus reveals that the strength of China's globalizing economy, specifically, its very interdependence with its regional neighbors and also markets in Africa, Europe, North America, Latin America, can also be a weakness. There are, roughly, three overlapping and reinforcing effects that the pandemic has had on China's globalized economy: frozen global supply chains, labor shortages, and Sinophobia.

Frozen Global Supply Chains

Perhaps the most deleterious impact of the coronavirus is on China's global supply chains as it has resulted in a freezing of the infrastructure China has been putting into place—trade deal by trade deal—since the late 1990s. As mentioned above, at both the supply and demand side, and in terms of exports of raw materials and manufactured goods and imports of the luxury items that sustain China's burgeoning "middle class," cross-border trade has dwindled in the face of the pandemic. Most critically, many supply chains have been stopped at their origin: Chinese factories shut down for a period in excess of two months, leading to export shortfalls.

In Vietnam, the new factory of the world, manufacturers, heavily reliant on Chinese imports for materials, have, since the outbreak, failed to secure sufficient materials for production. On the demand side, the same manufacturers have lost orders from overseas buyers in markets such as South Korea. Consequently, the manufacturers will likely have to either suspend or reduce their production in coming months, which will create ripples through Vietnam's sizeable labor market.

Similarly, in the Manhattan Special Economic Zone (SEZ) in Bavet, Cambodia, which employs 34,000 workers out of the 50,000 employed in the Bavet

area, most of the manufacturers import their components from China to assemble in Cambodia. The CEO of the Manhattan SEZ said in February that he was not worried about production that month but March concerns him, when they run out of their backlog of supplies. "I don't know what will happen," he stated. "It's not good for the factories and the workers. We did not know this virus would change the world."⁸

Italy provides another example. The country has become the epicentre of the coronavirus in Europe with numbers of fatalities per day that exceed those of China.⁹ Despite an aggressive lockdown in that country, the devastation has been unprecedented. The coronavirus has impacted all aspects of Italy's economy, including a sector with strong links to China: the luxury goods market. Chinese are major buyers of Italian luxury items, but both Italian supply and Chinese purchasing have plummeted. An example along these lines is the suspension of an agreement, due to the coronavirus, between the Italian Port of Trieste and the China Communication Construction Company that sought to develop a wine supply chain.¹⁰

Labor Shortages

While there is a certain amount of vacuousness within the BRI, it is clear that construction projects are one of its defining features, a feature that is labor-dependent. While the data is mixed in terms of whether BRI infrastructure projects, often financed by Chinese development banks which specify a Chinese contractor also require Chinese labor, there is evidence that suggests that Chinese migrant workers are a mainstay in BRI projects." As mentioned, the timing of the earliest coronavirus outbreak in China was such that most of the laborers and managers who returned to China for

⁸ Interview, Feb. 24, 2020. *See also* Sangeetha Amarthalingam, *Pulling the Rug Under the Kingdom's Economy*, The Phnom Penh Post (Feb. 27, 2020, 1:27 PM),

https://www.phnompenhpost.com/special-reports/pullingrug-under-kingdoms-economy.

⁹ Italy Coronavirus Deaths Rise by Record 475 in a Day, BBC (Mar. 18, 2020), <u>https://www.bbc.co.uk/news/world-europe-51952712</u>.

¹⁰ *Il Coronavirus Rallenta la Via Della Seta*, IL TIRRENO (Feb. 14, 2020), <u>https://iltirreno.gelocal.it/focus/2020/02/14/news/il-</u> coronavirus-rallenta-la-via-della-seta-1.38469379?refresh_ce. ¹¹ *See* Aaron Halegua, *Labor Protections for Overseas Chinese Workers: A Role for Chinese Courts?* CHINA, LAW AND DEVELOPMENT RESEARCH BRIEF 1 (2020), <u>https://cld.web.ox.ac.uk/file/586326</u>.

the Chinese New Year were either prohibited from leaving China or from entering the country where they had worked, following a number of governments' attempts to impose immigration blockades. The ensuing labor shortfall effectively froze construction on many of the highways, railways, dam and energy projects that have been branded as BRI projects.

Projects in the Southeast Asian countries have been particularly affected. The Vietnamese government, for example, stopped issuing new visas for PRC citizens in early February. Chinese nationals who already had a valid working visa were still allowed to enter Vietnam, but were subject to quarantine measures, including a fourteen-day period of isolation, often in military camps specially retrofitted for the purpose. In the wake of the pandemic, it is not uncommon for a Chineseinvested factory in Vietnam to have hundreds of isolated employees. However, many Chinese companies employed laborers from the PRC illegally, who often entered Vietnam via a tourist visa. In the event that these workers returned to China for Chinese New Year, they would have been unable to return to Vietnam.

In Pakistan, quarantine policies have impacted the management of construction projects. The China Pakistan Economic Corridor, financed by \$62 billion in investments and loans from Chinese enterprises and development banks, features a host of infrastructure projects in its "early harvest stage." Whereas initially, Chinese workers were delayed in returning to Pakistan, postponing many of the projects that then incurred losses, the two governments worked to ensure that most PRC laborers, with the exception of those from Hubei province, could return to Pakistan after guarantine. Nonetheless, Chinese managers complained that a new policy implemented by the Pakistani government aimed at anyone over the age of 55 entering the country from specified countries, including China, requiring them to quarantine in a

¹² Weixin communication from Chinese manager, March 17, 2020.

hospital for three days was "very unreasonable" (bu *heli de*)¹² as China, as of this writing, has allegedly reduced the number of new cases to zero.

Sinophobia

A third effect of the coronavirus on Chinese economic globalization is heightened Sinophobia, specifically, the fear that Chinese are carriers of the deadly virus and contaminate non-Chinese. Across the width of the BRI, from Europe to Central Asia, fear of the coronavirus has exacerbated pre-existing anxieties of the increasing Chinese presence in host states. These racialized fears sometimes result in discrimination, harassment, or violence against Chinese citizens and ethnic Chinese, and there have been a number of such incidents in the wake of the pandemic.¹³ Sinophobia, which has deep roots in ideas of the "Yellow Peril," may be one of the most intractable obstacles to Chinese globalization. Although Beijing has launched soft power campaigns projecting positive images of Chinese abroad, everything from corporate social responsibility of Chinese state-owned enterprises to Confucius Institutes, the coronavirus has made the situation significantly worse.

In Tajikistan, for example, local newspaper and social media have fixated on "the virus" and negative stereotypes and commentaries of Chinese proliferate. Social media in Pakistan has recently been circulating Sinophobic messages, including a two-minute video entitled "The Youth [of China] Are Really Leading to Calamity" (*Zhen shi yang er wei huan*), showing a montage of clips from China featuring young people beating the elderly. In Vietnam, too, social media, the independent blogosphere, and even to some extent the statecontrolled press (albeit to a lesser degree) have been vocal in generating anti-China sentiment. Some of this sentiment has resulted in outright discrimination, with Chinese being rejected from

¹³ See e.g., Coronavirus: Ukraine Protesters Attack Buses Carrying China Evacuees, BBC (Feb. 21, 2020), <u>https://www.bbc.co.uk/news/world-europe-51581805</u>.

restaurants and hotels.¹⁴ Political dissidents, in particular, have used the coronavirus to attack the Communist Party of Vietnam's relationship with the CCP to undermine the legitimacy of the former. In a few incidences, Vietnamese workers have gone on strike because they were concerned about contracting the coronavirus from Chinese workers. Even President Trump of the United States has called coronavirus the "Chinese virus," despite increasing incidents of discrimination against Asian Americans following the epidemic.¹⁵

The Response

In the face of mounting problems caused by the coronavirus, including but not limited to its health effects, China and its allies have embarked on an array of measures to contain the pandemic and its negative socio-economic effects. In terms of addressing the domestic crisis, on March 13, the People's Bank of China provided a stimulus, including more credit, to facilitate economic recovery, for a total of 550 billion yuan (US\$ 78 billion).¹⁶ The stimulus will likely be used to boost the manufacturing and construction sectors with the intention to increase employment for the near-to mid-term.

Internationally, China and its allies have engaged in a number of strategies. The first is high-level diplomatic intervention. The BRI is fundamentally a product of political negotiation, compromise, and conciliation. Problem-solving occurs first at the diplomatic level. The PRC Ministry of Foreign Affairs has gone into overdrive in the weeks and months since the coronavirus outbreak mollifying concerns in BRI partner countries. The main impetus has been to continue the turnkey BRI projects at all costs. This means, for example, ensuring that Chinese laborers can return to their construction sites. One example is the East Coast Railway in Malaysia, which has continued despite coronavirus concerns.¹⁷

In some cases, Chinese diplomatic intervention has been strident. For instance, in the face of calls for the Vietnamese government to close its borders to China, the PRC Ambassador to Vietnam stated on Vietnam's national television on February 6, "[Vietnam] has to assess [the situation] in a scientific, rational and objective manner, implement necessary and appropriate measures [and] try not to disrupt normal travelling between countries, especially to affect normal trade between countries. We believe that this is very important."18 The PRC Ambassador was also interviewed by leading Vietnamese newspapers concerning the epidemic and refuted allegations that the PRC government tried to cover up the extent and severity of the epidemic during its early stages.¹⁹ Ultimately, the Vietnamese government did not close the border completely to PRC nationals but did apply strict measures against Chinese expats, including a fourteen-day quarantine for those with a valid working visa.

In addition to political coverage, Chinese enterprises have sought legal protection by invoking *force majeure* clauses in their contracts. There is no uniform "BRI contract," and hence no single *force majeure* clause that is applicable. This

https://www.youtube.com/watch?v=5AczDHl8Qu4.

¹⁴ Samantha McCabe, *The Virus and the Vitriol*, GLOBE (Feb. 14, 2020), <u>https://southeastasiaglobe.com/corona-anti-chinese/</u>.

¹⁵ Quint Forgey, *Trump on 'Chinese Virus' Label: 'It's Not Racist at All'*, POLITICO (Mar. 18, 2020, 11:09 AM),

https://www.politico.com/news/2020/03/18/trumppandemic-drumbeat-coronavirus-135392.

¹⁶ Chen Jia, *Central Bank Works to Stabilize Market Sentiment*, THE STATE COUNCIL OF THE PRC (Mar. 16, 2020, 7:16 AM), <u>http://english.www.gov.cn/policies/policywatch/202003/16/c</u> <u>ontent_WS5e6eb737c6doc201c2cbe651.html</u>.

¹⁷ Tashny Sukumaran, *Coronavirus: Malaysia Says China-Backed ECRL on Track Despite Outbreak*, SOUTH CHINA MORNING POST (Feb. 19, 2020, 5:56 PM), https://www.scmp.com/week-

asia/economics/article/3051416/coronavirus-malaysia-sayschina-backed-ecrl-track-despite.

¹⁸ Đại sứ Hùng Ba: Nhân dân Trung quốc cảm ơn Việt Nam giúp đỡ chống dịch virut corona nCoV, VNNOW [Ambassador Xiong Bo: Chinese people thank Vietnam for helping to fight the coronavirus] (Feb. 6, 2020),

¹⁹ See e.g., Đại sứ Trung Quốc lý giải có hay không việc giấu dịch virus corona [The Chinese Ambassador explained whether or not to hide the corona virus outbreak], VIETNAMNET (Feb. 13, 2020, 1:26 PM),

https://vietnamnet.vn/vn/thoi-su/clip-nong/dai-su-trungquoc-ly-giai-co-hay-khong-viec-giau-dich-virus-corona-<u>616118.html#inner-article</u>.

fact, however, has not stopped the PRC government from a one-size-fits-all solution. In an instance of "state capitalism," understood generally as the central role of the Party-State in either owning or controlling China's economic resources in order to further its own interests,²⁰ the China Council for the Promotion of International Trade has issued *force majeure* certificates to affected Chinese enterprises to assist them in their claims that since they can no longer perform their stated duties under the contract, they should be excused from liability.²¹

The relevance of *force majeure* as a defense, however, depends on a number of factors, including the wording of the contract and the governing law. Whereas there is no implied provision for force majeure under common law, and hence, a contract governed by common law would need to define a force majeure event as, in this case, an epidemic or a government act (e.g., travel ban), under civil law, force majeure may be implied as a matter of law. Whereas some of the loan agreements pertaining to China's infrastructure and energy projects overseas are governed by PRC law, almost all of the nonfinancial contracts (e.g., project agreement, concession agreement, construction contract, etc.) are governed by local law, which could be a common law system, civil law system, Islamic law, or some kind of hybrid. So, while in the event that the applicable contract is governed by PRC law, the certificate may be conclusive,²² most likely under a contract governed by non-PRC law, it would only be helpful from an evidential perspective. As one Chinese manager operating in Pakistan said, "it depends wholly on the Pakistani party,"²³ meaning that, in practice, the local party may have considerable sway in excusing the Chinese party from their contractual obligations. Doubtless, some of these questions around the liability of the Chinese parties will find their way into local courts, as the number of commercial disputes along the BRI increase.

Towards Reglobalization?

By cutting global supply chains, closing borders, blocking immigration, heightening disinformation on social media, and exacerbating xenophobia, the coronavirus and the all too human response have, more than the U.S.-China trade war, effectively shut down globalization for the first time since the 1970s when national policies lowered trade barriers and promoted free trade. Chinese economic globalization, which has piggybacked on the earlier American-led wave, has specifically been dealt a major blow by the coronavirus: not only did COVID-19 first erupt in China, but it has also disrupted Chinese supply chains and outbound labor migration. Further, the way in which the Chinese authorities have dealt with the health emergency by initially covering it up,²⁴ has also negatively impacted China's image abroad.²⁵

Perhaps one of the lasting legacies of the coronavirus will be how it affects the tipping point

for "spreading rumors").

²⁰ Li-Wen Lin & Curtis J. Milhaupt, *We Are the (National) Champions: Understanding the Mechanisms of State Capitalism in China*, 65 Stan. L. Rev. 697 (2013); BARRY NAUGHTON & KELLEE S. TSAI, STATE CAPITALISM, INSTITUTIONAL ADAPTATION, AND THE CHINESE MIRACLE (2015); BENJAMIN L. LIEBMAN & CURTIS J. MILHAUPT, REGULATING THE VISIBLE HAND? THE INSTITUTIONAL IMPLICATIONS OF CHINESE STATE CAPITALISM (2016).

²¹ See e.g., Shendu jiexi "buke kangli" zhengming (深度解析"不可抗力"证明) [Analyze in Depth "Act of God" Certificates)], Zhongguo guoji maoyi cujin weiyuanhui (中国国际贸易促 进委员会) [China Council for the Promotion of International Trade], (Feb. 21, 2020),

http://www.ccpit.org/Contents/Channel 4031/2020/0221/1242 265/content 1242265.htm.

²² Zhonghua Renmin Gongheguo Hetongfa (中华人民共和国 合同法) [PRC Contract Law] (promulgated by the Standing

Comm. of the Nat'l People's Cong., effective Mar. 15, 1999, amended 2013), art. 117 (recognizing *force majeure*). ²³ See supra note 12.

²⁴ Helen Davidson, *Chinese Inquiry Exonerates Coronavirus Whistleblower Doctor*, THE GUARDIAN (Mar. 20, 2020, 12:56 PM), <u>https://www.theguardian.com/world/2020/mar/20/chinese-</u> inquiry-exonerates-coronavirus-whistleblower-doctor-liwenliang (describing the story of Li Wenliang, the doctor who initially discovered the virus but was punished by authorities

²⁵ Shengjie Lai et al., *Effect of Non-Pharmaceutical Interventions for Containing the COVID-19 Outbreak in China*, MEDRXIV (Mar. 13, 2020),

https://www.medrxiv.org/content/10.1101/2020.03.03.2002984 3v3 (showing that if China had intervened three weeks earlier in the coronavirus outbreak, it would have reduced cases by 95% and greatly limited its geographic spread).

between Chinese globalization and Westernbacked deglobalization, and perhaps even usher in a China-led reglobalization. While the total economic impact of the coronavirus on China's domestic economy and on the BRI remains to be seen, two months after the initial outbreak, China's manufacturing base is already in the early stages of returning to pre-crisis productivity. The coronavirus will likely require Beijing to recalibrate some of its overseas investments as financial reserves are rerouted for domestic needs as the economy recovers, and some of the BRI projects had already been scaled back pre-crisis. Nonetheless, China has made efforts to provide aid, equipment, and expertise to hard-hit countries like Italy; these efforts are not totally divorced from the official narrative that Beijing "got it right" in its response to the outbreak.

It should be remembered that the Black Death paradoxically initiated a period of social and economic revival in Europe. As the value of depleted labor soared, the empowerment of the peasantry weakened the aristocracy's hold on property resulting in a more even distribution of wealth.²⁶ If China is able to speedily revitalize global supply chains during a period of trade fragmentation and shortage, it could strengthen its central position in international commerce, concomitantly enhancing its geostrategic status. For example, in the battle to find a vaccine for COVID-19, pharmaceutical supply chains are critical. China is already discussing a multinational regulatory regime for managing such a supply chain.²⁷

Meanwhile, the response of the U.S. has been, for the most part, a further retreat in the face of global challenges. While the U.S. government initially promised to send aid to China in the early days of the outbreak, it since hardened its approach and appears to have reneged on its promise;²⁸ meanwhile, Beijing enacted additional retaliatory measures.²⁹ Instead of the major powers joining efforts to combat the common foe of the pandemic, COVID-19 appears, at this stage, to be exacerbating existing cleavages in the international system. Although events are evolving rapidly, unless the international community holds the PRC accountable for its cover-up, which likely worsened the spread of the disease, China may have momentum to promote itself as the new center of globalization in a period of shifting global governance.

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²⁶ See supra note 1, at 191.

²7 Zhu Ping, 'Yidaiyilu' yaowu waimao jinru shouhuoqi ("一带

一路"医药外贸进入收获期) [BRI Foreign Trade in Medicine Enters the Harvest Stage] (Mar. 16, 2020), <u>http://news.southcn.com/n/2020-</u>03/16/content 190574976.htm.

²⁸ Compare U.S. Department of State, The United States Announces Assistance to the COVID-19 (Feb. 7, 2020), https://china.usembassy-china.org.cn/the-united-statesannounces-assistance-to-the-novel-coronavirus (promising \$100 million in aid to China and other impacted countries),

with Waijiaobu (外交部) [Min. of Foreign Affairs], Zhongfang congwei shoudao Meiguo zhengfu de zijin he yuanzhu (中方 未收到美国政府的资金和援助) [China Never Received the American Government's Funds and Aid] (Mar 20, 2020), https://haokan.baidu.com/v?pd=wisenatural&vid=893016399 6400791287.

²⁹ Emma Graham-Harrison, *China-US Standoff Escalates as Beijing Expels Major US Media Staff*, THE GUARDIAN (Mar. 17, 2020),

https://www.theguardian.com/world/2020/mar/17/china-toexpel-more-us-journalists-in-latest-tit-for-tat-move.