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# COVID-19 and Labour Law: China

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### Abstract

The Chinese government has required employers to make payments to employees who are unable to attend work due to government-imposed mandatory measures. It has also provided financial support to unemployed workers through unemployment insurance. To save jobs, the government has reduced employers' social insurance contributions and taxes. Migrant workers, the most affected group, have also received special financial and employment support.

**Keywords:** Covid-19; Labour Law; Unemployment benefits; Health and safety; Remote work; Migrant workers.

Since the start of the coronavirus outbreak in Wuhan, China, in early 2020, the Chinese government has not declared an official national health emergency. However, a *de facto* state of emergency exists, as both the central and local governments have issued special decrees in response to the spread of the coronavirus. They can legally do so under the Law on Emergency Responses, which gives central and local governments the authority to take measures to respond to an epidemic outbreak.

Since mid-January 2020, Chinese authorities have introduced unprecedented measures to contain the virus. These measures have severely affected employment relations and working conditions, and include lockdowns, travel restrictions, mandatory quarantines, social distancing, public holiday extensions, the interruption of business operations, and the closing of factories and schools.

Particularly, the following issues and/or governmental counteracting measures have emerged:

1. Business operations are severely interrupted by the public holiday extension and delaying the resumption of business orders. In order to protect workers, the Chinese government has offered several responsive measures. First, it required employers to pay employees their regular level of wages, even when these workers are unable to work due to mandatory quarantine or other government-imposed mandatory measures. But the government also stated that if enterprises experience operational difficulties, they can negotiate with employees to cut wages. Second, the government is providing several kinds of income support for temporarily unemployed persons. The most important of these is unemployment insurance payments. These apply to unemployed

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workers who do not meet the conditions for unemployment insurance or who have already received unemployment insurance benefits but are still unemployed, all of whom receive six months' worth of unemployment insurance benefits, although the benefit level is lower than the regular unemployment insurance benefit. The government is also providing temporary assistance for needy families. Some government departments are providing direct financial support. Third, the government has taken some measures to promote employment and to save jobs. For instance, many local governments have allowed enterprises to postpone the payment of social insurance contributions and taxes. Some provinces have exempted small, medium, and micro-sized enterprises from paying social insurance contributions for up to five months.

2. Parents have faced increased caregiving duties due to school and daycare closures. There are currently no national measures addressing this issue. In fact, even before the virus outbreak, there was no parental leave nor any other measures to address the needs of those with caregiving duties in China. But several local governments have allowed one parent per family to enjoy paid parental leave during the pandemic outbreak period.
3. The spread of the Covid-19 disease itself has increased risks for workers' health and safety. In order to prevent the risk of infection, the government has required social distancing and mandatory quarantine in certain areas. Workplaces have implemented various measures, including remote work, flexible working hours, and a rotation working system. The national health insurance has started to reimburse online consultations for chronic and common diseases to reduce the risks of spreading the virus.
4. The outbreak of the virus has affected rural migrant workers, who account for one-third of China's labour force, the most severely. These are workers who have left rural areas to work in urban ones. Due to their lack of urban household registration, they work primarily in the informal sectors and do not have access to the same social welfare benefits (such as unemployment insurance) as workers with registrations in urban areas. The virus outbreak started when the majority of migrant workers were back in their rural home to celebrate the Chinese New Year holiday. Because of lockdown and travel restrictions, these workers have been locked in their rural home and cannot travel back to urban areas to find jobs. In addition, the industries in which these workers usually work – including manufacturing industry, export-oriented industry, restaurants, hotels, and tourism – are those that have been hardest hit by the spread of COVID-19. The government has taken specific actions in order to promote these workers' employment. It has provided financial support to enterprises that can hire certain number of migrant workers; has facilitated connections between workers who need jobs and enterprises that need workers; and enhanced infrastructure building in rural areas to provide job opportunities for migrant workers.

The Social Partners have not played any role in the design of these measures nor has the government has not invited any Social Partners to participate in the legislative process. But

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the government has encouraged employers facing operational difficulties to negotiate with employees about issues like adjusting wages and cutting working hours. In support of this, the All-China Federation of Trade Unions (ACFTU) — the only trade union recognized by the Chinese Communist Party — issued a “Notice,” and the Department of Human Resources and Social Security, the ACFTU and the China Enterprise Confederation / China Entrepreneurs Association jointly issued an “Opinion,” both of which recommended that employers and unions negotiate wages, working hours, rest days, occupational safety and health, and other working conditions. In practice, some employers and unions conducted collective consultations. However, whether these were genuine collective consultations is questionable, as unions in China are not independent so are not an effective voice for Chinese workers. Overall, Social Partners play a very limited, if any, role in addressing the impact of COVID-19.

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