



FIDH – International Federation for Human Rights

United Nations Committee on Economic, Social, and Cultural Rights (CESCR)

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(Pre-Sessional Working Group)

Submission for the adoption of the List of Issues

CHINA

China’s failure to fulfill its extraterritorial obligations

China has failed to comply with its obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR) in relation to the business activities of China’s companies abroad.

The United Nations (UN) Committee on Economic, Social and Cultural Rights’ (CESCR’s)¹ General Comment No.24 has affirmed that the specific obligations established by the ICESCR to respect, protect, and fulfill economic, social, and cultural rights apply “outside the national territory in situations over which States parties may exercise control.”²

While China’s state-owned companies have led in the implementation of infrastructure and investment projects abroad for several decades, this trend has intensified following the launch of the Belt and Road Initiative (BRI) in 2013. The bulk of BRI consists of infrastructure projects (roads, railways, port facilities, pipelines, fiber optic, and IT networks) across Eurasia and beyond. Besides the hard infrastructure, BRI also intends to strengthen the soft infrastructure with trade and transportation agreements, cultural ties with university scholarships, and other people-to-people exchanges. As of November 2020, at least 138 countries had agreed to participate in the implementation of BRI projects. Significant documentation exists of the negative impacts of BRI projects on individuals and communities at the local level, particularly with regard to their economic, social, and cultural rights.

¹ CESCR General Comment No.24 (2017) on State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities, E/C.12/GC/24.

² General Comment No.24, para. 10.

In March 2019, during the third Universal Periodic Review (UPR) of China, the government accepted three recommendations (made by Ecuador, Peru, and Kenya) that called on China to address the human rights and environmental impacts of investment and infrastructure projects implemented by Chinese companies overseas.³

Despite these commitments, China has failed to effectively prevent infringements of economic, social, and cultural rights abroad by corporations domiciled in its territory and/or jurisdiction. It has also failed to adopt and implement effective measures to comply with the country's extraterritorial obligations under the ICESCR. Moreover, in many cases, China's authorities have neither monitored nor examined the human rights due diligence of projects implemented by its state-owned companies abroad.

The FIDH submission provides numerous case studies of violations of economic, social, and cultural rights stemming from the business activities of China's state-owned companies in selected countries in Latin America and Asia since the previous review of China by the CESCR in May 2014.

ICESCR Article 7 - The right to just and favorable conditions of work

Many investment and infrastructure projects implemented by China's companies overseas violate the right to the enjoyment of just and favorable working conditions. Workers often work in a dangerous environment, and companies have failed to provide adequate protection for worker's health and safety.

Workers at the Mirador mining project in Zamora Chinchipe Province, Ecuador, have complained of ill-treatment, unlawful dismissal, and preventable workplace accidents.⁴ The mine is operated by EcuCorriente, a subsidiary of the CRCC-Tongguan Consortium, formed by China's state-owned Chinese Railway Construction Company (CCRC) and Tongling Nonferrous Metals Group Holding Company. In May 2014, the mine operation company subsidiaries dismissed 11 workers and technicians in retaliation for their demands for better working conditions.⁵

Also in Ecuador, in 2015, the Río Blanco underground mining project in Azuay Province, operated by a subsidiary of Chinese Junefield Mineral Resources Holdings Limited, failed in

³ FIDH, *Government makes a mockery of UN human rights review*, 14 March 2019; available at:

<https://www.fidh.org/en/region/asia/china/government-makes-a-mockery-of-un-human-rights-review>

⁴ FIDH, *Report unveils a pattern of human and environmental rights violations by Chinese companies in Latin America*, 11 October 2018,

<https://www.fidh.org/en/region/asia/china/report-unveils-a-pattern-of-human-and-environmental-rights-violations>

⁵ *Ibid.*, page 22

its duty to prevent actions that put its workers' lives at risk, when three employees died of hypothermia while scouting for new access routes to the mine site.⁶

In Ecuador, an examination of the construction of the Coca Codo Sinclair hydroelectric project in Napo and Sucumbíos Provinces, built by China's state-owned Sinohydro Corporation, revealed glaring deficiencies in terms of workers' health and safety. In December 2014, an explosion caused by the collapse of a pressure pipe cost the lives of 14 workers and left a further 12 injured.⁷

In Laos, in April 2020, reports emerged of the failure to pay salaries of workers building the Vientiane-Boten railway. It was reported that a group of up to 30 workers in Na Mo District, Oudomxay Province, had not received their salaries for several months and had not been told when they would be paid.⁸ Laos-China Railway Co. (LCRC) is responsible for the railway's construction and operation. LCRC is a joint venture between the Lao government and China's Mowan railway company, Beijing Yukun investment company, and the Yunnan government. Together, the three Chinese companies own a 70% stake in LCRC.

Article 8 - Right to form and join trade unions denied

China's state-owned companies operating in Ecuador and Peru have repeatedly violated the rights of workers and trade unions.

Workers from Río Blanco mining site in Azuay Province, Ecuador, have stated that there was an attempt to form a trade union but the company put a stop to it. The company behind the mining project is Ecuagoldmining South America, a subsidiary of the Chinese Junefield Mineral Resources Holdings Limited.⁹

At the Las Bambas copper mine, in Cotabambas Province in the Apurímac region of Peru, infringements of union rights were observed. Nine days after the company's workers formed a union, one of the union's officials was dismissed from his job.¹⁰ The mine is owned and operated by the consortium China Mineral and Metals Group (MMG), of which state-owned China Minmetals Corporation owns a 75% stake.

⁶ Perú.com, *Río Blanco: Trabajadores murieron de hipotermia, reveló necropsia* [in Spanish], Piura, 9 August 2015, <https://goo.gl/eUs2rG>

⁷ *Ibid.*, page 23

⁸ RFA, *Local Workers on Lao-China Railway Say They Have Gone Without Pay For Months*, 21 April 2020, <https://www.rfa.org/english/news/laos/railway-workers-04212020175011.html>

⁹ *Ibid.*, page 22

¹⁰ *Ibid.*, page 23

Article 11 - Right to adequate housing undermined

The impact on the right to adequate housing by infrastructure and investment projects implemented by China's companies overseas has been severe. Many projects have resulted in the forced eviction and/or relocation of affected communities. Many affected individuals have been living in inadequate relocation sites characterized by substandard housing conditions.

China's state-owned mining companies Ecuacorriente S.A. and Explorcobre S.A., both involved in the Mirador and San Carlos Panantza open-cast mega-mining projects in the Zamora Chinchipe and Morona Santiago Provinces in Ecuador, have engaged in questionable land-acquisition practices, such as the purchase of land without consultation affected communities, arbitrary claims of mining rights of way,¹¹ and the filing of civil actions against families without formal property titles.¹² Through such practices, and with the support of the security forces, these companies have brought about the forced eviction and involuntary displacement of a total of 42 indigenous families in both areas affected by the mining projects.

In Laos, as of January 2019, many of the 4,400 families affected by the construction of the Boten-Vientiane railway had not received compensation for their loss of land, livelihood, and income.¹³ The railway, which is expected to be completed by December 2021, is being constructed by Laos-China Railway Co. (LCRC), a joint venture between the Lao government and China's Mowan railway company, Beijing Yukun investment company, and the Yunnan government. Together, the three Chinese companies own a 70% stake in LCRC. The railway project affects over 167 villages in 13 districts in five provinces. In early April 2020, it was reported that villagers from Nga District, Oudomxay Province, were still waiting to be compensated for the land that had been confiscated from them for the railway. More than 10 affected families had sought the authorities' assistance to demand compensation to no avail. A local official said that payment of compensation was still being considered, but refused to say when and how much compensation the villagers could expect.¹⁴

In late February 2020, it was reported that 88 families who had been relocated to make way for the Xe La Nong 1 dam project in Laos' Savannakhet Province, were still facing difficulties and had no income after almost nine months since their relocation to the new village. The relocation site was located on mountainous terrain unsuitable for rice and other crops and

¹¹ A legal concept established by Ecuador's Mining Law, which allows inhabited property with property titles to be declared goods of interest for project development.

¹² FIDH, CEDHU, Acción Ecológica, INREDH, 'Vulneraciones de derechos humanos y de la naturaleza en la cordillera del Cóndor' [in Spanish], December 2017, pp. 30–36

¹³ Vientiane Times, *Laos govt to pay compensation to families displaced by railway*, 25 November 2018

¹⁴ RFA, *Coronavirus Delays Construction on Lao-China Railway*, 7 April 2020

with no arable land in the vicinity. In addition, the new village, which had no school or healthcare facilities, remained unfinished, with some houses still without walls, running water, or toilets. The families also had not received any compensation from the Chinese developers, despite being promised 40 million kip (US\$320) for each hectare (2.47 acres) of land that had been confiscated.¹⁵ Seventy percent of the dam is owned by China's state-owned Yunnan Energy Investment Group International Development, with another 5% owned by China's Sun Paper Holding company.

Articles 11-12 - The right to live in a healthy environment under attack

Many infrastructure and investment projects implemented by China's companies overseas have serious environmental repercussions, depriving individuals and communities of essential elements that ensure the enjoyment of the right to an adequate standard of living, the right to food, food, and the right to health.

In Ecuador's Zamora Chinchipe Province, the Mirador mining project operated by Ecuacorriente S.A. and Explorcobre S.A., both subsidiaries of the CRCC-Tongguan Consortium formed by t China's state-owned Chinese Railway Construction Company (CCRC) and Tongling Nonferrous Metals Group Holding Company, has had serious environmental impacts and altered the ways of life of local communities, undermining their food sovereignty, health and livelihoods. Peasant farmer families have had to abandon their rural way of life, their autonomous agricultural occupations, and their food self-sufficiency.¹⁶

In the Río Blanco mining project in Azuay Province, Ecuador, the actions of the operating company Ecuagoldmining South America, a subsidiary of Chinese Junefield Mineral Resources Holdings Limited, have caused water sources to become contaminated and dry up and the company has also been responsible for filling wetlands. These impacts have had a knock-on negative effect on ecosystems and agricultural production.¹⁷

The Río Grande dam in Manabí Province, Ecuador, has flooded agricultural land, and the reservoir is expected to become a source of greenhouse gases.¹⁸ The dam was constructed by Tiesiju Civil Engineering Group Co. Ltd, which is a subsidiary of the state-owned China Railway Engineering Corporation, as part of the Chone Multi-purpose Project.

The Block 62 oil extraction project in Sucumbíos Province, Ecuador, operated by Andes Petroleum Ecuador Ltd and Petro Oriental S.A., subsidiaries of the state-owned companies

¹⁵ RFA, *Still no Compensation for 88 Families Relocated for Laos' Xe La Nong 1 Dam*, 25 February 2020

¹⁶ FIDH, CEDHU, Acción Ecológica, INREDH, *Vulneraciones de derechos humanos y de la naturaleza en la cordillera del Cóndor* [in Spanish], December 2017, pp. 40–42.

¹⁷ *Ibid.*, page 20

¹⁸ *Ibid.*, page 20

China National Petroleum Corporation (CNPC) and China Petrochemical Corporation (SINOPEC), encroaches on the Cuyabeno Wildlife Reserve and indigenous territories held by Siona and Secoya communities. The communities concerned have filed complaints with the Ministry of the Environment, citing the contamination of water, soil and air, a loss of biodiversity and deforestation.¹⁹

In the course of its operations at an open-cast mine in Marcona District, Nazca Province, in Peru, Shougang Hierro Perú SAA has committed more than 10 environmental offenses since 2010, incurring sanctions from the Peruvian state. The mine is operated by Shougang Hierro Peru SAA, which is a subsidiary of China's state-owned Shougang Corporation. Offenses include breaching the permitted pollution limit for wastewater effluent and failing to comply with regulations on solid waste management.²⁰

The community affected by the Las Bambas copper mine in Cotabambas Province in the Apurímac region of Peru, has pointed to an increase in bronchopulmonary diseases due to the effects of the hundreds of lorries used each day to transport minerals on dirt roads. It has also been shown that agricultural yields in the area have fallen.²¹ Despite being penalized on six occasions in 2008, 2015, and 2016 for failing to comply with the environmental impact assessment, the company involved has not taken sufficient action to prevent and mitigate harm to the environment.²² The mine is owned and operated by the consortium China Mineral and Metals Group (MMG), of which the state-owned China Minmetals Corporation owns a 75% stake.

In Brazil, indigenous Kayabi, Munduruku, and Apiaká communities have suffered the effects of deteriorating water quality and changes in the hydraulic behavior of the Teles Pires River, which flows into the Tapajós basin that straddles the states of Mato Grosso and Pará. as a result of the construction of the São Manoel Hydroelectric Power Plant, operated by the China Three Gorges Group (CTG). These changes have had an impact on fishing and river turtle hunting. The local population has also suffered diarrhea, vomiting, and other gastrointestinal problems due to the accumulation of sediment and other pollutants in the river as a result of the hydroelectric plant's operations.²³

In Laos, the construction of the Vientiane-Boten railway a joint venture between the Lao government and China's state-owned companies Mowan railway and Beijing Yukun

¹⁹ *Ibid.*, page 20

²⁰ *Ibid.*, page 21

²¹ CooperAcción, 'Observatorio de Conflicto Mineros en el Perú: Informe Especial Caso las Bambas' [in Spanish], 2015, <https://goo.gl/gWQ67i>.

²² Directorial Resolution No.774-2016-0EFAIDFSAI (File No.039-2015-0EFAIDFSAI/PAS).

Directorial Resolution No.996-2016-0EFAJDFSAI (File No.039-2015-0EFAJDFSAIIPAS).

²³ *Ibid.*, page 22

investment and the Yunnan government, have polluted several waterways, harming the livelihoods of local residents in Vang Vieng District, Vientiane Province. In late February 2020, local residents reported that waters in the Houay Pamom Creek became polluted. Residents attributed the pollution to chemicals discharged from the boring of a railway tunnel and complained they could no longer fish in the creek. In mid-February 2020, pollution stemming from the construction of another railway tunnel was reported in another Nam Xong tributary, the Nam Lik River, with the runoff discharge killing nearly 50 kilograms of fish.²⁴

Article 15 - Cultural rights threatened

In some cases, infrastructure projects financed by China have failed to take the necessary measure to ensure the conservation of cultural heritage.

For example, in the Philippines' capital Manila, the construction of the Binondo–Intramuros bridge, which is financed through a US\$63-million grant from the Chinese Official Development Assistance²⁵ as part of the Economic and Technical Cooperation Agreement with China, may put historical and cultural heritage at risk. The proposed four-lane vehicle bridge located in the Intramuros heritage district within the city of Manila could seriously harm the structural integrity of many historical buildings, including the San Agustin Church, completed in 1607, a UNESCO Heritage Site. The ramp to the bridge will violate the buffer zone proviso, which may result in the site being removed from the UNESCO Heritage List. Despite concerns raised by heritage experts, the construction of the bridge has continued.²⁶

Questions

- Please provide information about the steps taken by the government to ensure that China's state-owned companies prevent the occurrence of violations of economic, social, and cultural rights in connection with the implementation of investment and infrastructure projects overseas.
- Please provide information on steps that the government plans to undertake to address violations of economic, social, and cultural rights stemming from the implementation of Belt and Road Initiative projects.
- Please clarify which steps the government has undertaken to promote comprehensive and participative human and environmental rights assessments for projects involving China's companies overseas.
- Please provide information about steps taken to address abusive labor conditions, such as

²⁴ RFA, *Tunnel Work on Laos-China Railway Pollutes Local Waterways*, 28 February 2020

²⁵ Xinhua, *Philippine gov't eulogizes progress in China-funded infrastructure projects*, 20 March 2019

²⁶ Philippine Information Agency, *Estrella-Pantaleon, Binondo-Intramuros bridges right on track for completion*, 24 July 2020

non-payment of wages, injuries, and death, and instances of absence of medical and accident insurance, resulting from the implementation of infrastructure and investment projects implemented by China's companies overseas.

- Please provide information on steps taken to ensure that workers employed by China's companies overseas can freely exercise their right to form and join trade unions.
- Please provide information on the measures the government has taken to prevent land acquisition without adequate compensation and forced evictions resulting from infrastructure and investment projects implemented by China's companies overseas.
- Please provide annual statistical data on the number of forced evictions that have resulted from infrastructure and investment projects implemented by China's companies overseas, and clarify whether such evictions were preceded by consultations with residents to seek their prior and informed consent.
- Please provide information on measures undertaken by the government to ensure the conservation of cultural heritage sites impacted by infrastructure and investment projects implemented by China's companies overseas.
- Please provide detailed information on how the government enforces the standards and measures set out by the Assets Supervision and Administration Commission of the State Council for overseas subsidiaries.
- Please provide detailed information on how the government supervises the implementation of the Guidelines for the Administration of Employees of Chinese-funded Overseas Enterprises and Institutions.
- Please provide updated information about China's companies that have violated the Social Responsibility Guide for [Chinese] International Contractors issued by the Ministry of Commerce.
- Please provide information about the implementation of the Environmental Protection Guidelines for Overseas Investment and Cooperation, jointly issued by the Ministry of Commerce and the Ministry of Environmental Protection.
- Please provide information on the government's plan to ensure all infrastructure and investment projects implemented by China's companies overseas abide by the Availability, Accessibility, Acceptability, Adaptability and Appropriateness listed in the General Comment No.21.