On 14 March 2019, the United Nations Human Rights Council will discuss and adopt the outcomes of China’s latest Universal Periodic Review (UPR) of its human rights record, which was completed in November 2018.

Of particular note are several key recommendations made by the UPR Working Group members as well as civil society groups from Asia and Latin America regarding China’s economic activity abroad. These recommendations are focused on:

- Establishing measures to prevent and remedy human rights impacts in its overseas investment, particularly in high-risk or conflict zones
- Conducting human rights due diligence in line with the UN Guiding Principles on Business and Human Rights (UNGPs)
- Establishing grievance mechanisms for victims of human rights abuses in host countries

The business and human rights (BHR) recommendations mirror the rising global concern over the human rights impacts of China’s far-reaching and ambitious infrastructure project – the Belt and Road Initiative – and the scaling up of other overseas investments by private and state-backed companies from China. China did not reject these BHR-related recommendations in its response to the UPR Working Group Report. However, the country has repeatedly failed to implement other human rights-related recommendations from previous UPR and UN treaty body reviews.

These recommendations were influenced by the unprecedented number of BHR-related stakeholder submissions presented by civil society organizations – of 122 stakeholder submissions, 15 were BHR-related, compared to zero in China’s previous 2013 UPR cycle. These submissions highlighted China’s business activities in Argentina, Bolivia, Brazil, Burma, Ecuador, Peru, Taiwan, and Tibet. Three specific cases in the Summary of Stakeholders’ Submissions included:

- In Burma, Wanbao Mining Limited was linked to land grabbing affecting thousands of people from 35 villages, and the violent repression of peaceful protestors through its joint ownership of the Letpadaung copper mine.
- In Ecuador, land grabbing that forcibly displaced 42 indigenous families by the Chinese-backed Mirador and San Carlos Panantza mining projects was reported.
- In Bolivia, the China National Petroleum Company violated commitments made to indigenous communities through its partner BGP Bolivia by threatening indigenous environmental and social impact monitors with court cases.

It is time for China to finally follow through on its business and human rights obligations. China must ensure that its business-related policies and practices are aligned with the UNGPs and other human rights treaty commitments to match the scale and breadth of its overseas investment activities and halt the human rights abuses committed by its businesses abroad.

1 UNHRC, 40th Session. Report of the Working Group on the Universal Periodic Review – China (including Hong Kong, China and Macao, China) (26 Dec 18) UN Doc. A/HRC/40/6; UNHRC Working Group on the Universal Periodic Review, 31st Session, Summary of Stakeholders’ submissions on China (26 Dec 18) UN Doc. A/HRC/WG.6/31/CHN/3*
2 UNHRC, 40th Session. Report of the Working Group on the Universal Periodic Review – China Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review (15 Feb 19) UN Doc. A/HRC/40/6/Add.1
3 Myanmar Alliance for Transparency and Accountability (29 Mar 2018) China UPR Stakeholder Submission
4 Coordinadora de las Organizaciones Indígenas de la Cuenca Amazónica; Derecho, Ambiente y Recursos Naturales; Asociación Ambiente y Sociedad; Centro de Estudios para el Desarrollo Laboral y Agrario; CONECTAS Dereitos Humanos (29 Mar 2018) China UPR Stakeholder Joint Submission [Spanish language]
5 Central de Comunidades Indígenas Tacana II Río Madre de Dios; Asamblea Permanente de Derechos Humanos de Bolivia; Centro de Documentación e Información Bolivia (29 Mar 2018) China UPR Stakeholder Joint Submission [Spanish language]
CHINA’S HUMAN RIGHTS OBLIGATIONS

China is currently a party to eight UN treaties related to human rights, but has yet to ratify the International Covenant on Civil and Political Rights (see table below). Each individual treaty body also conducts regular reviews of a country’s progress in implementing its human rights obligations. The outcomes of these reviews are then incorporated into the UN’s contributions during a country’s Universal Periodic Review.

<table>
<thead>
<tr>
<th>HUMAN RIGHTS INSTRUMENT: (DATE INTO FORCE)</th>
<th>RATIFICATION STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: 1987</td>
<td>Signature: 1986, Ratification/Accession: 1988</td>
</tr>
</tbody>
</table>

TREATY BODY RECOMMENDATIONS TO CHINA

In response to the serious and widespread human rights impacts of its foreign business operations, China has received several recommendations during its various treaty implementation review cycles. While the protection of all civil, political, economic, social, and cultural rights are necessary for the fulfilment of the UNGPs, the following list of recommendations are directly related to common problems linked to activities of private and state-linked companies from China. These recommendations are extracted from the latest UPR and recent reviews by the treaty bodies of the International Covenant for Economic, Social and Cultural Rights and the Convention on Rights of the Child.

UNIVERSAL PERIODIC REVIEW

2018 Working Group Review

- 28.130 Promote measures that ensure that development and infrastructure projects inside and outside its territory are fully consistent with human rights and respect the environment and

6 OHCHR, Status of Ratifications Dashboard (06 Mar 19) [http://indicators.ohchr.org/]
7 UNHRC, 40th Session, Report of the Working Group on the Universal Periodic Review – China (including Hong Kong, China and Macao, China) (26 Dec 18) UN Doc. A/HRC/40/6; Other general recommendations echoed those made in the 2013 Working Group Review, which include: ratify international instruments like the ICCPR; accede to the Rome Statute; create a national human rights institution; develop coherence in domestic law with international human rights legal obligations; develop a national action plan on human rights; make greater efforts to protect and respect human rights defenders [2013 - UNHRC, 25th Session, Report of the Working Group on the Universal Periodic Review - China (including Hong Kong, China and Macao, China) (4 Dec 13) UN Doc. A/HRC/25/5].
the sustainability of natural resources, in line with applicable national and international law and the commitments of the 2030 Agenda for Sustainable Development (Ecuador);

- 28.131 Consider the establishment of a legal framework to guarantee that activities carried out by industries subject to its jurisdiction do not negatively impact human rights abroad (Peru);

- 28.132 Strengthen efforts, in accordance with the International Covenant on Economic, Social and Cultural Rights and the Guiding Principles on Business and Human Rights, to reduce the adverse environmental effects of industrialization including air pollution (Republic of Korea);

- 28.133 Take further measures on business and human rights in line with its international obligations and ensure that companies operating in high-risk or conflict areas conduct human rights due diligence in line with the Guiding Principles on Business and Human Rights (State of Palestine);

- 28.134 Establish a regulatory framework to assess the human rights and environmental impacts of corporations headquartered in China so as to promote and respect human rights (Haiti);

- 28.135 Continue extending Chinese laws, regulations and standards such as the Guiding Principles on Business and Human rights to Chinese companies operating beyond China’s borders (Kenya).

INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS REVIEW, 2014

International cooperation

12. The Committee calls upon the State party to adopt a human rights-based approach to its policies of international cooperation, by:

(a) Undertaking a systematic and independent human rights impact assessment prior to making funding decisions;

(b) Establishing an effective monitoring mechanism to regularly assess the human rights impact of its policies and projects in the receiving countries and to take remedial measures when required;

(c) Ensuring that there is an accessible complaint mechanism for violations of economic, social and cultural rights in the receiving countries.

Business and economic, social and cultural rights

13. The Committee recommends that the State party:

(a) Establish a clear regulatory framework for companies operating in the State party to ensure that their activities promote and do not negatively affect the enjoyment of economic, social and cultural human rights;

(b) Adopt appropriate legislative and administrative measures to ensure the legal liability of companies and their subsidiaries operating in or managed from the State party’s territory regarding violations of economic, social and cultural rights in the context of their projects abroad. The Committee draws the attention of the State party to its statement on the obligations of States parties regarding the corporate sector and economic, social and cultural rights (E/2012/22, annex VI, sect. A).

Pollution, ecological degradation and health care

32. The Committee recommends that the State party adopt all necessary measures to enforce its environmental regulations effectively, impose necessary sanctions and provide adequate compensation to those negatively affected.

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8 UN Committee on Economic, Social and Cultural Rights, Concluding observations on the second periodic report of China, including Hong Kong, China, and Macao, China (13 Jun 14) UN Doc. E/C.12/CHN/CO/2
CONVENTION ON THE RIGHTS OF THE CHILD REVIEW, 2013

Child rights and the business sector

24. The Committee draws the State party’s attention to its general comment No. 16 (2013) and recommends that it strengthen the implementation of regulations in mainland China to ensure that the business sector complies with international and national human rights, labour, environment and other standards, particularly as regards child rights.

The Committee recommends that the State party:

(b) Effectively monitor the implementation of the regulatory framework for the industries, including chemical factories operating in the State party, to ensure that their activities do not affect children’s rights and have adverse impact on children; and ensure appropriate sanctions and remedies are provided when violations occur;

(c) Establish monitoring requirements for all industries to undertake assessments, consultations and full public disclosure of the environmental, health-related and human rights impacts of their business activities and their plans to address such impacts;

(d) Investigate and hold accountable government officials, including local officials, suspected of failing to uphold environmental regulations or preventing people from gaining access to information or medical care, and ensure that children and their families have immediate and full access to effective and medically approved treatment and long-term remedies, including rehabilitation services and compensation.

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9 UN Committee on the Rights of the Child, Concluding observations on the combined third and fourth periodic reports of China (29 Oct 13) UN Doc. CRC/C/CHN/CO/3-4