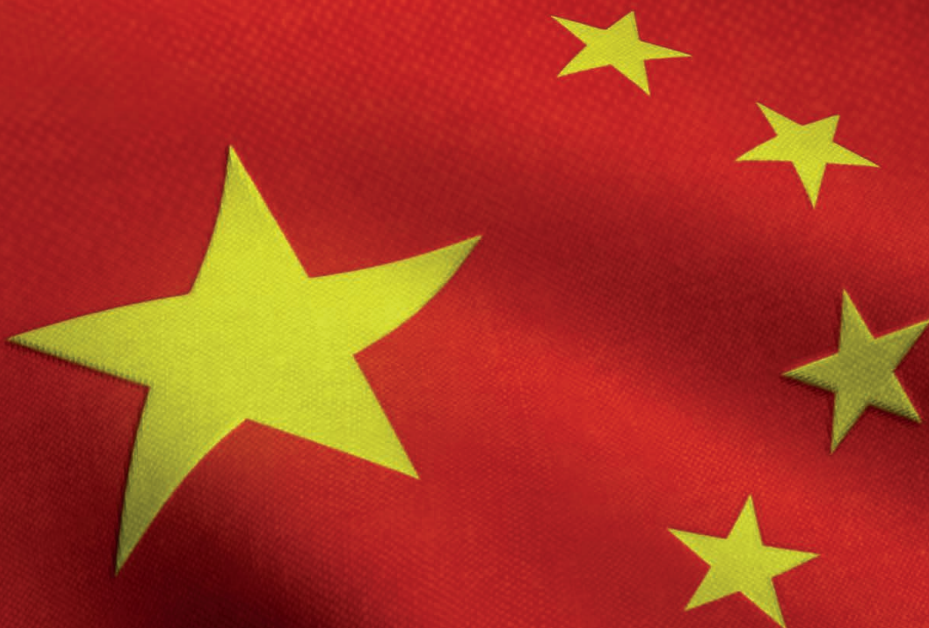




INDIGENOUS RIGHTS AND CHINESE INVESTMENTS:

Pending Commitment for their
International Relations



Indigenous Rights and Chinese Investments: Pending Commitment for their International Relations

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Made in Peru.

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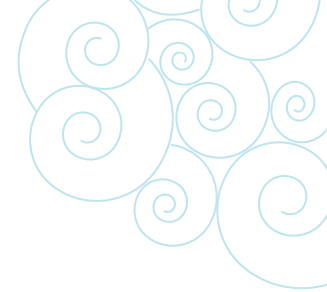
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Acronyms and Contractions

ACODECOSPAT	Cocama Association for the Development and Conservation of San Pablo Tipishca
AIDSESP	Interethnic Association for the Development of the Peruvian Rainforest
ANP	National People's Assembly
COICA	Coordinator of the Indigenous Organizations of the Amazon Basin
CORPI	Regional Coordinator of the Indigenous Peoples of San Lorenzo
CTGC	China Three Gorges Corporation
CICC	China International Commercial Court
DAR	Law, Environment and Natural Resources
ECOSOC	United Nations Economic and Social Council
EIA	Environmental Impact Assessment
EITI	Extractive Industries Transparency Initiative
UPR	Universal Periodic Review
ISLP	International Senior Lawyers Project
MEE	Ministry of Ecological Environment
MMG	Minerals and Metals Group
MNR	Ministry of Natural Resources
OECD	Organization for Economic Co-operation and Development
ORAU	Regional Organization Aidesep Ucayali
ORPIO	Indigenous People's Organization of the Eastern Amazon
PIDESC	International Covenant on Economic, Social and Cultural Rights
RPCH	People's Republic of China
SENACE	Peru's Environmental Licensing Agency
TLC	Free Trade Agreement
UNESCO	United Nations Educational, Scientific and Cultural Organization
UTEC	University of Technology and Engineering
WCS	Wildlife Conservation Society



Presentation

Derecho, Ambiente y Recursos Naturales (DAR) is a Peruvian non-profit civil organization, whose main purpose is to contribute to a socio-environmental well-being and equitable Amazon, based on knowledge management, advocacy on public policies, empowerment of the actors, the strengthening of the institutional framework and the promotion of social vigilance at the national, regional and local levels. In this process of institutional existence of 16 years, DAR has managed to compose a vision and work with the promotion of sustainable development in Peru, especially in the Amazon.

Currently, DAR has four programs: 1) Environmental Governance and Management, which affects an improvement in the policy, legal framework and projects of the energy and hydrocarbon sectors; 2) Climate Change and Forests, focused on monitoring processes, policies and the regulatory framework on climate issues and forest resources, as well as their relationship with human rights; 3) Environmental Rights and Justice, whose work focuses on promoting the rights of Amazonian indigenous peoples, as well as legal security for native communities and the training of indigenous peoples in national legislation, for the protection of the biodiversity; 4) Amazon, focused on monitoring international financial institutions to improve the environmental and social standards that these institutions finance, as well as the strengthening and promotion of indigenous rights in the international arena.

This publication reflects the arduous and intense work carried out at DAR in order to learn about the different aspects of the People's Republic of

China, such as its institutional and normative framework on human rights, mainly in relation to environmental standards.

This search has been carried out in a coordinated manner with other organizations whose purpose is to improve respect for environmental standards and human rights, such as the International Senior Lawyers Project (ISLP). This non-profit organization contributed to comparative legal research through pro bono legal services.

In turn, this document joins the efforts of the organizations part of the *Grupo Regional sobre Infraestructura y Financiamiento* (Regional Group on Financing and Infrastructure) (GREFI) and the *Coalición por la Transparencia y la Planificación (Coalición Regional)* (Coalition for Transparency and Planning – Regional Coalition). With them, we share the objective of improving the relationship with China through proposals on the sustainability of their investments.

Finally, the information collected is intended to contribute to the strengthening of indigenous organizations, especially the Coordinator of the Indigenous Organizations of the Amazon Basin (COICA) and its national and local grassroots, for a better knowledge of China. In addition, it presents a proposal to improve the implementation of indigenous rights in areas where Chinese investments are established. This research is part of a learning process regarding Chinese institutions to help promote sustainable investments that respect human rights.

Introduction

The People's Republic of China (RPCH) has increased its presence and strategic role in Latin America and the Caribbean and in international spaces that promote the protection of human rights such as the United Nations. In November 2018, the United Nations Human Rights Council conducted the Universal Periodic Review¹ (UPR) of China. Organizations such as the Coordinator of the Indigenous Organizations of the Amazon Basin (COICA) and the Regional Coalition of civil society organizations² participated in the UPR process with the presentation of a report on the human rights performance of Chinese investors in Latin America³.

China received 346 recommendations and supported 284 of them in the adoption of the UPR⁴ outcome. The process of implementation of the UPR recommendations that China supported does not report major progress⁵. Although implementation is the Chinese Government's primary responsibility, the governments of the region, as well as the United Nations and civil society, have a role of vigilance and powers to demand compliance. The recognition and guarantee of rights require the participation of all parties, so that it is an inclusive process, from the perspective of those affected themselves and with the formality and legitimacy required by the States.



- 1 UN Human Rights Council (2018). *Universal Periodic Review of China* <https://www.ohchr.org/EN/HRBodies/UPR/Pages/CNindex.aspx>
- 2 Formed by DAR, *Asociación Ambiente y Sociedad (Environment and Society Association) (AAS)*, *Centro de Estudios para el Desarrollo Laboral y Agrario (Studies Center for Labor and Agrarian Development) (CEDLA)*, and *Conectas Derechos Humanos*.
- 3 COICA (2018). *Informe de vulneración de derechos humanos de pueblos indígenas en la cuenca amazónica* (Report on the violation of human rights of indigenous peoples in the Amazon basin). Retrieved from: <https://dar.org.pe/amazonia-5violaciones-ddhh-china/>
- 4 UN Human Rights Commission. China: The Universal Periodic Review. Retrieved from: https://lib.ohchr.org/HRBodies/UPR/Documents/Session31/CN/CHINA_Infographic_31st.pdf
- 5 United Nations Human Rights Council. 5/1. *Construcción institucional del Consejo de Derechos Humanos* (Institutional Construction of the Human Rights Council). Retrieved from: <https://www.acnur.org/fileadmin/Documentos/BDL/2008/6259.pdf>

This analysis is an approach to China's view of human rights, in order to understand the approach and the performance of the Asian country by comparing some of its political and legal characteristics with the countries of Latin America. In this way, it seeks to show the common points to propose a dialogue between both actors.

The first chapter addresses the obligations that China has as a member of the United Nations, as well as the implications and precedents to materialize three of the UPR recommendations that the country assumed and are related to its investments abroad. These recommendations are directly related to the report from COICA and the Regional Coalition: (i) promoting measures that guarantee that development and infrastructure projects outside the territory of China are fully compatible with human rights and respect the environment and sustainability of natural resources; (ii) continuing efforts to comply with its international commitments on human rights and applying the United Nations Guiding Principles on Business and Human Rights, and (iii) considering the possibility

of establishing a legal framework to guarantee that the activities subject to its jurisdiction do not have a negative impact on human rights abroad⁶.

The second chapter covers the role of different actors for the follow-up and fulfillment of the commitments. To do this, an important step is to know the structure of China's decision-making, as well as the organizations that can intervene in the implementation of these recommendations and will have a role in the negotiations or in the content of the measures that may be generated for compliance by China. At the same time, mention is made of those powers and capacities of civil society and the United Nations to contribute to this process.

Finally, a series of recommendations are presented aimed at all the actors who can and should generate the conditions to materialize them. In this process, both civil society and indigenous organizations have a constant role in the construction of these conditions.



6 United Nations General Assembly. *Informe del grupo de trabajo del Examen periódico universal de China* (Report of the Working Group of the Universal Periodic Review of China). Retrieved from: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/446/59/PDF/G1844659.pdf?>

Context

The People's Republic of China has continuously participated in processes and spaces of the United Nations, such as the UPR, which is the **only mechanism of the Human Rights Council (the Council) with the aim of improving the situation of human rights on the ground of each of the 193 UN member countries.**

In 2013, the United Nations evaluated China through the UPR and made 252 recommendations from different countries. Of these, approximately 11 refer to improving the Chinese government's treatment of human rights (see appendix 1). However, at the time, the RPCCH did not materialize or show concrete progress towards the fulfillment of the commitments.

Subsequently, in 2018, China underwent a subsequent UPR, which had the participation of indigenous organizations from Latin America, such as the COICA. The report **"Violations of the human rights of indigenous peoples in the Amazon basin due to Chinese investments"**⁷ proposed recommendations to improve China's relationship with indigenous peoples in contexts where Chinese investments converge in indigenous territories.

It is worth mentioning that the participation of the Regional Coalition for Transparency and Participation was a support for the presentation and incidence of the report before and during the 2018 UPR sessions, which were held in Geneva. In this process, the action of civil society in the region, as a bloc, was important to make visible the monitoring and knowledge of Chinese investments in the region. Two years later, no specific progress has yet been made on the

recommendations adopted by China. Therefore, this analysis seeks to join the efforts for the Asian country to implement the recommendations and improve the relationship with civil society, based on respect for human rights and the sustainable use of natural resources.

It is important to note that the Constitution of China contains the duties and rights of citizens, which includes ethnic minorities, as well as their commitment, since 2004, to respect and guarantee them. This shows that its legal framework is relatively young compared to the international regulatory framework available to the UN. At present, these reforms have only reached the declarative level, so the creation of specific standards and institutions to promote and monitor their compliance is still a pending issue.

On the other hand, this year, due to the SARS-CoV-2 virus, activities such as face-to-face meetings with the UN have been paralyzed. The truth is that investments have not stopped, and it is necessary to adapt to these times to create bridges of dialogue that allow progress with the commitments assumed by China.

The next UPR process aimed at China will take place in 2023. With the aim of generating specific advances, since China has a strategic role in the world and the region, the inclusion of human rights safeguards in investments outside the Chinese borders should be a fact two years from now.

7 COICA (2018). *Vulneraciones a los derechos de los pueblos indígenas en la cuenca amazónica por inversiones chinas* (Violations of the rights of indigenous peoples in the Amazon basin due to Chinese investments). Retrieved from https://nuevo.dar.org.pe/archivos/EPUchina_espanol.pdf

Chapter I:

Assessment of China's commitments



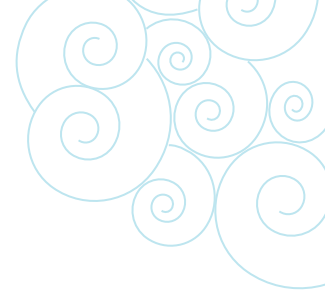


1.1 China's obligations as a member of the United Nations

China's participation in the United Nations extends to all instances of that body, including the General Assembly, the Security Council, the Economic and Social Council (Ecosoc), the International Court of Justice and the General Secretariat. This situation generates a set of prerogatives, commitments and obligations according to the spaces where it participates.

In turn, China chairs four of the fifteen UN organizations and seven agencies of the multilateral system, and occupies the second leading position, as is the case with United Nations Educational, Scientific and Cultural Organization⁸.

8 García, R. (2020). *La ONU, con impronta china: ¿y la universalidad?* (The UN, with a Chinese stamp: What About Universality?) Retrieved from



In addition, it is one of the main financial contributors to the regular budget and with the greatest participation in the peace corps of the Security Council. **“After the election of Donald Trump, China strengthened its position as guarantor of multilateralism, in turn the COVID-19 pandemic has been another opportunity for Beijing to invest in global governance in all directions.”**⁹

In April 2020, China was chosen as a member of the panel of the Human Rights Council: the global body’s researchers’ choice, which includes monitors (17) on freedom of expression, health, enforced disappearances and arbitrary detentions.

Among the main functions that China can perform as a State Party to the UN, in order to generate progress to fulfill its commitments in the UPR, the following are mentioned:

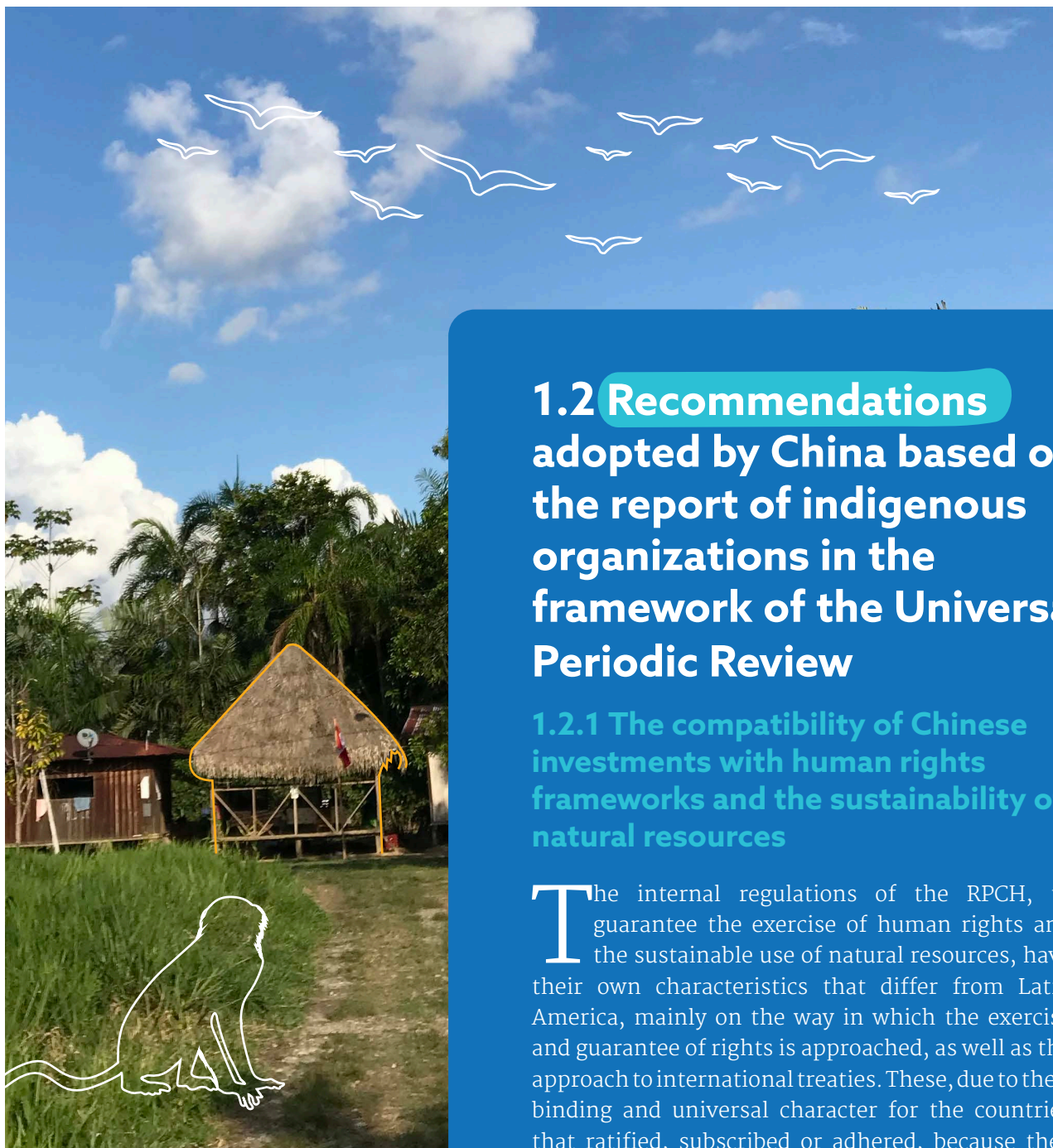
- “The Assembly is only empowered to make non-binding recommendations to the States; However, it has taken measures of a political, economic, humanitarian, social and legal nature. The historic Millennium Declaration, approved in 2000, and the 2005 World Summit Final Document reflect the commitment of Member States to achieve specific goals, such as development and poverty eradication; safeguarding human rights and promoting the rule of law; protecting the common environment. Recently, the General Assembly collectively decided on measures to tackle several new, critical and urgent global problems, such as climate change and the global financial and economic crisis.¹⁰”

- “The International Court of Justice must resolve legal disputes between the States that are submitted by them (contentious procedure) and issue advisory opinions on legal questions submitted by the organs or agencies of the United Nations (advisory procedure).¹¹”

Likewise, the UPR is a mechanism of the Human Rights Council that generates responsibilities for the States that participate in the evaluation and decide to adopt the recommendations made to them by other States. As indicated in the document on institutional construction of the Human Rights Council¹², in paragraph F on the follow-up to the evaluation, it states that **“Once the recommendations are adopted, the result of the universal periodic review, which must be a cooperative mechanism, should be applied primarily by the State under review and, as appropriate, by other relevant stakeholders.”**

With this, a shared responsibility is generated, both for the evaluated State, in this case China, and for other States interested in the fulfillment of the agreements. Peru and Ecuador participated and agreed with the recommendations made by COICA on the application of the principle of extraterritoriality and the Guiding Principles on Business and Human Rights. It is necessary that the States and the corresponding institutions make use of the provisions of the United Nations, in addition to being the main responsible for ensuring that foreign investments comply with international and national standards.

9 United Nations (2020). *China aumenta su influencia en la ONU sobre el terreno que deja EE. UU.* (China increases its influence in the UN on the ground left by the United States). Retrieved from <https://www.france24.com/es/20200418-china-aumenta-su-influencia-en-la-onu-sobre-el-terreno-que-deja-eeuu>.
10 United Nations General Assembly. *Funciones y poderes de la Asamblea General* (Functions and Powers of the General Assembly). Retrieved from: <https://www.un.org/spanish/ga/president/64/presskit/functions.shtml>
11 International Court of Justice. *Funciones de la Corte* (Functions of the Court). Retrieved from: <https://www.un.org/es/icj/how.shtml>
12 United Nations Human Rights Council. 5/1. Institutional Construction of the Human Rights Council. Retrieved from: <https://www.acnur.org/fileadmin/Documentos/BDL/2008/6259.pdf>

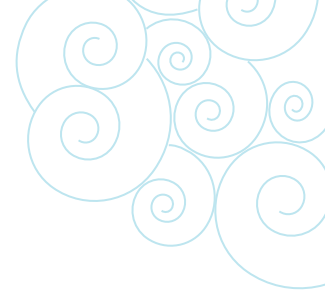


1.2 Recommendations adopted by China based on the report of indigenous organizations in the framework of the Universal Periodic Review

1.2.1 The compatibility of Chinese investments with human rights frameworks and the sustainability of natural resources

The internal regulations of the RPCH, to guarantee the exercise of human rights and the sustainable use of natural resources, have their own characteristics that differ from Latin America, mainly on the way in which the exercise and guarantee of rights is approached, as well as the approach to international treaties. These, due to their binding and universal character for the countries that ratified, subscribed or adhered, because they are mandatory, but the more conservative side of the RPCH does not necessarily participate in this vision, despite having ratified¹³.

13 GUOQIANG, Z. (2013). *La práctica del control de constitucionalidad en China* (The Practice of Constitutionality Control in China). *Revista Derecho PUCP* (Derecho PUCP Magazine).



In principle, on the Chinese legal system, Guoqiang points out that **“The Constitution of China declares that all power belongs to the people, where rights are characterized by three fundamental principles: the breadth, or inclusion of all citizens in a great diversity of rights individual and collective; equity, or its equality before the law, and truthfulness, or effective application of rights.”**

To this way of recognizing human rights, the form of the Government of China is added, where the political structure has a direct influence on the treatment of those rights. To exemplify, the National People’s Assembly (ANP), as the highest political and constitutional body, has the power to modify or nullify by right the decisions that have overtones of unconstitutionality and are adopted by the Permanent Committee. However, there is no constitutional control of the laws voted by it. In other words, the ANP is the highest legal and political body and there is no institution that evaluates it. In it the control of the standards dictated by the State is centralized.

On the other hand, the RPCH has developed the National Human Rights Action Plan of China (2012–2015), formulated according to the following guidelines: keeping high the flag of socialism with Chinese characteristics; taking Deng Xiaoping’s theory and the important Three Representations thinking as a guide, and fully applying scientific perspectives on development.

In combination with the 14th Five-Year Plan for 2021–2025 of the People’s Republic of China¹⁴, the Chinese government proposes a change in

its economic planning, based on “indicative economic growth targets”, but according to Raquel León, it does not propose major changes on the sustainable development goals.¹⁵”

In turn, China is a party to various international treaties, but also believes that the application of general principles of human rights should be combined with the national situation of the countries, due to the difference in social systems, levels of economic development, historical and cultural traditions. Therefore, their observations and methods on human rights are not the same¹⁶.

Likewise, in the case of weighing the international and national standards, article 142 of the General Principles of the Civil Law of the People’s Republic of China (Amendment, 2009) provides that for any civil relationship that involves a foreign element, if there is any difference between the requirements of international treaties ratified by the Government of the People’s Republic of China and the civil laws and regulations of that country, international treaties shall apply, except for matters reserved by the Government of the People’s Republic of China.

On the same lines, to improve the understanding of the system, by way of comparison, the functioning of the Latin American States is based on the laws, which are called the rule of law and which converge with democracy as a form of government. Of this hybrid, it can be said that **“the parallel validity of the rule of law and democracy is justified, as a way of recognizing limits to what the people in democracy can decide, which are given by the fundamental**

14 Xinguanet. *El decimocuarto plan quinquenal de China publicado en un folleto* (China’s fourteenth five-year plan published in a brochure). See: Xinhuanet. About Five-Year Plans, see: <https://multimedia.scmp.com/infographics/news/china/article/3085903/china-five-year-plans/index.html>

15 Asia Pacific Network (2021). *El nuevo Plan Quinquenal con el que China proyecta su desarrollo 2021.2025* (The New Five-Year Plan with Which China Projects its Development 2021.2025). See Article.

16 Servigón, V. (2007). *El Sistema Político y Constitucional en China* (The Political and Constitutional System in China). *Revista Jurídica de la Facultad de Jurisprudencia* (Law Magazine of the Faculty of Jurisprudence), 21, *Universidad Católica de Guayaquil* (Catholic University of Guayaquil)

rights that even the representatives of the people must respect”¹⁷.

On the other hand, we can mention the Montreal Protocol, which is an international environmental agreement that achieved universal ratification to protect the earth’s ozone layer. Its goal is to eliminate the use of substances that deplete the ozone layer (ODS) and contains provisions for the coherence of the activities of the countries that are part of the protocol. Although the text of the treaty does not specify whether China has certain obligations with respect to its activities abroad, the multilateral nature of the agreement between states in the world and countries like China suggests that activities that directly contravene the spirit

of the Montreal Protocol would create wicked results. Therefore, by adhering to the spirit of the protocol, China must not undermine the objectives when conducting activities abroad.

In this sense, there are differences on the way of adopting and recognizing human rights between China and Latin American countries, because while in China power is based on social control, in the region it is based on the laws or the state of right¹⁸. It is necessary to know these differences to generate bridges of dialogue that allow progress on both visions, in relation to China’s foreign investments, since the national vision has an impact on the conditions imposed on diplomatic relations with other countries.

1.2.2 The implementation of the Guiding Principles on Business and Human Rights

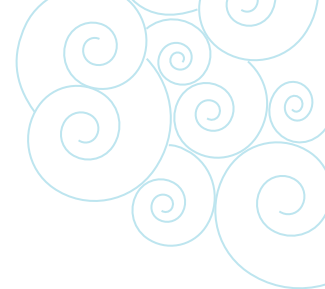
During the 2018 Universal Periodic Review, the People’s Republic of China accepted 284 of the 346 recommendations made by the member countries of the United Nations. Of these, 4 were focused on the implementation of the Guiding Principles on Business and Human Rights.

Table No. 1. Recommendations to the People’s Republic of China in the framework of the 2018 Universal Periodic Review

Recommendations	Countries
28.132. To redouble 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 environmental effects of industrialization, including air pollution.	Republic of Korea
28.133. To adopt new measures on business and human rights, in accordance with their international obligations, and ensure that companies operating in high-risk or conflict areas act with due diligence, in accordance with the Guiding Principles on Business and Human Rights.	State of Palestine

17 Marshall Barberán, Pablo. (2010). *El estado de derecho como principio y su consagración en la constitución política* (The Rule of Law as a Principle and its Consecration in the Political Constitution). Law magazine (Coquimbo).

18 Vergalito, E. *Derechos humanos en China: un análisis exploratorio del discurso oficial reciente* (Human Rights in China: An Exploratory Analysis of Recent Official Discourse). *Asociación Latinoamericana de Estudios de Asia y África* (Latin American Association for Asian and African Studies). *XIII Congreso Internacional de ALADDA* (XIII International Congress of ALADDA).



Recommendations	Countries
28.134. To establish a regulatory framework to assess the environmental impacts and human rights of companies with office in China, in order to promote and respect human rights, following the recommendations contained in paragraphs 186.185, 186.193, 186.224 and 186.251 of the Report I Working Group, accepted during the second cycle.	Haiti
28.135. To continue to expand Chinese laws, regulations and standards, such as the Guiding Principles on Business and Human Rights, for Chinese companies operating beyond China's borders.	Kenya

Self-made.

Regarding this, although they are not legally binding, the Guiding Principles on Business and Human Rights have gradually positioned themselves as important standards for business conduct. However, it should be mentioned that one of its first obstacles is the limited approach it presents with respect to extraterritorial obligations. The only provision where these are addressed is found in Principle 2: **“States must clearly state that all companies domiciled in their territory and/or jurisdiction are expected to respect human rights in all their activities.”**¹⁹

For this reason, the implementation of the guiding principles in the country must be carried out through an adequate process, which allows, fundamentally, to face the serious violations of human rights perpetrated in the business scenario²⁰. It is worth mentioning that the People's Republic of China has ratified

international instruments and has tools in the field of human rights that must be taken into account to reinforce the obligations assumed and provide a greater framework for the protection of human rights in business spaces. For example, the International Covenant on Economic, Social and Cultural Rights, the San Salvador Protocol (Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights) and the tools that can guide the actions of the countries, such as the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights²¹.

It is important to highlight that as part of the International Covenant on Economic, Social and Cultural Rights, China is obliged to protect, respect and give effect to the human rights recognized in that instrument and, according

19 United Nations (2011). *Principios Rectores sobre Empresas y Derechos Humanos* (Guiding Principles on Business and Human Rights). p. 4. Retrieved from https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr_sp.pdf

20 In Peru, a methodology has been developed for the preparation of the NAP on Business and Human Rights, which consists of a study of the current situation of human rights and the implementation of the Guiding Principles to identify the main problems and gaps to be resolved by the State through a public policy on business and human rights. DAR (2019). *Los Principios Rectores sobre Empresas y Derechos Humanos en Perú* (The Guiding Principles on Business and Human Rights in Peru). Retrieved from <https://dar.org.pe/wp-content/uploads/2020/12/2do-Boletin-Principios-Rectores.pdf>

21 ETOs. *Principios de Maastricht sobre las Obligaciones Extraterritoriales de los Estados en el Área de los Derechos Económicos, Sociales y Culturales* (Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights). Retrieved from: https://www.fidh.org/IMG/pdf/maastricht-eto-principles-es_web.pdf

to the Committee on Economic, Social and Cultural Rights, “[t]hose obligations apply both to situations that occur in the national territory and to situations that take place outside the national territory over which the States parties can exercise control.”²²

On that sense, the Committee addressed the obligation of extraterritoriality as follows:

27. These extraterritorial obligations of the States, by virtue of the Covenant, derive from the fact that the covenant obligations are expressed without any restriction linked to territory or jurisdiction. Although article 14 of the pact indicates that the State must institute compulsory primary education “in its metropolitan territory or in other territories subject to its jurisdiction”, this reference does not appear in the other provisions of the pact. In addition, article 2, paragraph 1, mentions international assistance and cooperation as a means to give effect to economic, social and cultural rights. It would be contradictory for that reference to allow a State to adopt a passive attitude when an agent domiciled in its territory and/or under its jurisdiction and, therefore, under its control or authority, harms the rights of other people in other States, or when the conduct of that agent could cause foreseeable harm to be caused. In fact, the members of the United Nations have pledged to “take joint or separate measures, in cooperation with the Organization”, to give effect to the purposes set forth in Article 55 of the Charter, including “universal respect for human rights and the fundamental freedoms of all, without

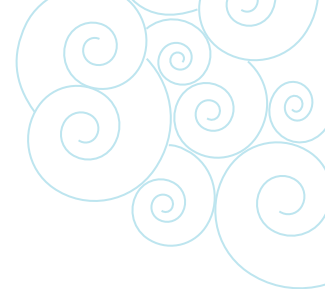
making a distinction on grounds of race, sex, language or religion, and the effectiveness of such rights and freedoms.” This duty is expressed without any territorial limitation and must be taken into account when addressing the scope of States’ obligations under human rights treaties. Also, in line with the Charter, the International Court of Justice has recognized the extraterritorial scope of the fundamental human rights treaties, emphasizing their object and purpose, their legislative history and the lack of territorial limitation provisions in the text. Customary international law also prohibits the State from allowing its territory to be used to cause damage in the territory of another State, a requirement that has acquired special importance in the context of international environmental law [...].

28. Extraterritorial obligations arise when a State party can influence situations that occur outside its territory, in accordance with the limits imposed by international law, by controlling the activities of companies domiciled in its territory and/or under its jurisdiction and, therefore, contribute to the effective enjoyment of economic, social and cultural rights outside its national territory [...]²³.

In addition to this, and unlike the UN Guiding Principles, the Maastricht Principles ratify the obligation of States to supervise multinational companies that are domiciled in their jurisdiction and to refrain from supporting them when they are involved in human rights violations in third countries. These state that

22 *Comité de Derechos Económicos, Sociales y Culturales* (Committee on Economic, Social and Cultural Rights) (2017). *Observación general núm. 24 (2017) sobre las obligaciones de los Estados en virtud del Pacto Internacional de Derechos Económicos, Sociales y Culturales en el contexto de las actividades empresariales* (General comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities). Paragraph 10.

23 *Ibid*, paragraphs 27 and 28.



States have the obligation to respect, protect and fulfill civil, political, economic, social and cultural rights “both within their territory and extraterritorially”²⁴, and that the violation of this obligation may give rise to them being attributes international responsibility to said State²⁵.

It is important to show that the issue of corporate legal responsibility, within the framework of public international law, remains open. However, as has been developed in previous lines, there are international instruments that develop “individual and joint obligations for States to respect, protect and fulfill human rights within and outside their borders.”²⁶

1.2.3 China’s progress in ensuring that its activities do not undermine human rights abroad

We present and analyze the specific advances that have been evidenced in China in respect of human rights for its investments abroad. In this regard, it is necessary to mention that, when referring to advances, the recognition of the rights, the care and protection of natural resources, and the concrete measures that the Chinese Government has taken will be considered.

The starting points to analyze this commitment would be those international human rights treaties that China has signed because they are the normative basis on which the Asian country should guide its development for the inclusion and treatment of human rights.

1.2.3.1 Specific treaties on human rights

On this point, we can mention the International Covenant on Economic, Social and Cultural Rights (Pidesc), which came into force in 2001 in China. The Pidesc includes rights such as work, social security, social security, health and education, all of them in adequate, equal conditions and with respect for their freedoms and other rights that they emanate.

However, from an internal point of view, China’s conception of autonomy limits the adoption of the treaty in a comprehensive manner, because if there is a conflict between national and international standards, international standards will prevail in China, as long as they are not opposed to the matters reserved by the Government of the People’s Republic of China, as noted above.



24 CDESC. *Observación General n.º 3. La índole de las obligaciones de los Estados partes* (General Comment No. 3: The Nature of States Parties’ Obligations) (art. 2, paragraph 1 of the Covenant). paragraph 14.

25 Ibid, paragraph 11

26 Mujica Petit (s/f). *Las obligaciones extraterritoriales de los Estados y la responsabilidad de China frente a las violaciones de los derechos humanos ocasionadas por la actividad de sus empresas* (Extraterritorial Obligations of States and China’s Responsibility for Human Rights Violations Caused by the Activity of its Companies). p. 1. Retrieved from <http://cedal.org.pe/wp-content/uploads/2019/06/3.-Las-obligaciones-extraterritoriales-de-los-Estados-y-la-responsabilidad-de-China-frente-a-las-violaciones-de-los-derechos-humanos-ocasionadas-por-la-actividad-de-sus-empresas.pdf>

This provision applies despite the fact that article 4 of the Pidesc indicates that the States parties to the Covenant²⁷ recognize that, in exercise of the rights guaranteed under the Covenant, the State may subject those rights only to limitations determined by law, to the extent compatible with the nature of those rights and with the sole purpose of promoting the general welfare in a democratic society. We are, then, faced with two positions on the interpretation regarding the prevalence of a national and international standard, where China prioritizes its national regulations and autonomy.

The aforementioned provides a scope on the form of treatment and inclusion of international human rights treaties. It is worth mentioning that China is also a party to the following treaties:

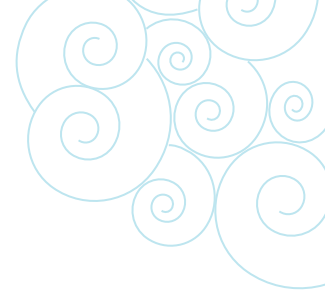
1.2.3.2 Treaties that include the adequate and sustainable use of natural resources

China is also a party to international environmental treaties such as the Vienna Convention, the Montreal Protocol, and the Paris Agreement. Based on this, the People's Republic of China has environmental responsibilities according to the aforementioned treaties, so its investments must be made in accordance with them, both nationally and internationally.

In turn, in recent years, China has developed a series of specific standards and institutions that protect natural resources, with measures that go hand in hand with guaranteeing the human right to a healthy and balanced environment, and the rights that are related to the same.



27 Some researchers point out that China has improved internally in guaranteeing rights such as subsistence and development, work, social security, the right to housing and education. This has placed it as the first country to meet the Millennium Development Goals. Ramiro, M. *China y los derechos humanos* (China and human rights). *Universidad Carlos III* (Carlos III University). Retrieved from http://politica-china.org/wp-content/uploads/1274235406China_y_los_derechos_humanos.pdf.



In general, they share the same principles on the use of natural resources as the countries party to the treaties.

Article 26 of the Political Constitution states that the State protects and improves the environment and the ecological environment and prevents and eliminates environmental pollution and other common evils.

There are two institutions dedicated to natural resources. The Ministry of Ecological Environment (MEE) is charged with addressing issues of climate change, reducing emissions, and agricultural and marine pollution, as well as increasing capacities for law enforcement and inspection. The Ministry of Natural Resources (MNR) is the one that manages the natural resources that used to belong to government agencies in charge of forestry, agriculture, livestock, among others.

In turn, the legal system for the protection of the environment and ecosystems improved thanks to a comprehensive amendment to the Environmental Protection Law. This is indicated in the white paper entitled *Progreso en los derechos humanos en China en 2014* (Progress in human rights in China in 2014), published by the Information Office of the State Council (the Chinese cabinet). The book says the Supreme People's Court established a special court to hear cases related to the environment and natural resources.

In contexts of trade agreements, relations have developed asymmetrically in relation to Latin American countries, where China has obtained a greater advantage in commercial exchange, as in the case of the FTAs with Chile, Peru,

among others. This has been accompanied by complementary treaties and infrastructure projects that contribute to China's logistics corridors²⁸, which have represented risks to environmental sustainability by making regulations more flexible to expedite investment projects.

Currently, China's FTAs include principles of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization. With it, it finds a robust legal framework and technical guidelines to take measures that respect the rights and obligations of both providers and users of genetic resources in those countries that adopt regulations, both for access to resources and for the equitable distribution of monetary and non-monetary benefits.

It is worth mentioning that one of the most unique characteristics of Chinese investments «[...] is the crucial role of around 100 large state-owned enterprise (SOEs) (*guoyou qiye*) controlled by national government agencies in industries of vital importance, such as the steel, telecommunications and transport.²⁹» For this reason, the influence on perceptions and the inclusion of human rights in Chinese companies are mainly based on what the Government has available. So, the proper performance of overseas investments also depends on the Chinese government. At this time is when the UPR commitments become more important to be developed in Chinese institutions, in coordination with those governments with which they have relationships, as well as with civil society.

28 Grefi (2019). *El rol de América Latina y el Caribe en la iniciativa de la franja y la ruta* (The role of Latin America and the Caribbean in the strip and route initiative). Retrieved from https://dar.org.pe/archivos/publicacion/205_informe_grefi.pdf

29 Lin, L. and Milhaupt, C. (2013). *Los grandes grupos empresariales chinos: Entendiendo los mecanismos del capitalismo de estado en China* (Large Chinese Business Groups: Understanding the Mechanisms of State Capitalism in China). p. 803.

1.2.3.3 The Extractive Industries Transparency Initiative (EITI)

The Extractive Industries Transparency Initiative (EITI) is a global standard to promote the open and responsible management of oil, gas and mining resources. The EITI requires the disclosure of information throughout the extractive industry value chain, from licensing to extraction, through how revenues go to the Government, to how these revenues contribute to the economy and society in general. As of 2019, the standard has incorporated more requirements on social and environmental information, as well as on gender and contracts, which are important in the disclosure of this

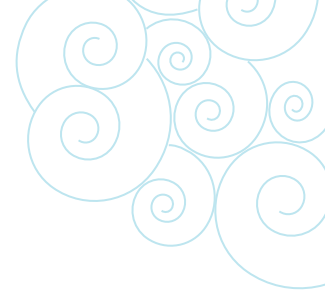
value chain. These advances allow the standard to strengthen trust among governments, companies and civil society, and promote the transparent and accountable management of natural resources³⁰.

Currently, 55 countries are members of the standard and 11 belong to Latin America and the Caribbean³¹. Although China is not one of the countries implementing the standard, the Chinese government has demonstrated its support for EITI on several occasions. In this regard, in 2010, EITI highlighted as valuable the support that the Chinese government gave to the resolution of the United Nations General Assembly, which emphasizes that all member



30 EITI. *El estándar global para la buena gobernanza del petróleo, gas y recursos minerales* (The Global Standard for Good Governance of Oil, Gas and Mineral Resources). Retrieved from https://eiti.org/files/documents/es_eiti_factsheet_2020.pdf

31 EITI. *Resumen de validación* (Validation Summary). See: <https://eiti.org/es/resumen-validacion>



states should promote transparency, and to the Pittsburgh declaration of the Group of 20 (G20), which encourages country participation in EITI³².

The indirect involvement of China can also be observed through the activities of its companies. They operate in EITI implementing countries and are required, like all extractive sector companies operating in those countries, to disclose information in accordance with the standard. This information includes the payment made by the Government where the company operates and, in some cases, oil and mining production contracts, social payments and effective property.

In the report **“EITI Brief: Chinese companies reporting in EITI-implement countries”³³**, carried out by the EITI International Secretariat in 2016, it was concluded that Chinese companies had always been willing to collaborate with the host country in the dissemination of information. Furthermore, it was mentioned that in the few cases where EITI reporting has been delayed, due to insufficient or incomprehensible information submitted by a Chinese company, companies based in Western countries contributed also to delays³⁴.

The report also mentions the following:

- Chinese companies disclose information about payments to governments to the same extent as companies from other countries.
- At least 130 Chinese companies are involved in EITI reports, including China National United Oil Corporation, China National Uranium, China Railway, among others.

- Information disclosed by Chinese companies in EITI Reports goes beyond financial disclosure, including information about their beneficial owners and oil and mining contracts.

To these points, it is important to add that, as of 2019, in the process of updating the standard, governments also have the obligation to report on environmental and social payments, as well as voluntary information on legislation, impacts and socio-environmental monitoring. In addition, progress has been made in the EITI, in terms of the requirements regarding respect for the participation rights of civic rights of civil society organizations that participate in the EITI, and social organizations involved in the extractive sector. In that sense, Chinese companies operating in countries where these requirements have already begun to be implemented would also participate in the dissemination of socio-environmental information, as well as in respecting the participation of civic rights of civil society.

The report also highlights that the standard is in accordance with the principle of “non-interference” that the Chinese government uses as a foreign policy. In this sense, it is mentioned that the EITI standard in EITI Principle 2 establishes that **“the management of the wealth of natural resources for the benefit of the citizens of a country is the responsibility of sovereign governments and must be exercised in the interest of their development.”**

The standard process is directed and applied by governments interested in contributing to greater transparency in their extractive sectors, in collaboration with civil society and

32 Paris, F. (2010). *China y el EITI* (China and the EITI). Retrieved from <https://eiti.org/blog/china-eiti>

33 EITI. See: <https://eiti.org/document/eiti-brief-chinese-companies-reporting-in-eiti-implementing-countries>

34 EITI (2016). *Resumen del EITI: empresas chinas que informan en los países implementadores del EITI* (EITI Brief: Chinese companies reporting in EITI-implement countries). Retrieved from <https://eiti.org/document/eiti-brief-chinese-companies-reporting-in-eiti-implementing-countries#DownloadPDF>

companies. Furthermore, EITI offers China an instrument that serves to promote more stable conditions in supplying countries, in line with its “non-interference” policy.

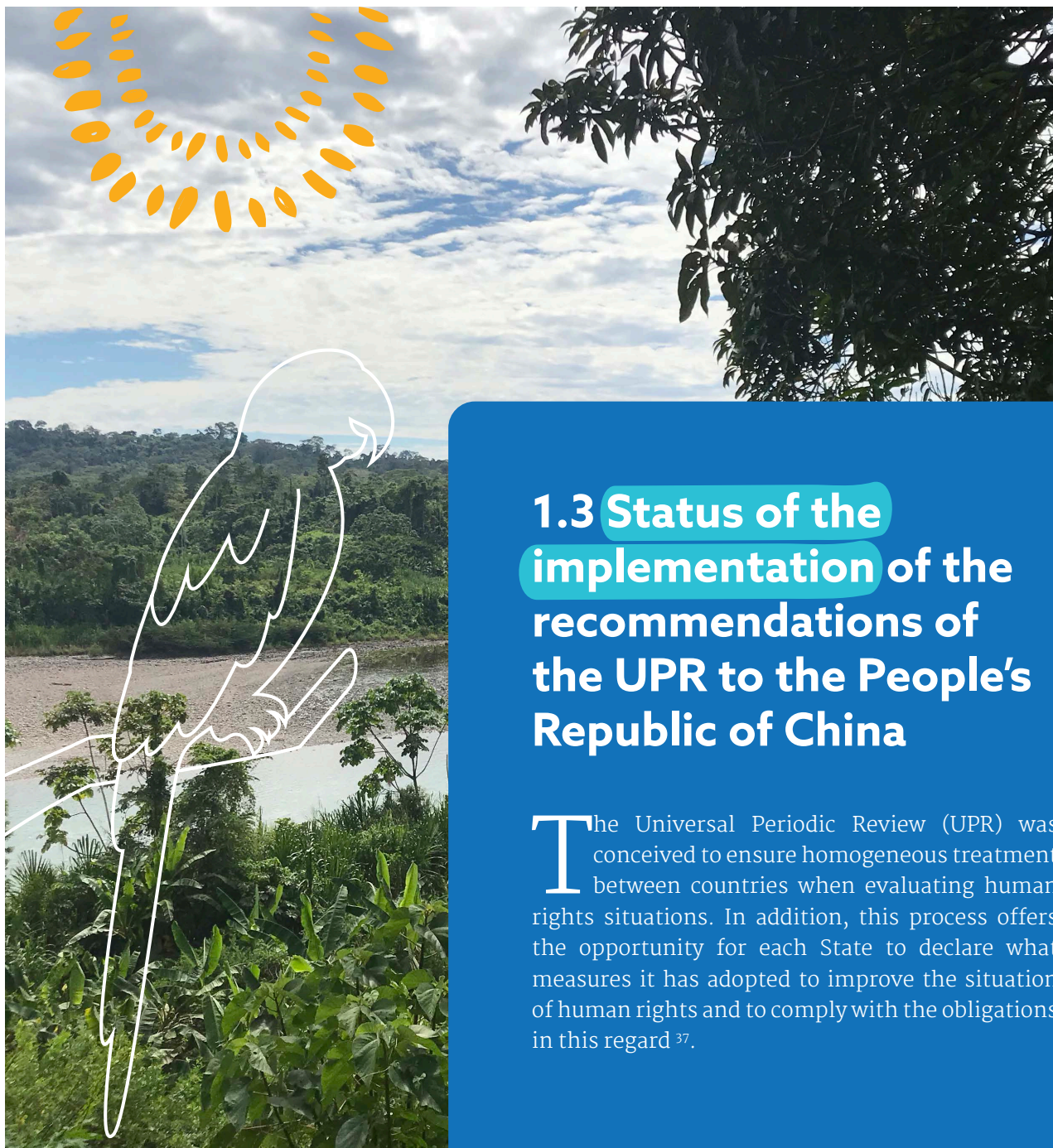
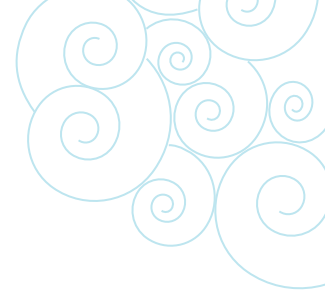
Finally, despite the fact that the International Secretariat has not reported China’s behavior in EITI in recent years, there are different researches that indicate that China continues to show its support through the performance of Chinese companies and investors that participate in the plans of EITI when these are ordered by the host country³⁵. This willingness on the part of the Asian country is key in countries in the region where there are serious socio-environmental impacts of extractive companies, such as Ecuador, a recent implementing country, where the members of the multi-stakeholder group expressed that the implementation of the EITI in Ecuador is expected to allow make transparent much of the information related to concessions for the exploration and exploitation of natural resources, as well as contracts with Chinese

companies. In recent years, they have increased their presence in the country through companies such as Ecuacorriente, which operates the mine in Mirador, in the eastern province of Zamora Chinchipe³⁶.

Thus, the implementation of the EITI standard in the countries of the region could be beneficial to improve the financial, social and environmental transparency of Chinese investments in the countries where they operate, as well as respect for the participation of civil society as a fundamental human right. All this is done to improve the governance of natural resources and achieve a positive impact on the affected local communities. The EITI standard is expanded every three years and there is currently a discussion on the incorporation of information related to the energy transition and prior consultation. It will be important that more Chinese companies are part of the multi-stakeholder groups of the States, as well as the global EITI Board.

35 Sanborn, C. (2020). *Estándares globales: América Latina, China en la colaboración Sur – Sur* (Global Standards: Latin America, China in South-South Collaboration). Retrieved from <https://ciup.up.edu.pe/analisis/estandares-globales-america-latina-china-colaboracion-sur-sur/> and <https://www.state.gov/reports/2019-investment-climate-statements/china/>.

36 PLAN V (2019). *Así funciona en la región el EITI, el estándar que revela las cifras de la industria extractiva* (This is How the EITI Works in the Region, the Standard that Reveals the Figures of the Extractive Industry). Retrieved from <https://www.planv.com.ec/historias/economia/asi-funciona-la-region-el-eiti-el-estandar-que-revela-cifras-la-industria>



1.3 Status of the implementation of the recommendations of the UPR to the People's Republic of China

The Universal Periodic Review (UPR) was conceived to ensure homogeneous treatment between countries when evaluating human rights situations. In addition, this process offers the opportunity for each State to declare what measures it has adopted to improve the situation of human rights and to comply with the obligations in this regard³⁷.

37 United Nations. *Universal Periodic Review*. Retrieved from report.

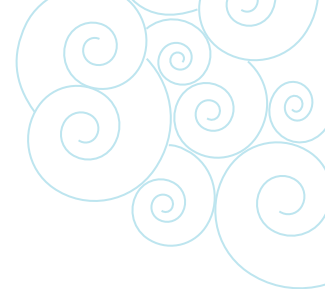
At the third session of the UPR to China, various human rights recommendations were made, many of which were accepted by China. Of these, 36 were identified regarding 3 topics of utmost importance for the purposes of this document:

The first focuses on the situation of human rights defenders. In this regard, the following is indicated:

Table No. 2. Recommendations to the People’s Republic of China in the framework of the 2018 Universal Periodic Review regarding the situation of human rights defenders

Recommendations made to China on human rights defenders	Countries
28.334. To create and maintain a safe and conducive environment for all human rights defenders.	Norway
28.335. To apply public policies to protect human rights defenders in accordance with international standards.	Spain
28.337. To take the necessary measures to guarantee that human rights defenders can exercise their freedom of expression and peaceful association.	Belgium
28.341. To adopt the necessary measures to provide a safe environment for those who work to protect and promote human rights, including human rights defenders and journalists, and investigate and punish all acts of violence against them.	Argentina

Self made.



At the second, there were recommendations aimed at addressing the right to freedom of expression, as shown in the following table:

Table No. 3. Recommendations to the People’s Republic of China in the framework of the 2018 Universal Periodic Review regarding freedom of expression

Recommendations	Countries
28.199. To accelerate the reforms necessary so that freedom of expression is fully protected by law and practice.	Australia
28.200. to respect, protect and guarantee the freedom of expression of all citizens.	Norway
28.201. To eliminate restrictions on freedom of expression and freedom of the press, including the internet, that do not comply with international law.	Sweden
28.204. To allow the unrestricted use of the internet by all members of society and guarantee cyber security and the safe flow of information without violating freedom of expression.	Estonia
28.205. To guarantee freedom of expression, assembly and association, even in Hong Kong, and remove obstacles to freedom of information on the internet, particularly for human rights defenders.	France
28.207. To guarantee freedom of opinion and expression, and strengthen efforts to create an environment in which journalists, human rights defenders and NGOs can operate freely, in accordance with international standards.	Italy
28.208. To protect and guarantee respect for freedom of information and expression, in particular through journalists, bloggers and human rights defenders.	Luxembourg
28.337. To take the necessary measures to guarantee that human rights defenders can exercise their freedom of expression and peaceful association.	Belgium
28.338. To guarantee the full exercise of the freedoms of association and expression of human rights, defenders and minorities, in accordance with international human rights law.	Costa Rica
28.340. To take immediate steps to allow human rights defenders and lawyers to exercise their right to freedom of expression and opinion without threats, harassment or repercussions.	Ireland

Self made.

In third place, on the justice system, the following was issued:

Table No. 4. Recommendations to the People’s Republic of China in the framework of the 2018 Universal Periodic Review regarding the Justice System

Recommendations	Countries
28.56. To continue to improve its legal system for the protection of human rights and effectively improve the judicial guarantees of human rights.	Nigeria
28.212. To continue with legislative, judicial and administrative reforms to prepare for adherence to the International Covenant on Economic, Social and Cultural Rights.	Tunisia
28.214. To continue implementing initiatives for a comprehensive and far-reaching reform of the judicial system, with a view to strengthening judicial guarantees in the area of human rights.	Democratic Republic of Congo
28.215. To continue to strengthen the role of the judiciary in the protection of human rights.	Egypt
28.217. To further strengthen its national capacity, with the aim of pursuing the measures taken in the judicial sphere.	Gabon
28.219. To continue advancing in administrative and judicial reforms in preparation for the ratification of the International Covenant on Civil and Political Rights.	Greece
28.220. To strengthen law enforcement education and supervision for judicial personnel.	Kuwait
28.221. To continue to promote the openness of the judicial system and fully utilize the four main platforms for the opening of the approval process, trial procedure, sentencing documents, and information on the execution of sentences.	Kyrgyzstan
28.65. To continue to improve its system for the legislative protection of human rights in accordance with its international obligations.	Russian Federation
28.107. To further strengthen their efforts to reduce poverty, implement the Development Goals and continue to improve their legal system to safeguard the human rights of their peoples.	Bhutan

Self made.

Regarding all this, organizations such as Human Rights Watch and Amnesty International have highlighted the situation of human rights violations that continues in China, despite the acceptance of the recommendations. In this regard, it was highlighted that “[t]he government of China considers human rights as an existential threat. Their reaction could pose a very serious threat to the rights of people around the world.³⁸”

The human rights situation continues to show, in the first place, a systematic repression of dissent and the continuous reduction of the scope for action of human rights defenders. Furthermore, the Government has further restricted the right to freedom of expression, association and peaceful assembly³⁹. Therefore, it is important to highlight the opportunities that exist for the Chinese Government to fulfill its obligations and commitments. One of them is the memorandum by which the start of negotiations to optimize the Free Trade Agreement between Peru and China was agreed⁴⁰.



38 Human Rights Watch (2019). *La amenaza global de China para los derechos humanos* (China's Global Threat to Human Rights). Retrieved from <https://www.hrw.org/es/world-report/2020/country-chapters/337324>
39 Amnesty International (2019). *Informe anual* (Annual Report), *China 2019*. Retrieved from <https://www.amnesty.org/es/countries/asia-and-the-pacific/china/report-china/>
40 Mujica, P. (s / f). Extraterritorial Obligations of States and China's Responsibility for Human Rights Violations Caused by the Activity of its Companies, p. 5. Retrieved from Report.

Chapter II:

The role of the actors for the follow-up and fulfillment of the commitments





2.1 The role of China's institutions in following up on their commitments

The political structure of China directly influences the progress of its commitments on human rights with other countries, because the institutions that make up the Government at different levels have direct participation in decision-making. Therefore, it is necessary to know the institutions that may have some interference in the fulfillment of the commitments related to the UPR. Some of them are mentioned below.

Institutional human rights safeguards begin with China's own basic political infrastructure⁴¹.

41 Ramiro, M. *China and Human Rights*. Carlos III University. Retrieved from http://politica-china.org/wp-content/uploads/1274235406China_y_los_derechos_humanos.pdf

In first place, the town's congresses, both national and local, stand out. These are the conduits through which the Chinese people exercise their legislative power. Laws and regulations are promulgated there, and decisions are made on matters of great national and local importance. They are made up of deputies elected by the people through democratic elections, where all citizens over 18 years of age participate actively or passively.

In China, there are eight political parties under the leadership of the Communist Party of China, with which they cooperate in the administration of state affairs and in the formulation and application of state laws and regulations. In areas where there is a large concentration of an ethnic minority, a system of autonomy and self-government has been established, whereby ethnic groups have the right to independently manage their affairs, in sectors such as the economy, education, science, culture and health.

The second institutional safeguard is constituted by the people's courts, in whose hands the judiciary resides. The judicial body that closes the system is the People's Supreme Court, which exercises the function of supervising the administration of justice in the local people's courts. In the same way, another key piece of the judicial system operates: the people's prosecutor's offices, which are in charge, among other functions, of ensuring legality in the actions of the administration and judicial bodies, as well as authorizing arrests.

Civil society, NGOs, academic institutions such as universities and the media are the last group of institutional safeguards for human rights that the Chinese Government points out in its report presented to the United Nations in the framework of the UPR-2009⁴².

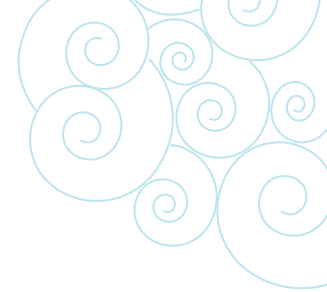
2.1.1 China International Commercial Court (CICC)

The CICC was established on June 29, 2018, pursuant to the notice on matters regarding the establishment of the International Commercial Court (2018) by the Supreme People's Court of China (Supreme Court), on June 25, 2018, to resolve international business cases. The Supreme Court is responsible for coordinating and guiding the international commercial courts.

In addition, it deals with "international business cases", which include cases where a) one or both parties are foreigners, stateless persons, foreign companies or other organizations; b) one or both parties have their habitual residence outside the territory of the People's Republic of China; c) the legal events that create, modify or terminate the commercial relationship have taken place outside the territory of the People's Republic of China, or d) the object in dispute is outside the territory of the People's Republic of China. As the differences in question are usually related to the operations or investments of Chinese companies in a foreign country, and involve at least one of the host country's parties, it is highly likely that these differences fall under the definition of an "international business case".

On the other hand, regarding the governance of international trade relations, article 89 of the Political Constitution of China indicates that the Council of State [...] handles foreign affairs and concludes treaties and agreements with foreigners; that is, it is the instance with which they relate, as well as the other States, for diplomatic matters, and finalize agreements or treaties, so it plays a strategic role at the time of negotiations and the fulfillment of agreements.

42 Ramiro, M. *China y los derechos humanos. Universidad Carlos III*. Recuperado de http://politica-china.org/wp-content/uploads/1274235406China_y_los_derechos_humanos.pdf



2.1.2 General Office of the State Council

The General Office of the State Council is responsible for the preparations and advice to the Council of State. It exhorts the departments of the State Council and the local popular governments to implement the documents and official decisions of the Council of State, as well as the decisions taken during its meetings and the instructions of its leaders.

The General Office of the State Council has six functional departments and bureaus: The Bureau of Secretaries 1, the Bureau of Secretaries 2, the Bureau of Secretaries 3, the Letter and Visiting Bureau of the General Office of the CPC Central Committee, and of the General Office of the State Council, the Personnel Department and the Administration Department.

2.1.3 Ministry of Foreign Affairs of the People’s Republic of China

This ministry is a functional department of the Council of State. It is in charge of applying the foreign policy of the State and managing the daily diplomatic work. It administers the representation of the State and the Government on foreign affairs, such as promulgating the policy and decisions of the State with the outside; publish diplomatic documents and statements; respond and carry out diplomatic management and negotiations and sign diplomatic documents such as treaties and agreements, and participate in international meetings of the United Nations and Governments, as well as in the activities of international organizations, among others of equal importance⁴³.

Table No. 5. Institutions of the People’s Republic of China

Institution	Main function
China International Commercial Court (CICC)	It is responsible for coordinating and guiding international commercial courts.
Ministry of Foreign Affairs of the People’s Republic of China	It manages the representation of the State and the Government on foreign affairs, such as promulgating the policy and decisions of the State abroad.
General Office of the State Council	It exhorts the departments of the State Council and the local popular governments to implement the documents and official decisions of the State Council.

Self made.

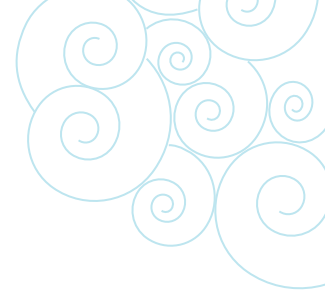
43 Spanish China. *Órganos estatales de la República Popular China* (State bodies of the People’s Republic of China). Retrieved from: <http://spanish.china.org.cn/spanish/60928.htm>



2.2 The role of countries in demanding compliance with China's human rights obligations in its investments abroad: A view from Latin America

Latin America is considered a strategic region for China's development model. This has led to the deployment of a specific policy towards our region, covering the political, economic, social and cultural spheres⁴⁴. In this sense, this section aims to show the importance of the role that Latin American countries can play in enforcing compliance with human rights obligations in investment matters.

⁴⁴ Grefi (2020). *El rol de América Latina y el Caribe en la iniciativa de la franja y la ruta y la estrategia política de China hacia la región* (The role of Latin America and the Caribbean in the Belt and Road initiative and China's political strategy towards the region). p. 6.



Along these lines, it is important to highlight two important characteristics of the International Human Rights System. In the first place, as Fabián Novak points out, “[w]hile domestic law contemplates the presence of competent judicial and arbitral tribunals to hear any dispute arising in the national territory, in international law there is no court to which all parties States of the International Community are subject.⁴⁵”. Secondly, “[...] unlike national laws where the standard can be imposed coercively in the event that individuals do not comply voluntarily, in International Law there is no supra-state body capable of imposing it coercively or to sanction their non-compliance. However, the absence of a sanction does not render international law ineffective, still less does it make it non-existent.⁴⁶” In addition to this, Elizabeth Salmón stated that, “[d]espite being made up of independent and sovereign political entities, international society is independent and globalized. This first contradiction places us on the plane of the need for cooperation.⁴⁷”

Despite this, as previously indicated, one of the mechanisms that has made it possible for countries in the region and the world to carry out control tasks with respect to the various human rights commitments assumed is the United Nations Universal Periodic Review. This is a space for cooperation aimed at establishing an interactive dialogue between the Member States of the United Nations with the Human Rights Council as observers. Its purpose is to complement and not duplicate the work of the

human rights treaty bodies⁴⁸. The UPR tries to ensure homogeneous treatment among countries when evaluating human rights situations and offers the opportunity for each State to present the measures it has adopted to improve the human rights situation in its country and to comply with the obligations in this regard⁴⁹.

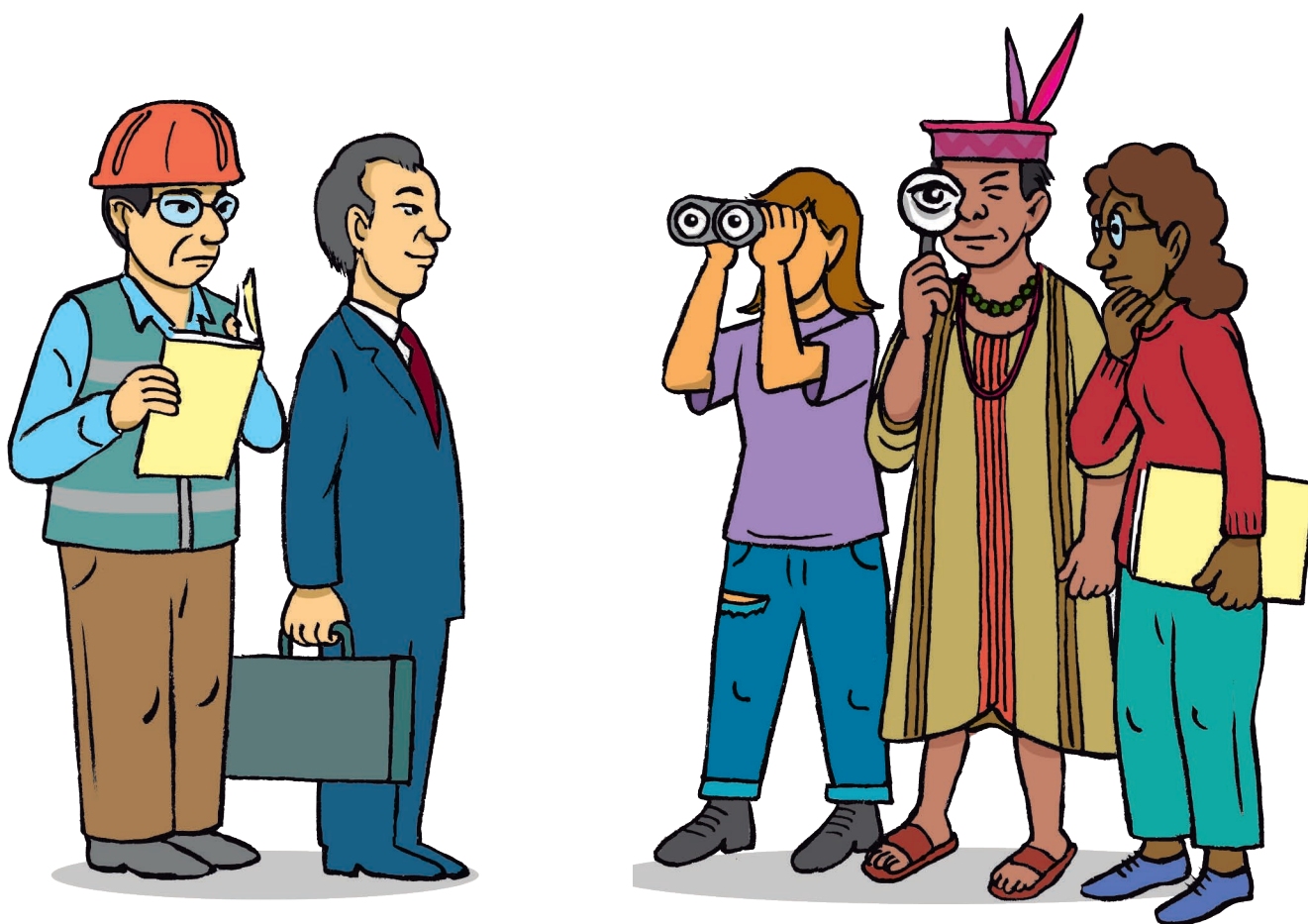
In this sense, the sessions make visible the Member States of the United Nations so that they can carry out a process of rapprochement with the human rights obligations contained in the treaties to which the country under review is bound. However, it has turned out to be ineffective in the face of the current violation of human rights by China, according to Human Rights Watch, “[i]n order to avoid international reactions due to the curtailment of human rights in the country, the Chinese government has tried to weaken the international institutions created to protect their rights. For a long time, the Chinese authorities resisted international concern for human rights as a violation of their sovereignty, but compared to the current situation, these reactions were modest. Now China directly intimidates other governments and insists that they praise their country in international forums and join with China in attacks against the international human rights system.⁵⁰”

In this sense, it is important to mention some actions carried out by countries in the region to urge the Chinese Government to take measures,

45 Novak, F. (2005). *Derecho internacional público* (Public international law). *Instituto de Estudios Internacionales* (Institute of International Studies). p. 38.
46 Novak, F. (2005). Public international law. *Institute of International Studies*. pp. 38-39.
47 Salmón, E. (2014). *Curso de Derecho Internacional Público* (Course on Public International Law). *Pontificia Universidad Católica del Perú* (Pontifical Catholic University of Peru). p. 24.
48 Oacnudh. *Universal Periodic Review*. Retrieved from <https://acnudh.org/load/2019/07/049-La-Sociedad-Civil-y-la-ONU.pdf>
49 United Nations. *Universal Periodic Review*. Retrieved from Report.
50 Human Rights Watch (2020). *China's Global Threat to Human Rights*. Retrieved from <https://www.hrw.org/es/world-report/2020/country-chapters/337324>

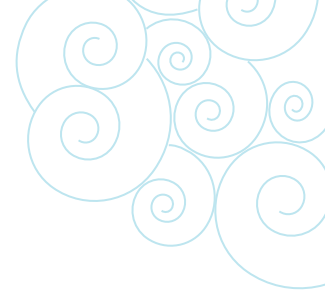
such as, for example, the joint statement issued by the Ministries of Foreign Affairs of Chile, Colombia, Ecuador and Peru regarding the measures to address the problems generated by illegal, unreported and unregulated fishing of marine resources in high seas areas adjacent

to marine areas under national jurisdiction⁵¹. This action was taken in response to the news released in September 2020 about a fishing fleet made up, mostly, of Chinese vessels that passed through the countries mentioned above⁵².



51 *Ministerio de Relaciones Exteriores de Chile* (Ministry of Foreign Affairs of Chile) (2020). *Declaración conjunta respecto a la pesca de naves extranjeras en las zonas adyacentes a las aguas bajo jurisdicción nacional de cada país* (Joint Declaration Regarding the Fishing of Foreign Vessels in the Areas Adjacent to the Waters Under the National Jurisdiction of Each Country). Retrieved from <https://minrel.gob.cl/noticias-antiores/declaracion-conjunta-respecto-a-la-pesca-de-naves-extranjeras-en-las>

52 *El Comercio* (2020). *Flota pesquera extranjera: las claves sobre la presencia de estas embarcaciones frente a la costa peruana* (Foreign Fishing Fleet: The Keys to the Presence of These Vessels in Front of the Peruvian Coast). Retrieved from the note.



2.3 The role of civil society in the region to contribute to the materialization of China's commitments

Latin American civil society has been vigilant about Chinese investments and has denounced⁵³ cases of human rights violations when they arise. These must be repaired and taken as precedents for negotiations between the region and China.

In turn, civil society organizations have made recommendations to improve the performance of Chinese investments in their countries, based on international standards and compliance with national regulations.

53 DAR. (2018). *Amazonía: cinco violaciones a los derechos humanos cometidas por China* (Amazon: five human rights violations committed by China). Retrieved from: <https://dar.org.pe/amazonia-5violaciones-ddhh-china/>

This work, in some cases, has been carried out in an articulated way from the civil society of the region, based on field work and coordination with the academy. A pending step is the articulation with the States of the region to collect the recommendations and that the Governments assume the need to improve the socio-environmental conditions of Chinese investments in Latin America.

To this end, in this section we mention some civil society initiatives to improve Chinese investments, based on the monitoring of some cases such as the Amazon Waterway and the *Las Bambas* mining project, in Peru, and the *Teles Pires* hydroelectric plant, in Brazil.

Amazon Waterway, Peru

DAR has presented different reports and information materials on the infrastructure project “Amazon Waterway: Marañón and Amazon rivers, section Saramiriza-Iquitos-Santa Rosa; Huallaga River, Yurimaguas-Confluence section with the Marañón River; Ucayali River, Pucallpa-Confluence section with the Marañón River.”

The initiative is in charge of Consorcio Cohidro S. A., made up of the Peruvian company CASA Construcción y Administración S. A. (50%) and the Chinese company Sinohydro Corporation Ltd (50%). Sinohydro Corporation Ltd⁵⁴ is a Chinese state-owned infrastructure construction company⁵⁵.

The project’s environmental impact study was developed in the midst of observations on the quality and methodologies for collecting information. Faced with this, organizations such as DAR⁵⁶, WCS, the *Universidad de*

Tecnología e Ingeniería (University of Technology and Engineering) (UTEC) and indigenous organizations, such as Aidesep, Orpio, Corpi, ORAU, Acodecospat, were vigilant from the initial stages of the project’s concession.

In this regard, they prepared technical reports of observations on the information provided by the consultant to the Government. In them, they also recommended including studies to know the dynamics of the Amazonian rivers, as well as to know the ways of life of the indigenous peoples that inhabit these areas, so that irreversible impacts are not generated or that imply a transformation of their lives and territories to the detriment of them. Instead, measures should be foreseen for the adequate development of the towns and avoid negative impacts.

These observations coincided with many of those made by the Ministry of Transportation or the *Servicio Nacional de Certificación Ambiental* (National Environmental Certification Service) (Senace), since it is tried, even, not to contravene norms of the Peruvian Government itself, such as respect for indigenous rights, through of participation mechanisms and prior consultation, among others of importance.

In view of this, on December 19, 2019, Cohidro decided to desist from the evaluation process of the *Estudio de Impacto Ambiental* (Environmental Impact Study) (EIA), since it did not have complementary studies to determine whether the presence of toxic substances would generate impacts on ecosystems (ecotoxicological studies). Subsequently, on January 15, Senace approved the withdrawal request, declared the procedure concluded and ordered its filing.

54 The media and international organizations have associated it with serious impacts, such as loss of biodiversity (Kamchay dam, Cambodia), alteration of the climate due to forest degradation (Bui dam, Ghana), human rights violations during resettlement (Kjbar, Sudan), impact on water quality (Patuca dam, Honduras) and occupational accidents (Coca Codo Synclair dam, Ecuador).

55 DAR (2018). *Hidrovia Amazónica: ¿Buen negocio para el Perú?* (Amazon Waterway: Good business for Peru?). Retrieved from: https://dar.org.pe/archivos/Cartilla_hidrovia.pdf

56 DAR (2018). *Transporte fluvial e hidrovia amazónica: reflexiones desde la planificación y evaluación ambiental* (River Transport and Amazon Waterway: Reflections from Environmental Planning and Assessment). Retrieved from: https://dar.org.pe/archivos/2_art_mercedeslu_051219_vf.PDF

In this case, the role of civil society and indigenous organizations was key to highlighting those impacts not considered in environmental studies, as well as the lack of participatory mechanisms and information collection that provide rigor and objectivity to the prevention of impacts, especially the benefits that the project would generate in local communities.

Therefore, civil society and academia as a whole developed information and knowledge to strengthen the evaluation based on specific data, included in environmental studies. Both are actors that can contribute to improving the socio-environmental standards of Chinese investments.

La Bambas, Peru

The *Las Bambas* mining project is located in the provinces of Cotabambas and Grau, in the department of Apurímac. In August 2014, it was sold to the Chinese consortium Minerals and Metals Group (MMG), which, being a public company, is governed by the Law of Public Industrial Companies of the RPCH. Regarding this project, in the transition period of the sale of

Las Bambas and the arrival of the new owners, the Chinese consortium MMG, several modifications were introduced and, later, more were added. Due to this, there were several conflicts that ended with three community members killed in September 2015 and one in October 2016, as well as 19 leaders prosecuted in the criminal sphere for the mobilization⁵⁷.

As a result of all this, the role of the affected communities and civil society organizations was key in addressing the violations arising from the *Las Bambas* project. Both the communities and the members of civil society have carried out several efforts aimed at defending the rights to life, integrity and territoriality of the communities. On the one hand, the role of defense of the *comuneros* and *comuneras* managed to create a dialogue table where the points they considered key in the conflict were discussed. On the other hand, civil society organizations emphasized the commitments of the Peruvian and Chinese states to comply with human rights standards.

In addition, there was legal defense in cases of criminalization of male and female human



57 Wiener, L. (2019). *Las Bambas: crónica de un conflicto anunciado que parece no tener fin* (Las Bambas: Chronicle of an Announced Conflict that Seems to Have No End). Retrieved from: <http://cooperaccion.org.pe/las-bambas-cronica-de-un-conflicto-anunciado-que-parece-no-tener-fin/>

rights defenders and the presentation of reports by indigenous peoples' organizations and civil society during the Universal Periodic Review of China in 2018.

Teles Pires, Brazil

On the *Teles Pires* River there are four dams in operation, two of them are the *Teles Pires* and São Manoel hydroelectric plants. Regarding the first, the Chinese company State Grid has been awarded the *Teles Pires* transmission line. In the case of the latter, the state-owned China Three Gorges Corporation (CTGC) is in charge.

The *Teles Pires* dam flooded the sacred place *Siete Caídas*, of extreme cultural and religious importance for the Mundukuru people, because there lives the *Madre de los Piscis*, a musician named Karupi, the Karubixexé spirit and the spirits of the ancestors⁷². This was recognized in Technical Decision No. 14/2010 (Colic/CGGAM/DPDS/Funai).

The EIAs of both hydroelectric plants are incomplete studies, which do not consider “socio-environmental and cumulative impacts related to indigenous peoples and their territories, in which the indigenous component was treated in a disjointed manner from the rest of the EIA and without the participation of the affected peoples.”

The possible impacts of the hydroelectric plant were evidenced from the beginning by the Munduruku people, who know their territory, but their opinion was not taken into account by environmental studies. Civil society organizations, such as International Rivers, and different universities⁵⁸ such as the *Universidad Federal del Oeste de Pará* (Federal University

of the West of Pará), also reported on the risks, which are now impacts of the project.

In this case, similar to that of the Amazon Waterway, both indigenous peoples and civil society provided information and recommendations to assess environmental impacts, from the first moment the project was planned. However, they were not considered by the Brazilian State and generated the impacts mentioned above.

This is a precedent for the justified need to include all the actors who know the territory, both the peoples who live in the zones and the organizations specializing in specific ecosystems. In this way, there will be accurate and necessary information to prevent impacts.

In this regard, a common characteristic of the cases mentioned, as well as the reports in the COICA Report, is the systematic violation of the right to prior consultation⁵⁹ in the framework of Chinese investment operations in the region, where the main responsibility belongs to the recipient States, when they make projects viable without requiring consultation. It is necessary for the countries of the region to strengthen the project approval process in terms of respect for this right.

In this regard, initiatives of indigenous peoples have been presented, such as prior consultation protocols, which have been developed by the indigenous peoples themselves and have experiences in countries such as Honduras, Nicaragua, Brazil and Argentina⁶⁰. These instruments represent an advance for the guarantee of indigenous rights in the region.

58 MONGABAY (2017). *¿Brasil está usando el lavado de imagen verde en la hidroenergía? El caso de la represa Teles Pires* (Is Brazil using the green face wash in hydropower? The case of the Teles Pires dam). Retrieved from <https://es.mongabay.com/2017/04/brasil-esta-usando-lavado-imagen-verde-la-hidroenergia-caso-la-represa-teles-pires/>

59 In COICA's UPR report, five cases of human rights violations are reported, all of which show the non-implementation of the right to prior consultation. COICA (2018). *Vulneraciones a los derechos de los pueblos indígenas en la cuenca amazónica por inversiones chinas* (Violations of the rights of indigenous peoples in the Amazon basin due to Chinese investments).

60 DAR (2018). *Protocolos de Consulta: Experiencias en Latinoamérica* (Consultation Protocols: Experiences in Latin America). Retrieved from: <https://dar.org.pe/archivos/docs/ProtocolosdeConsulta.pdf>



Conclusions

China has positioned itself as the main strategic actor for Latin America through the development of political, economic, commercial and cultural relations unprecedented in terms of speed, depth and breadth (2000 to present)⁶¹. On the other hand, the Asian country has strengthened its diplomatic relations and its global leadership in international spaces such as the United Nations, where it holds high-level positions, such as the Human Rights Council, and the Permanent Forum on Indigenous Issues; Therefore, it can be said that China is aware of what is being discussed in the area of human rights at the international level.

In this sense, the behavior of the RPDH has been shedding light on its interest in generating and strengthening trade and diplomatic relations with the countries of the region, due to the geopolitical importance that LAC has for China, due to its natural resources. This has been specified and evidenced with its plan for the Belt and Road; as well as with the series of memorandums of understanding and bilateral treaties⁶² signed with different Latin American countries.

However, bilateral relations have developed unevenly for Latin America, mainly for local communities in the region, due to violations of their human rights, such as forced evictions, intimidation, and threats in conflict zones due to appropriation of their lands and resources⁶³; as well as environmental impacts on culturally and environmentally biodiverse territories. These facts are evidence for civil society and institutions that watch over human rights to strengthen the advocacy for China and the States of the region to change the way they develop their investments, with a view to eliminating all kinds of socio-environmental impacts.

In this regard, currently both the RPDH and the countries of the region have instruments on human rights validated by the international community, which can contribute to improving the performance of China's investments both in the region and globally; since they provide specific standards, such as the international normative framework of human rights⁶⁴, agreements aimed at the proper use and exploitation of natural resources, the

61 Grefi (2019). *The role of Latin America and the Caribbean in the Belt and Road initiative*. p. 14. Retrieved from https://dar.org.pe/archivos/publicacion/205_informe_grefi.pdf
62 DAR (2018). *Memorandum de entendimiento Perú-China* (Peru-China Memorandum of Understanding). Retrieved from: https://dar.org.pe/archivos/MDE_peru_china.pdf
63 According to the *Confederación de Nacionalidades Indígenas de la Amazonía Ecuatoriana* (Confederation of Indigenous Nationalities of the Ecuadorian Amazon) (CONFENIAE), Ecuacorriente SA (ECSA), a subsidiary of the Chinese consortium CRCC-Tongguan, of Chinese state capital, in collaboration with the National Police and the military of the Ecuadorian State evicted more than 30 families of the Shuar people without their prior consent, in a clear violation of their rights as an indigenous nation. COICA (2018). *Violations of the rights of indigenous peoples in the Amazon basin due to Chinese investments*.
64 Among the most important are ILO Convention 169, the Universal Declaration of Indigenous Rights, the Paris Agreement and the precautionary principle indicated in the Rio de Janeiro Declaration. CAFFERATTA, N. (2004). *El principio precautorio* (The precautionary principle). Retrieved from: <https://www.redalyc.org/pdf/539/53907301.pdf>

requirements of the OECD; as well as to improve the transparency of their investments such as the EITI, among others. Despite this, it has been shown that China's progress in complying with its socio-environmental and rights commitments has mainly depended on its political will, even omitting those agreements that are binding for its internal regulations.

On the same line, it was found that the Universal Periodic Review is a mechanism that has allowed countries to carry out control tasks regarding the various human rights commitments. However, it is important to indicate that this space has proven to be insufficient in the face of the systematic impact on human rights by China, since the materialization of the commitments adopted in the UPR has depended on its initiative and political will, which has not shown progress since its evaluations carried out since 2013 and 2018. In turn, the realization of these commitments also obeys the requirement of the member states. Therefore, it is necessary to generate and reinforce with specific measures and protocols that implement a roadmap for states and civil society, so that China is required to comply with its commitments within its investments.

In this sense, extraterritorial obligations are presented as a central issue to advance with the aforementioned improvements, being the Maastricht Principles on Extraterritorial Obligations of States in the Area of Economic, Social and Cultural Rights one of the instruments to be taken into account, since they provide specifications of why it is necessary to implement this principle⁶⁵.

For this, in view of the fact that most of the investments are developed in culturally diverse territories, it is necessary that project planning reinforces the use of instruments for the prevention of socio-environmental impacts such as strategic environmental assessment, engineering studies, or the environmental impact studies that each country has, which must be developed with the participation of local communities, and indigenous peoples, such as through socio-environmental surveillance and monitoring programs, so that impacts are prevented from an early stage.

Along the same lines, the systematic violation of the right to prior consultation⁶⁶ has been identified in the framework of Chinese investment operations in the region, where the main responsibility lies with the states. In this regard, initiatives of indigenous peoples have been presented, such as prior consultation protocols⁶⁷, which are instruments that strengthen this right recognized in ILO Convention No. 169, as well as the due diligence of companies; so that they comply with their obligation *to respect human rights, countering the argument that the company can evade its responsibility by limiting itself to complying with the legislation in force in the countries in which it operates*⁶⁸, as evidenced by China.

It is necessary to reinforce the measures that lead to the implementation of the United Nations Guiding Principles on Business and Human Rights; as well as proposing an approach that makes

65 DAR (2018). *Economía, ambiente y derechos humanos en las inversiones chinas en América Latina* (Economy, Environment and Human Rights in Chinese Investments in Latin America). Retrieved from: https://www.dar.org.pe/archivos/art_pacifico.pdf

66 In COICA's UPR report, five cases of human rights violations are reported, all of which show the non-implementation of the right to prior consultation. COICA (2018). Violations of the rights of indigenous peoples in the Amazon basin due to Chinese investments.

67 DAR (2018). *Protocolos de Consulta: Experiencias en Latinoamérica* (Consultation Protocols: Experiences in Latin America). Retrieved from: <https://dar.org.pe/archivos/docs/ProtocolosdeConsulta.pdf>

68 Idem, p. 3.

binding the obligations arising from the responsibility of States and companies when they commit human rights violations generated by their economic activities. In this sense, it is crucial to promote the approval of a Treaty on Business and Human Rights that imposes obligations and sanctions for the aforementioned violations.

Another important measure for China is regarding the transparency of its investments in extractive industries, which cover a large part of its companies. For this, it exists the EITI, which could promote better governance conditions in the countries of the region and globally, since it would generate confidence in their investments due to the tripartite and horizontal dialogue between States, companies and civil society. The EITI allows financial, social and environmental disclosure of investments, as well as respect for the rights of civic participation of the countries, and that civil society provides information to companies and states directly, regarding the conditions on those that carry out their operations to activate prevention or remediation measures, if applicable.

On the other hand, we highlight that the progress and conditions for China to comply with its commitments necessarily require the participation of civil society and indigenous organizations, as key actors to generate governance in its Chinese investments. Currently, this is a pending issue to be developed, due to the absence of participation and transparency mechanisms to talk about sustainable investments.

Finally, it is necessary to mention that Chinese investments are not the only ones that generate environmental impacts and human rights violations, since it is clear that there are cases produced by other countries; as well as private actors that have also been generating this type of impact. However, currently the focus is on China, due to the economic and geopolitical significance that it represents for the region, which translates into its ability to invest in different sectors and areas, as well as in its diplomatic and cultural relations, among others. Therefore, China must rise to the current socio-environmental challenges and show real leadership in respect of human rights and environmental standards.

Recommendations

In recent years, there has been an increase in the close relationship between Latin America and the People's Republic of China, mainly at a commercial and diplomatic level. In turn, the episodes of conflict, as a result of activities carried out by companies of Chinese origin, have continued to this day, especially those cases included in the COICA Report on human rights violations in the Amazon basin, as well as other cases mentioned in this document.

In this scenario, it is necessary to expose these situations against human rights, both to the Chinese State and to the countries of the region, so as to improve and reverse the situations of threats and risks for the local communities where the projects of the Asian country are established. Along this path, the United Nations must fulfill its role as guarantor of human rights, so that it has the support of the international human rights framework.

In this sense, recommendations are presented to the United Nations, to the public institutions of the RPCH and to the States of Latin America, in particular to the Peruvian State.

To the United Nations:

- To promote the visit of male and female rapporteurs to Brazil, Ecuador, Colombia, Peru and Venezuela, the countries that include the five cases reported by COICA and the Regional Coalition in the 2018 UPR Report, so that the development of relationship protocols is recommended between Chinese investments and indigenous peoples. These must be prepared by those affected.
- The institutions in charge of protecting human rights, as well as the proper use of natural resources, must generate documents addressed to Chinese institutions, with the support of indigenous organizations and civil society, as well as banks and companies. These documents must be about national standards and international human rights standards, for Chinese investments to implement and even exceed.
- To promote the approval of the Treaty on Companies and Human Rights, which will allow companies to generate a framework of obligations regarding the various and multiple violations of human rights that they carry out in the development of their activities.

To Chinese public institutions:

- To participate in initiatives with indigenous organizations and the States of the region, aimed at strengthening treaties that improve the performance of companies with respect to human rights, such as the Treaty on Business and Human Rights.
- The Chinese institutions in charge of the good management and use of natural resources should initiate a process of institutional

exchange, so that a feedback of information is generated on the ways to implement international environmental treaties, their differences and commonalities. This can help Chinese institutions generate proposals so that their investments abroad have socio-environmental safeguards.

- To take advantage of those spaces such as the negotiation of bilateral agreements and FTA with Peru, Brazil and Argentina, and generate environmental chapters as was done with the FTA between Chile and China. Likewise, the presence of other actors from the countries of the region in these negotiation spaces is recommended.
- To promote academic exchanges on human rights, environmental normative and institutional frameworks between countries in the region and Chinese universities. In this way, the similarities and differences will be better known, and alternative spaces for dialogue will be generated between the States and the communities, which will have academia and other important actors as intermediaries.





- To promote the incorporation of China in the EITI initiative as an implementing country; their companies, on the EITI International Board, as well as multi-stakeholder groups at the national level. This would strengthen the trust of its extractive investments with civil society and local populations in 52 countries of the world, of which 11 belong to Latin America. Likewise, financial, social and environmental transparency would be strengthened, as well as respect for the rights of civic participation of civil society involved in the extractive sector. With this, compliance with the recommendations of the United Nations UPR can be supported.

To the States of the region:

- Where there are cases of violations of rights and environmental impacts by Chinese companies, they must issue an official document to the Chinese Government to generate a space for dialogue on the effects produced, in order to develop concrete commitments to improve foreign investment practices, based on international human rights standards.
- To recognize, respect and guarantee the implementation of prior consultation protocols, so that they strengthen the implementation of the rights of indigenous peoples in contexts of extractive and infrastructure activities where Chinese companies are mainly established.
- To carry out a correct process of inspection and monitoring with respect to companies that operate in projects such as *Cóndor del Mirador* (Ecuador) and *Teles Pires* (Brazil), as well as in the other reported cases in the COICA report. This includes complying with international standards on indigenous peoples' rights, such as the right to participation and prior consultation.

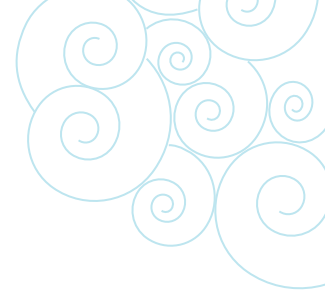
- To strengthen the EITI initiative in their countries, making all the investments of the extractive industries in the region transparent, especially since the presence of Chinese companies in the extractive sector is large. In addition, it allows to deepen the requirements for the dissemination of environmental and social information, as well as respect for the civic participation of civil society. Likewise, each country can promote the expansion of the initiative to other investment areas such as infrastructure, banking and bilateral treaties, which would strengthen transparency in the country itself.
- To carry out a correct inspection and monitoring process regarding companies that operate in projects such as *Las Bambas*, *Lote 58*, the Amazon Waterway (Peru), as well as the other cases reported in the COICA Report, which includes complying with international standards on the rights of indigenous peoples, such as the right to participation and prior consultation.
- To promote an institutionalized dialogue with civil society, public officials and private sector actors in China, in order to generate greater commitment to human rights regulations, for example, regarding socio-environmental protection, respect for business and human rights principles.

To the Peruvian State:

- To enforce the obligations derived from its own regulations, such as, for example, respect for the right to a healthy environment, recognized in article 2, numeral 22 of the Political Constitution of Peru. For this, it is necessary to innovate with mechanisms that adapt to its relations with the RPCH, from the recognition of its internal regulatory framework, in order to find bridges for dialogue to guarantee respect for human rights.

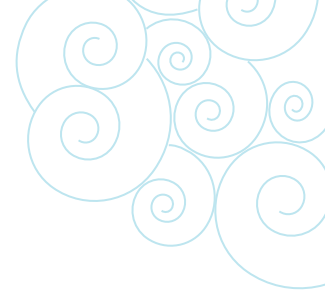
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