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AMNESTY
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DOING BUSINESS IN CHINA:
The Human Rights Challenge

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I. INTRODUCTION

China: World Economic and Manufacturing Centre

Over the years China has become one of the largest economies in the world and the manufacturing centre of the world.

Since the seventies, China has sought joint venture partners and encouraged technology transfer through foreign investment. Chinese firms are successfully manufacturing products on behalf of numerous foreign companies. The Chinese government provides massive contracts to foreign firms in order to build up the infrastructure required for its industrialization. Many companies establish distribution networks in China in order to benefit from the large home-market and increasing purchasing power of Chinese consumers. Last but not least, in 2008 China organized the first Olympic Games in its long history.

However, businesses and governments around the world have overlooked China's appalling human rights record. It is argued that business interests and requirements are unrelated to human rights, or that human rights are a political issue in which the private sector does not want to interfere.

Although states have primary responsibility to respect, protect and promote human rights, it is increasingly recognized that companies also have obligations in this respect. The growing acceptance of international human rights laws and standards made it inevitable that companies would sooner or later have to face the question of their responsibilities towards human rights. They have a responsibility to promote and secure the human rights set forth in the Universal

Declaration of Human Rights (UDHR) and a responsibility not to encourage or be complicit in human rights abuses committed by governments and others.

Nowadays, it is generally agreed that China's record on human rights has a direct impact on business interests (as will be explained below).

Why Are Human Rights so Important for International Business?

Human rights are important to companies for three reasons¹:

1. There are significant risks for companies that do not respect human rights. These include legal action, negative media coverage, protests, shareholder action and boycotts (with all the accompanying loss of reputation and financial costs) since there are increasing expectations for companies to manage human rights issues.
2. Companies benefit from taking a proactive stance on human rights, and only human rights provide companies with a framework of globally recognized principles on which to base their social conduct. Companies adopting a human rights policy enhance their attractiveness for employees and consumers.
3. Without the basic standards of human rights people cannot live in dignity. The foundation of international human rights standards is the UDHR, which requires “every individual and every organ of society” to promote respect for these rights and freedoms and to secure their observance. Companies (as important organs of society) are required to address human rights carefully and thoroughly.

The international business community has long held that business, commerce and investment can only flourish in an environment of freedom that is based on the application of the rule of law, good governance and full transparency.

When China became a full member of the World Trade Organization, senior Chinese officials claimed that their country wanted to play by international rules. These rules are commonly understood to comprise low taxes, low tariffs, easy repatriation of profits, and flexibility to operate in a transparent, rule-based environment.

The conditions in China do not satisfy many of these requirements because fair and transparent commercial law is dependent upon a fair and transparent legal system, which can only function in a climate based on the rule of law and respect for human rights.

Fair business principles cannot be applied in isolation. They cannot be tailor-made for business alone. As indicated above, the foundations for these rules are the international human rights included in the Universal Declaration of Human Rights and other international treaties.

At first glance, over recent years China has taken some legal and institutional initiatives to improve its human rights situation, for example:

- On an international level, China, which is member of the Human Rights Council, has signed a number of specific international treaties concerning torture, discrimination against women, racial discrimination, children's rights and refugee status. The country also ratified the International Covenant on Economic, Social and Cultural Rights, with the exception of Article 8 concerning freedom of association and the right to form and join trade unions, and it still has to ratify the Covenant on Civil and Political Rights.
- On a national level, China adopted a new Constitution in 1982 (last revised in 2004) and in 2004 the 10th National People's Congress adopted the fourth constitutional amendment entailing a general provision on human rights (art. 33) among other reforms. On 1 January 2008, China introduced a new labour law that enhances rights for workers, including open-ended contracts and severance pay. The Chinese labour law is comprehensive, covering labour contracts, working hours, wages, health and safety, child labour, labour disputes, etc.
- To improve the quality of trials for suspects facing the death penalty, the Supreme People's Court formally announced in October 2005 that it would shortly resume its role in making the final decision on any death sentences passed in China. This is a role that it had previously delegated to lower courts for most cases.

Chinese Legislation: Gap Between Theory and Practice

Although both Chinese legislation and the Chinese legal system have made significant progress, and continue to evolve rapidly, there is generally a large gap between theory and practice.

Why? This is partially due to the fact that many issues are handled informally, often involving bribery and corruption. It is also because local authorities in China decide for themselves how to implement national legislation and systematically interfere with the judiciary. However, the international community needs laws not only on paper: it needs good laws put into practice.

In China, this opaque situation is particularly difficult for foreign firms wishing to do business, as these companies may have problems in understanding where they stand. However, hiding behind Chinese subcontractors in cases of human rights abuses is no excuse, and will not enable the main contractor to escape its responsibilities.

The aim of this paper is to give more information on those human rights aspects and related abuses which are of great importance for companies doing or intending to do business in China and which require special attention, namely:

1. freedom of association, including the right to form and join trade unions, and collective bargaining;
2. working conditions (including hours of work and wages);
3. discrimination;
4. forced labour;
5. forced evictions;
6. the rights of children;
7. the right to freedom of expression and information.

This list obviously does not cover the full range of violations of human rights that companies working in China could be confronted with. The death penalty (which can have repercussions on business in the pharmaceutical/medical research sector, since organs are removed from those sentenced to death), the problem of the “autonomous” regions and that of the harassment of the defenders of human rights, for example, are not touched upon in this document. Similarly, the protection of the environment (a crucial challenge in China) will not be dealt with here, even though this is frequently closely connected to the issue of respect for human rights: attacks on the environment generally prompt the population concerned to revolt and demand compensation, which frequently leads to violently repressive measures being taken.

The problem of corruption is mentioned in the chapters covering working conditions and forced evictions, but we do not specifically look into ways of remedying practices of this kind.

With respect to the topics that we have set out above, this document will try to:

- describe the problem in China;
- propose specific recommendations;
- complement these specific recommendations with general recommendations that may enable companies to develop a corporate social responsibility policy (chapter III);
- give specific examples illustrating measures taken by companies facing these problems;
- indicate laws and other sources of information that interested companies may consult (chapter V).

This document, based on a seminar held for companies in Switzerland in May 2008, compiles various recommendations from diverse organizations collected by the Swiss Section of Amnesty International. Consequently, it does not reflect only Amnesty International's point of view.

II. SPECIFIC ISSUES AND RECOMMENDATIONS

1. Freedom of Association, the Right to Form and Join Trade Unions, and Collective Bargaining

Although freedom of association is recognized by the Constitution of the People's Republic of China (hereafter named "China"), there is in practice no freedom to establish independent labour unions. In fact, according to the terms of Chinese law on unions, the only official unions are those affiliated with the Federation of Chinese Unions (hereafter named "ACFTU" – "All-China Federation of Trade Unions"). The ACFTU statutes define unions as "liaison organs between the Chinese communist party and the working masses". As such, workers are forbidden to form independent unions outside the ACFTU, which, under the terms of its statutes, is subject to the authority of the Chinese communist party.² According to the terms of the law on unions, the ACFTU is the "unified national organization" holding the monopoly over union organization in China. Since 1949, the ACFTU has in reality been used to transmit government policy to workers and employees.³

Thus, Chinese workers are prohibited from forming or joining the labour union of their choice. In fact, independent associations are obliged to obtain a "guardianship" and pay a large deposit in order to be accredited by the government, constituting a serious impediment to their creation. In the private sector in particular, where sections of the ACFTU are generally non-existent, workers are unable to form independent unions and face almost insurmountable hurdles with respect to collective bargaining and union representation. Numerous attempts by paid workers to form an independent organization have been severely sanctioned.⁴ The right to strike has still not been established, not even by the new labour law, constituting a significant example of considerable restriction to

the freedom of workers. There has been progress with respect to multinational corporations, however, as ACFTU has now established union branches at over 80% of these corporations' China-based operations.

Currently, the legal framework in China is not fully developed with regard to an effective collective bargaining process. Nevertheless, in May 2004 the Ministry of Labour and Social Security issued regulations on collective bargaining that are legally enforceable. Despite the increasing need for collective negotiation and the evident necessity for improved protection of various categories of workers, including migrant workers, there has been almost no progress towards a genuine form of collective bargaining. On the contrary, the ACFTU continues to "represent" the workers vis-à-vis corporations and government agencies.⁵ The new labour law also offers the possibility of introducing collective bargaining. The problem is that, without union representatives elected by the workers, it is more difficult to defend workers' rights.

In a report in 2008, an ILO Committee of Experts noted that, according to government information, the Legislative Assembly was currently examining legislation to regulate the right to strike. The Committee said it hoped the legislation would be adopted in the very near future.

Specific Recommendations⁶

- Given that the right to freedom of association cannot be realized through independent union membership in China, “parallel means” to ensure this right should be explored by foreign companies, as some of them are already doing. “Parallel means” consist of committees, associations and other representative structures within workplaces, industries and sectors that ensure workers are given bargaining power and treated fairly.
- Ensure the protection and the security of workers who wish to join an independent union or form an employees’ committee.
- Provide an efficient system for taking up employee grievances and complaints.
- Make provision for free elections for trade union or workers’ committee representatives.
- Set up structures and infrastructures which will allow employees to hold meetings (room, budget, etc.).
- Make sure that the freedom of association set out in China’s Constitution is respected and that the workers have the right to organize their own independent trade unions.
- Take account of the opinions of people living in rural areas in the planning and management of projects and programmes that concern them through the establishment of a workers’ committee. This would compensate for the lack of freedom to form trade unions in China.⁷

Practical Cases

- In one textile company, workers were given the opportunity of participating in all organizational processes. New rules and election processes were communicated through notices around the factory and at evening meetings. More than 60 candidates put their names forward for the committee and more than 3,000 workers voted. Once the new committee was installed, the factory embarked on a training programme that began with “What is a trade union?” and moved on to more specific issues of workers’ rights.
- In 2001, three international shoe companies, three garment manufacturers and four non-governmental organizations teamed up to create health and safety committees in three factories, with an emphasis on active worker participation. The organizations held a workshop for 90 key staff and training sessions for committee members on safety procedures. The dialogue on health and safety, as well as collaboration between the three factories, greatly increased the possibilities for workers to discuss rights and representation in general and to engage with management in ensuring a safe and fair workplace.
- A supplier of sports goods established in China demanded that free elections be held for trade union representatives in the factories of its first-level suppliers. After numerous discussions and pressure on the part of the company in question, the groups created in this way were registered with the ACFTU.

- Faced with a workforce that was often unaware of their rights, a garment manufacturing company embarked upon a worker education programme, sending vans to its Chinese factories every month with information on occupational health and safety, minimum wage calculations and explanations of Chinese Labour Law. The company also insisted that workers' representatives be elected and given a voice in complaint mechanisms. Both the workers' committees and management have received training on workers' rights.



2. Working Conditions

Although the Chinese government is currently making a concerted effort to protect the right to health and safety of Chinese workers and citizens, the working conditions of millions of people are still below normal standards.

Underpay and overwork, dangerous and harmful work,⁸ physical abuse and other forms of ill-treatment of employees are still widespread at all levels of the supply chain in China. Amnesty International has documented a large number of cases involving serious physical abuse of Chinese workers, including cases in which employees were dealt blows or other forms of corporal punishment by supervisors or private guards. In some cases electric batons were used.⁹ In many Chinese factories there are severe restrictions on when and for how long employees may go to the toilet, have a conversation or take a meal break. Sanctions vary from corporal punishment to wage cuts and dismissal.

As far as labour contracts are concerned, the new labour contract law of 1 January 2008 foresees legally binding obligations for the employers. For instance, the use of short-term contracts is limited if financial compensation is not included in case of non-renewal. In addition, the employer is obliged to inform the ACFTU (see previous chapter) if the number of unilateral terminations of labour contracts exceeds a certain threshold. Furthermore, it is now mandatory for an employer to adopt internal working rules. According to certain experts, this new law could be applicable not only to contracts concluded after the law comes into force but also retroactively on contracts concluded prior to 1 January 2008.

Therefore, a revision of all labour agreements may be necessary.¹⁰

Despite these reforms, the wage increases in China are often insufficient to compensate for the increased cost of living, particularly in the larger metropolitan areas. Minimum wages are fixed at the regional level.¹¹ In order to attract foreign enterprises, local authorities have a tendency to keep the salaries down. As a result, employees are not able to reach a decent standard of living.¹²

Employee dissatisfaction is often caused by the corruption pervading the process of reorganizing state-owned enterprises and the misappropriation of funds reserved for the payment of compensation in case of dismissal and other social benefits. A large number of the demonstrations that took place in 2006 were related to corruption scandals, the non-payment of funds allocated to workers, and obvious violations of local and national rules regarding relocation, pensions, health and collective dismissals.

Specific Recommendations

- Ensure the application of the Labour Contract Law, which requires the payment of the legal minimum wage, the registration of workers in the social security system, the consultation of workers on issues affecting their employment, etc.
- Pay overtime premiums and index employees' salaries to the cost of living, so that they can afford lodging, medical treatment, schooling for their children and a decent retirement, with the aim of progressively improving their standard of living.
- Prohibit salary deductions as a form of disciplinary sanction.
- Set up a mechanism for collective discussions between employers and workers about remuneration within companies.
- Foresee a consultation and discussion between employer and union at the end of each year, with respect to possible salary increases for the coming year.
- Give employees the opportunity to sign labour contracts for an undetermined period of time, protecting them against arbitrary dismissal.
- Contribute to funds for social security payments to employees and determine salary scales for those employees on a trial period and for those working overtime.
- Strengthen sanctions, particularly financial, against employers who neglect their responsibility to prevent illegal working conditions.

- Concerning the health of workers, the following measures should be implemented:
 - Companies contemplating the establishment of manufacturing facilities, or sourcing relationships, in China should ensure that they provide the healthiest possible environment for their employees.
 - Companies should ensure that neither their employees nor their suppliers' employees are exposed to hard or dangerous labour. The employees' working conditions should be continually supervised by the company itself and by an independent party.
 - Companies should provide information about the health and safety standards relevant to their local activities.
 - Companies should provide training in safe working practices and make information available about the effects of all substances used in the manufacturing processes. Those who are working with subcontractors should ensure that the latter behave in accordance with the company's policy.
- Companies must not tolerate any form of abuse or ill-treatment of personnel. If it comes to their attention that a supplier is involved in abuse, it must be stopped. If this is not possible, and as a last resort, the company should cut short their collaboration with the supplier in question.

Practical Cases

A Western retail company has signed a collective labour agreement with the employees of its subsidiary in the North East of China. This contract is the first of its kind among this company's hundred subsidiaries in China. After long negotiations, the Shenyang (capital of Liaoning province) subsidiary of the retail company has agreed to a proposal, formulated by workers' representatives, to increase the annual salary by 8% between 2008 and 2009. The agreement also covers minimum wage levels, paid vacation, social security benefits and the payment of overtime. These proposals were formulated in accordance with the new law on labour agreements.¹³



3. Discrimination

Migrant Workers

Migrant workers from rural regions in China have greatly contributed to the Chinese economic miracle, but have never benefited from it. Despite certain reforms, the majority of the 150 to 200 million migrant workers¹⁴ have no access to the mandatory health or education systems. These people are socially and legally marginalized.

The major reason for the insecure situation of these migrant workers is the hukou¹⁵ system. This status is passed on by parents at birth and governs access to numerous rights and benefits. The vast majority of migrants who flee rural areas receive no authorization to reside in cities and are obliged to live there illegally. Certain employers take advantage of this precarious situation to exploit them financially. According to official investigations, half the migrant workers are employed without a labour contract. This portion of the population has the greatest difficulty in covering its most elementary financial needs. These workers live in shacks or dormitories close to their place of work, where privacy, hygiene and security are seriously lacking.¹⁶ Work is poorly compensated and the wages, when paid, are often several months late. Moreover, there is no guarantee of job security, but the Labour Contract Law could change this situation. Nevertheless, the specific problem of interim workers supplied by “dispatch agencies” has been a major loophole exploited by employers wishing to avoid the Labour Contract Law.

Women

China has ratified the principal international instrument dealing with discrimination towards women (cf. *infra*, Legal Standards and Sources).¹⁷ In addition, China has adopted several laws relating to this subject and is working with the United Nations to improve the conditions of women in China. Nevertheless, unemployment among women is on the rise in China, and women are particularly likely to be dismissed when public companies are privatized or rationalized. The social policy on birth control has generated discriminatory measures that vary according to the region and province. In the majority of cases, prediction of the birth of a girl leads to a simultaneous request from the parents for an abortion. If an abortion is not possible, some girls are abandoned.¹⁸

Ethnic and Religious Minorities

Ethnic minorities, comprising the majority of many rural populations, have benefited little from the state-driven development model imposed upon them. The increase of unemployment, discriminatory practices with respect to education, health and employment, and the increasingly severe restrictions of the cultural and religious freedoms of these minorities have been publicized through the violence suffered by the Tibetan and Uyghur¹⁹ populations. Minorities have experienced limited benefits from major development campaigns and much disruption.

Social and economic exclusion is manifested throughout daily life: in employment, schooling and access to government services.

Although the Chinese Constitution recognizes the right to freedom of religion,²⁰ the government has pursued its policy of repressing the practice of religion outside its official channels. Thousands of members of clandestine Protestant churches and non-official Catholic communities have been arrested. Many have been badly treated or even tortured in detention.²¹ Imprisoned practitioners of Falun Gong (including a large number of women) risk torture and sexual abuse, particularly if they do not renounce their faith.

Specific Recommendations

- Companies operating in China should actively oppose and dissociate themselves from discrimination based on origin, ethnic group, gender or religion in relation to hiring, work activity, dismissal, promotion, training and pay rates,²² as well as in relation to the selection of their suppliers. Depending on how delicate the issue is, they could either act publicly or take up the issue privately. They should, however, always be accountable to their NGO partners.
- In this connection, the training of Chinese personnel in charge of human resources is a central element in the fight against discrimination within Chinese subsidiaries.²³

- More attention must be given to the living and working conditions of migrant workers. Housing conditions must be improved. Both companies and community organizations can build small rental units to provide migrant workers with stable and decent places to live, thus getting them out of basements and shacks. Companies may also contribute to the payment of individual complementary insurance, especially medical insurance.
- Foreign companies should contribute to the progressive integration of migrants and minorities within China by hiring them and promoting them, if this is justified by their performance.
- A special indemnity should be paid to women who become pregnant after the first child. It is crucial that businesses protect women's health to the greatest extent possible.²⁴
- Foreign companies may increasingly be confronted with human rights violations when taking up opportunities within China's "Go West Policy", because the provinces and "autonomous regions" of the West (including Tibet, Xinjiang and Qinghai) house major ethnic "minority" populations (who often are or were a majority in these areas). The human rights challenge should already be carefully addressed in the pre-assessment phase of any project to be developed.

- Foreign companies must ensure that all employees, including those of local partners and subcontractors, have an individual labour contract (lao-dong hetong). This document should confirm their employee status and the agreed salary. It should also confirm their right to a residency permit and all the benefits associated with it. This could be achieved through proper compliance with the Labour Contract Law.
- If companies become aware of abuses, they must be prepared to raise the issue with the authorities.²⁵

Practical Cases

An analysis of problems of discrimination faced by companies in China has shown that foreign companies who succeeded best in tackling discrimination have understood how to negotiate tactfully between central government and municipal government, on the one hand, and the evolution of Chinese law and local customs on the other hand. In all cases, the assistance of Chinese Non Governmental Organisations (NGOs) – in the form of training for Chinese employees, and information sessions in the companies – has proved valuable in bringing about a change in attitude and improving compliance with Chinese law.²⁶ By working with these organisations, foreign companies have a better chance of addressing the problems of discrimination in the workplace.



4. Forced Labour

China has not ratified any of the conventions against forced labour issued by the International Labour Organization. Nevertheless, both the Chinese Constitution and the new law on labour agreements guarantee minimal conditions for workers. Despite this, many people remain victims of forced labour in China.²⁷ The discovery of child slaves working in brick kilns in 2007 was one of the most dramatic scandals in recent years, but there have been many other examples of forced labour, including of children in schools.

Certain unprincipled employers take advantage of the “hukou” system (see the previous chapter) to force their employees to work under intolerable conditions. By paying for the residence permits of employees without means and then refusing to return the permit when the employee wishes to leave the job, they oblige such employees to stay on or else live illegally under permanent threat of arrest. As a result, many employees choose to remain in their jobs despite the poor working conditions.

Even more serious is China’s use of a form of administrative detention in camps for re-education through labour, decided without any judiciary control.²⁸ Effectively, this punishment is imposed for “minor” violations of a gravity considered insufficient for sentencing under the terms of the penal code. The detainees often risk ill-treatment and/or torture. Testimonies from former prisoners indicate that suppliers and subcontractors of foreign companies have used workers from such camps.²⁹ Moreover, there have been scandals relating to major western banks accused of holding shares in Chinese firms taking advantage of such cheap labour.³⁰

According to Amnesty International, hundreds of thousands of people are believed to be held in re-education through labour facilities across the country. Figures provided by the Laogai Research Foundation go even further, as they estimate that there are between four and six million prisoners spread among some 1000 forced labour camps in China.³¹

The Chinese authorities have expressed their willingness to reform or abolish this re-education system, but the new law “on the punishment of illegal behaviour” seems to have come to a standstill.

Specific Recommendations

- Foreign companies must ensure that their supply chain is free from “partners” using workers from re-education camps. They must show vigilance when establishing partnerships with Chinese companies in areas where it is common practice to use prisoners from labour camps. This is often the case in areas using predominantly unskilled labour, such as the processing of agricultural products, or in manufacturing (primarily in assembly work). This also holds true for second- and third-tier suppliers, who are generally not subject to any major checks by foreign companies.³²
- Companies must ensure that the residence permits of their employees and their suppliers’ employees are not retained. Employees should also be protected against other forms of abusive constraint.

- Monitoring of working conditions must include the following measures:
 - Check that workers are free to leave the factory and are permitted to enter and exit their housing facilities freely during their non-working hours.
 - Check that guards are posted only for “normal” security reasons.
 - Check whether the factory holds any identity cards, if these have been given voluntarily, and if they are returned to workers on request.³³

departments and, when necessary, cooperation with other companies that order goods from the same factory. This is especially useful in countries like China, where small sweatshops and homework thrives.

Practical Cases

Certain voluntary guidelines, adopted by foreign companies active in China, incorporate provisions focusing on forced labour. They require that suppliers provide them with written policies and procedures in relation to forced labour. The guidelines also prohibit such practices as the confiscation of identity papers, withholding wages as a security measure (against departure or for payment of damages or errors caused by the employee), or the imposition of mandatory supplementary working hours beyond those authorized by Chinese law.³⁴

A clothing retailer’s representative made the following practical suggestion for monitoring the supply chain: keep track of a factory’s outsourcing activities. This information can be obtained by keeping a close eye on the orders made to a certain factory in relation to its capacity to fill these orders. This requires ongoing attention by purchasing



5. Forced Evictions

Urban development has exploded in China during recent years. This is basically due to rural exodus and major events, such as the 2008 Olympic Games. A 2007 UN Habitat report noted that between 2001 and 2008, it is estimated that 1.7 million people were directly affected by demolitions and relocations related to the Beijing Olympic Games.³⁵ Shanghai forcibly relocated 55,000 families in 2004. As building for the 2010 World Expo started in 2005, the final number is expected to be even higher. Families in many Beijing districts have found themselves in conflict with the Chinese authorities because of land seizure and insufficient compensation, as well as periods of notice that are much too short.

Some of these evictions were executed violently by private and public agents, leaving victims with few means of redress. Demonstrations of opposition were also repressed violently. Widespread corruption can lead Communist Party officials to favour the interests of developers over those of residents. According to certain NGOs, indemnification funds scheduled for the compensation of displaced populations have mostly been diverted to other investments or have ended up in the pockets of local government representatives.³⁶ Furthermore, courts often refuse to hear eviction cases because of pressure by local officials. As a result, people who challenge their eviction cannot properly pursue their claims through arbitration or in court. Some lawyers charged with defence of these victims have been threatened with arrest and harassed.

Specific Recommendations

- Largely through contact with local protagonists and through inspections, companies should ensure that neither their activities nor those of their subcontractors or suppliers lead to forced evictions. Particularly in the case of state development projects or new construction in urban areas, special attention should be paid to ensuring that any relocation of people, resulting from the construction of new factories or other facilities, takes place with the full consent of all the parties involved.
- Companies should ensure that people, who are legally displaced because of a project they are involved in, are fairly and adequately compensated. International investors and businesses involved in construction projects in China should require that local authorities provide residents with advance notice of eviction, monitor the process of forced evictions, avoid the use of force, and establish functional arbitration and judicial procedures for residents who refuse to relocate. They should monitor and report on compliance with these requirements.
- Businesses should conduct an analysis of the process of forced evictions in project areas that includes an examination of persons currently living on the planned building site, and also includes the background and previous conduct of contractors and the local development and eviction management department. Based on this analysis, they should develop policies that will minimize negative impact on residents.

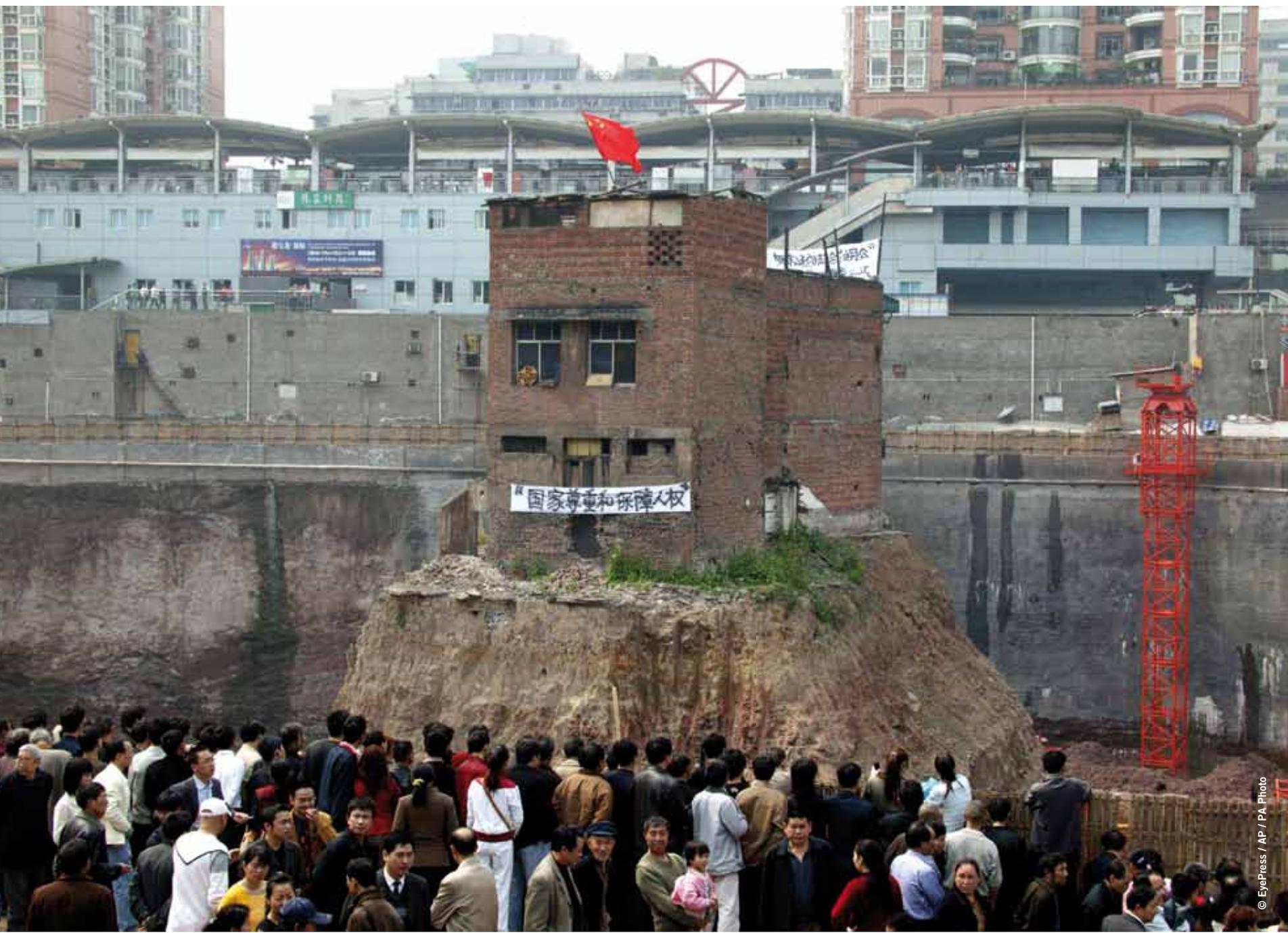
Practical Cases

The controversy surrounding the Three Gorges Dam on the Yangtze River drew attention to the lender's role in the environmental and human rights costs of this project. Among other things, the displacement of up to 1.9 million people was a matter of huge concern.

According to a press communiqué from "SocialFunds"³⁷ in 2000, at least 25 shareholder resolutions had been filed in the US with companies concerning global accountability issues, ranging from vendor standards to discrimination to human rights abuses. Many of them focused on corporate involvement in China, but an outstanding example is the effect of shareholder resolutions on three important American banks concerning their involvement in financing the construction of the Three Gorges Dam.

The Three Gorges Dam discussion was the beginning of a much larger discussion with the banks about how they could incorporate environmental and human rights criteria into their underwriting business. A private US investment bank (which had a specific policy on the Three Gorges Project) refused to underwrite a \$500 million bond issued by the China Development Bank.

The shareholder resolutions, discussions with civil society representatives and media coverage have contributed to better scrutiny of the environmental and human rights impact of such big projects as the Three Gorges Dam in China. They have made international lenders more accountable for the impact of such projects around the world.



6. The Rights of Children

China has ratified the most important international treaties dealing with the right to education and the protection of children.³⁸ Theoretically, each individual under 16 is considered a child in China and must therefore be excluded from the workforce. In practice the situation is very different, particularly in the rural areas. In effect, a child's earnings may represent a significant part of a family's revenue. Generally, the parents ignore their children's hard working conditions and the risks connected to industrial work. Knowing the value of their financial contribution, children do not complain and sometimes even falsify the age on their identity card.³⁹ Due to the reduction in purchasing power, particularly in rural areas, and rising costs of education, there seems to have been an increase in child labour since the 1990s. This is evident from the increasing number of child labour scandals, most recently in Guangdong Province in 2008.

Consequently, around 10 million children between the ages of 6 and 15 do not benefit from the school system, according to the Chinese government. A certain amount of data related to work, including child labour, has been classified a state secret by the government.

This explains the unreliable nature of the official statistics.⁴⁰ Actually, the number is assumed to be around 24 million children, of whom half are working in industry, particularly in the production of toys and textiles, the food industry, construction work and light mechanical work.⁴¹ In these production sectors, children are often lodged on site in dormitories, where 20 inhabitants per room is not unusual.

Children are often obliged to work up to 14 hours a day for half an adult salary. Many of them are children of migrant workers, which is a group particularly affected by discrimination (see chapter 3 above).⁴²

Specific Recommendations

- The company's code of conduct must contain a section specifically addressing child labour and must be made available to all partners, suppliers and subcontractors.
- Forced child labour must not be tolerated. If partners, suppliers or subcontractors use children in their workforce, companies should insist upon changes and be ready to cease collaboration if the situation does not improve.⁴³
- Companies must ensure that their workers' salaries are sufficient to cover the cost of educating their children. For information, they can consult codes such as SA8000, ETI and the Worker Rights Consortium (WRC). These codes take into account a family's basic needs (education, lodging, child care), whereas wages are generally calculated for single people.⁴⁴
- Companies ought to be particularly vigilant if their employees are migrant workers whose children are generally excluded from public schools and thus deprived of their right to an education.



- Companies can work on the basis of the 18-point action plan drawn up by the International Finance Corporation (a unit of the World Bank) for eliminating child labour. This plan can be consulted on the website listed in the “Comments” column of the “Legal Standards and Sources” table below (chapter V).

Practical Cases

- As far as child labour is concerned, a majority of the codes of conduct tend only to reinforce the Chinese law, which merely states that nobody under 16 should work. Some companies have included requirements in their code of conduct regarding checking of identity papers that may be falsified. The minimum working age is often set at 18. In other cases, the codes explicitly exclude workers aged between 16 and 18 from the hardest jobs.⁴⁵
- One bank’s guidelines, Investor Expectations on Children’s Rights, specify investor expectations for corporate performance with regard to preventing child labour and promoting children’s rights. They are especially directed at corporations operating in high-risk sectors and high-risk countries (cf. “Comments” in the “Legal Standards and Sources” table below, chapter V).

7. The Right to Freedom of Expression and Information

Access to complete and reliable information is essential for businesses entering the Chinese market.

As far as publicly held information is concerned, the regulation on Chinese government information disclosure, which came into force on 1 May 2008, should lead the country to better government transparency. However, the new regulation also requires the government to evaluate information in line with the Law on Keeping Confidentiality of State Secrets before making the information public.⁴⁶

With regard to the Internet, the censorship systems introduced by the Chinese government are unequalled in the world.⁴⁷ One of these systems is called the “Golden Shield”.⁴⁸ In practice, external servers are manipulated in two ways. Most are filtered, causing the person logging into the net to wait forever as though the website is overloaded, while others are simply blocked as though the website rejects the connection. The filtering is based on key words that the Chinese government considers to be sensitive. As a result, access to numerous sites located outside China is not authorized.⁴⁹ But the censoring of content providers in China is even more effective, because the government can seize any site and imprison its operators. Several cyber-dissidents are currently imprisoned for publishing data that the government considered “subversive”. There are between 30,000 and 40,000 Internet police agents in China.

Although the government has neither the material nor the physical means to control all instantaneous discussions and forums, the simple fear of closure pushes Internet Access Providers into self-censorship.

Restrictions have also affected traditional media. National journalists face severe restrictions and censorship, and those investigating stories deemed to be politically sensitive risk dismissal, intimidation, harassment or arrest. From January 2007 to October 2008, a new regulation was supposed to grant foreign journalists greater liberty in conjunction with coverage of the Olympic Games. The government’s willingness and ability to reform will be judged by the way in which they applied this regulation, whether greater liberty has been extended to Chinese journalists, and if it has continued beyond the Games.⁵⁰

Specific Recommendations

- Companies investing in China must in no way contribute to the Chinese authorities’ suppression of freedom of expression. In particular, businesses must not supply technology or equipment that could be employed to censor and control Internet use in China.⁵¹ In the USA, a company has been sued for allegedly aiding in the violation of the rights of Chinese dissidents.⁵²

- Companies in China should ensure that their employees, while respecting their work task, have the right to express themselves freely at the workplace. This can be achieved by creating helplines, establishing internal procedures through which employees can report or discuss concerns anonymously, and by providing their staff with specific training. Freely elected representative structures (dorm committees, workers councils, etc.) could offer workers the experience of democracy and a channel for free expression. Such measures might have a positive impact on the staff and their perception of their rights. It is also crucial for companies wanting to fight effectively against corruption.
- Although the corporate sector needs to protect commercially sensitive information, certain categories of information must be made available to consumers, suppliers and employees. Voluntary transparency policies prevent damage to company reputation and the legal risks of non-disclosure.⁵³
- Companies should familiarize themselves with the new guidelines of the Global Network Initiative (GNI),⁵⁴ which has developed a set of Principles and an Implementation and Governance framework to guide companies in protecting rights to freedom of expression and privacy on the Internet. These principles represent a degree of progress in responding to human rights concerns, though they are not yet strong enough to allow Amnesty International to endorse them.

Practical Cases

Some companies understand that it is in their interest to ensure employees' right to express themselves freely at the workplace and to protect whistleblowers in order to avoid negative impacts of corruption in China.

Several foreign companies in the textile sector have tried to implement techniques in China that are already successfully used in other countries, such as Mexico and Indonesia. These techniques are:

- The supply of prepaid envelopes to workers employed by subcontractors, so that they can express their concerns anonymously.
- The availability of free telephone numbers linked to a unit of labour inspectors.
- Interviewing workers outside the factory premises.
- The installation of a complaint box within the subcontractors' premises.

The first three methods have led to far more satisfactory results than the fourth, because of the risk of the subcontractor putting pressure on the workers through denunciation or supervision of the complaint box.⁵⁵



III. GENERAL RECOMMENDATIONS TO COMPANIES

- Give effect to the UDHR (through public commitment) and conform to international and national human rights standards.
- Avoid complicity in human rights violations.
- Develop codes of conduct and policies that refer explicitly to human rights.
- Integrate human rights considerations into all decision-making processes.
- Protect human rights within all areas of operations (suppliers, contractors, subsidiaries, workers and their family members, local communities, and other parties affected by the company's activities).
- Make sure that the codes of conduct and policies are implemented throughout company operations, and that managers and staff, as well as suppliers and sub-contractors, are specifically trained in these codes and policies. Workers should have access to documents explaining what their rights are in a language they understand.
- Provide helplines and establish internal procedures by which employees can report or discuss concerns anonymously.
- Establish ongoing dialogue with local stakeholders to improve protection of local communities' human rights.
- Conduct a human rights impact assessment in areas of potential operations, making sure that the human rights challenge is already carefully addressed in the pre-assessment phase of any project to be developed.
- Have the code of conduct audited regularly by an external third party. Small and medium-sized collective and private enterprises, controlled by Chinese capital, are a high-risk category of companies when it comes to violations of economic, social and cultural rights .
- Put in place corrective measures in cases of abuse, be prepared to raise the issue with the authorities and make sure that the victims are sufficiently compensated.
- Disclose the implementation of the policy/code of conduct publicly and transparently. Voluntary transparency policies prevent damage to reputation and the legal risks of non-disclosure.⁵⁷
- Undertake advocacy work with the government and act collectively with other companies to raise human rights concerns with government authorities.

IV. CONCLUSION

Past experience proves that companies increasingly risk being sanctioned and/or suffering severe damage to their reputation if they violate human rights or are complicit in such violations.

Moreover, business needs an environment of freedom, rule of law, good governance and full transparency, based on respect of human rights, in order to flourish in the long term.

The Universal Declaration of Human Rights calls on “every individual and every organ of society to promote respect of human rights”, and companies should contribute to the realization of this aim by implementing international standards in all their activities.

Nowadays, it is uncontested that business shares this responsibility and can help to advance the human rights agenda, including in China.

It is therefore imperative that companies operate not only in line with national laws, but comply with the highest applicable human rights standards by adopting a specific code of conduct which they can monitor thoroughly and regularly on an independent basis.

To this end, and to prevent violations of international human rights laws acknowledged also in their country of origin, international companies active in China must pay particular attention to the human rights violations with which they might be confronted. They need to take into account specific

problems linked to freedom of association, freedom to form and belong to trade unions, working conditions, discrimination, forced labour, forced eviction, children’s rights and the right to freedom of expression and information.

Regular, transparent communication ought to constitute the cornerstone (even the very foundation) of their activities. Not only will this help the workers to see where they stand in relation to company policy, it will also help to reassure investors and shareholders.

Experience has also shown that establishing relations with local stakeholders (i.e. representatives of civil society) at the initial stage of a project makes it possible to better foresee potential risks and avoid finding oneself a party to violations of human rights. Even in China, NGOs are emerging as an important stakeholder and are seen as a resource for monitoring corporate performance. As mentioned by SourceAsia,⁵⁸ “the public see them as a voice for their concerns. They could be a key to your success”.

Sustainable development, going beyond its environmental aspect, must be combined with a whole range of social criteria – including respect for human rights. That is what true social responsibility involves. In addition to the opportunities it offers, China also presents major challenges and risks. And the risk associated with human rights is not the least of these. It is possible to ignore (voluntarily or otherwise) the violations that are perpetrated but, over the long term, such an attitude will be neither “sustainable” nor profitable.

V. LEGAL STANDARDS AND SOURCES

AREA	LEGAL SOURCES ⁵⁹	COMMENTS
<p>Freedom of association, right to form and join trade unions and collective bargaining</p>	<p>Convention No. 87 of the International Labour Organisation (hereinafter ILO) of 9 June 1948 on the Freedom of Association and Protection of the Right to Organize; Convention No. 98 of the ILO of 1 July 1949 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively; Article 8 of the International Covenant on Economic, Social and Cultural Rights (hereinafter Pact I) which deals with the right to form and join trade unions; Article 35 of the Chinese Constitution which, in Chapter II (Fundamental rights and obligations of citizens), guarantees the citizens of China freedom of assembly and association; Article 7 of the Trade Union Law of the People's Republic of China; The new law on employment contracts which entered into force on 1 January 2008 (hereinafter LCT) makes provision for the role of the trades unions to be extended.</p>	<p>China has not ratified these two ILO Conventions.</p> <p>China has drawn up a reservation in respect of Article 8 of Pact I which now only applies if it complies with Chinese legislation on the matter.</p>
<p>Working conditions</p>	<p>The ILO Conventions on: Equal Remuneration (C 100), Minimum Age (C 138), Worst Forms of Child Labour (C 182) and Discrimination (Employment and Occupation, C 111); Articles 42 and 43 of the Constitution of the People's Republic of China of 4 December 1982; Articles 17ff of the new Law on Employment Contracts; Wages are paid in accordance with the international standards, such as the ILO Convention on the Protection of Wages, 1949 (No. 94), Convention on the Rights of Persons with Disabilities.</p>	<p>China has ratified four of the eight ILO basic conventions on working conditions.</p> <p>A system of national labour standards is taking shape.⁶⁰</p> <p>Cf: "The UN Human Rights Norms for Business: Towards Legal Accountability" p. 26. Available at: http://www.amnesty.org/en/library/asset/IOR42/002/2004/fr/dom-IOR420022004fr.pdf. Report by the Play Fair organization on ways of improving wages and working conditions in the sports industry: http://www.playfair2008.org/docs/Clearing_the_Hurdles.pdf</p>

AREA	LEGAL SOURCES	COMMENTS
Forced labour	<p>ILO Conventions: Forced Labour Convention, 1930 (No. 29); Forced Labour (Indirect Compulsion) Recommendation, 1930 (No. 35); Abolition of Forced Labour Convention, 1957 (No. 105);</p> <p>Art. 42ff of the Law on Work, establishing guarantees of workers' rights (see the chapter on working conditions).</p>	<p>China has not ratified any of these ILO Conventions.</p>
Forced evictions	<p>International Covenant on Economic, Social and Cultural Rights, Art. 11,1;</p> <p>Fourth amendment to the Constitution of the People's Republic of China (Approved on 14 March 2004, by the 10th NPC at its 2nd Session);</p> <p>Third paragraph of Article 10: "The State may, in the public interest, requisition land for its use in accordance with the law."</p> <p>Revised to: "The State may, in the public interest and in accordance with the provisions of law, expropriate or requisition land for its use and shall make compensation for the land expropriated or requisitioned."</p> <p>Article 13: "The State protects the right of citizens to own lawfully earned income, savings, houses and other lawful property." and "The State protects according to law the right of citizens to inherit private property."</p> <p>Regulations for urban residential demolition and eviction administrative arbitration work, No. 252, issued 30 December 2003, to be implemented 1 March 2004.</p>	<p>The aim of this legislation and the concept of forced eviction are set out in two general Comments of the UN Committee responsible for monitoring the application of Pact I:</p> <p>– UN Committee on Economic, Social and Cultural Rights, General Comment No. 4 on the Right to Adequate Housing, (1991). http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/469f4d91a9378221c12563ed0053547e?OpenDocument</p> <p>– UN Committee on Economic, Social and Cultural Rights, General Comment No. 7 on the Right to Adequate Housing and Forced Evictions (1997). http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/959f71e476284596802564c3005d8d50?OpenDocument</p> <p>See also the report by the United Nations special reporter on the right to housing, A/HRC/4/18 of 5 February 2007: http://daccessdds.un.org/doc/UNDOC/GEN/G07/106/29/PDF/G0710629.pdf?OpenElement</p> <p>Written statement submitted by the International Federation of Human Rights Leagues (FIDH) on the right to Housing in China, A/HRC/5/NGO/14, 7 June 2007, p. 2, 3: http://daccessdds.un.org/doc/UNDOC/GEN/G07/128/76/PDF/G0712876.pdf?OpenElement</p>

AREA	LEGAL SOURCES	COMMENTS
Children's right to education and the protection of children	<p>International Covenant on Economic, Social and Cultural Rights, Art. 13; Convention on the Rights of the Child, Art. 28; 32, 1; Convention against Discrimination in Education, Art. 1 lit. d; 3 lit. a; 4 lit. a; ILO Convention: Minimum age convention, 1973 (No. 138); Constitution of the People's Republic of China, Art. 46. Labour law of the People's Republic of China , Art. 58; Education Law of the People's Republic of China, 1995.</p>	<p>Eighteen-points action plan for eradicating child labour: http://www.indianet.nl/pdf/actionplanchildlabour.pdf</p> <p>NBIM Investor expectations on children's rights: http://www.norges-bank.no/Upload/NBIM/CG/Expectations%20childrens%20rights.pdf</p> <p>To create their codes of conduct, companies can refer to the initiatives developed by civil society, for example: Stop Child Labour: http://www.stopchildlabour.eu/ Fair Labor Association: http://www.fairlabor.org Play Fair: http://playfair2008.org</p>
Right to the freedom of expression and information	<p>Universal Declaration of Human Rights, Art. 19; International Covenant on Civil and Political Rights, Art. 19; Constitution of the People's Republic of China, Art. 35.</p>	<p>China is a signatory to the International Covenant on Civil and Political Rights (ICCPR) but has not ratified it yet. Nevertheless, the Vienna Convention on the Law of Treaties requires any State that has signed a treaty "to refrain from acts which would defeat the object and purpose" of the treaty. Given that the object and purpose of the ICCPR is to protect human rights, this can be interpreted to mean that China should not introduce legislation that clearly violates the rights protected under the ICCPR, including freedom of expression guaranteed under Article 19. Additionally, the ICCPR has been incorporated into Hong Kong's legal system and applies in full there.</p>

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1. For development, see Christopher Avery, Why all companies should address human rights, chapter of the ICCA Handbook on CSR and Corporate Culture, 2006; can be found at <http://www.cca-institute.org/handbook.html> and on www.business-humanrights.org
2. For the press release issued by the International Labour Organization, see: http://www.ilo.org/global/About_the_ILO/Media_and_public_information/Press_releases/lang--fr/WCMS_008203/index.htm
3. According to the law on trade unions “the ACFTU and all the organizations under its supervision represent the interests of the workers and guarantee their legitimate rights”. The trade unions are equally required to “observe and guarantee the Constitution, (...), to place economic development at the centre of their activities, to support the socialist route, the democratic dictatorship of the people, the direction of the Chinese Communist Party and their Marxist-Leninism, the thinking of Mao Zedong and the theory of Deng Xiaoping (...) and may work independently, respecting their statutes”. Annual report on the violation of the right to form and join trade unions of 2007, see: <http://survey07.ituc-csi.org/getcountry.php?IDCountry=CHN&IDLang=FR>
4. Cf. in particular: Observatoire sur la Responsabilité Sociétale des Entreprises, La responsabilité sociétale des entreprises en Chine, Summary of Study No. 9, September 2006, p. 2; Syndicats et associations par Au Loong-Yu, Nan Shan et Zhang Ping, cf.: <http://pagesperso-orange.fr/orta/solidint/chine/syndicats.htm>; Amnesty International, When in China: Encounters with human rights, September 2006, pp. 30–33; Amnesty International, Danish Section, Corporate Briefing, Human Rights in China, November 2005, p. 5; Amnesty International, People’s Republic of China, labour unrest and the suppression of the freedom of rights to association, 2002; Amnesty International, Dutch Section, China Expert meeting, October 2005, p. 3; Amnesty International, Swiss Section, Human Rights Situation in the People’s Republic of China (Situation des droits humains en République Populaire de Chine), June 2007, pp. 2, 3 and 5; Observatoire sur la Responsabilité Sociétale des Entreprises, Le contrôle des engagements RSE des entreprises en Chine: étude des systèmes de contrôles interne et externe, January 2007; http://www.fsa.ulaval.ca/personnel/vernag/syndicat/Castonguay_Chine.htm
5. Annual report on the violation of the right to form and join trade unions of 2007 cited above.
6. More detailed recommendations to be found in the following document: «The Human Rights and Business Pages: Freedom of Association», pp. 33–34, Amnesty International, the Netherlands, Economic Relations Department (amnesty@amnesty.nl).
7. Working on the basis of the PRA method (Participatory Rural Appraisal) developed by Robert Chambers of the University of Sussex.
8. A 2006 United Nations Development Group (UNDG) report noted, with regard to safety at work, that over one million individuals are killed or injured each year; UNDG, Resident Coordinator Annual Report on China, 2006, available at: <http://www.undg.org/rcar.cfm?fuseaction=RCAR&ctyIDC=CPR&P=490> (accessed on 7 October 2008).
9. Robert J. Rosoff, Corporate Responses to Human Rights, China Rights Forum No. 1, 2003.
10. For more information see: Adamas Avocats Associés, “Nouvelle loi sur les contrats de travail: ce qui va changer pour les entreprises à investissement étranger en Chine”, Legal news alert.
11. By way of example, the city of Shenzhen topped the list in 2006 with a minimum wage fixed at 810 yuans per month (about 112 US dollars) and the province of Jiangxi came bottom with 270 yuans per month (35 US dollars); see: http://www.chine-informations.com/actualite/le-salaire-minimum-augmente-dans-29-provinces-chinoises-en-2006_5820.html
12. The Committee on Economical, Social and Cultural Rights encouraged the State party to establish a wage enforcement mechanism adjusted to the cost of living, facilitate the redress of wage claims, and take sanctions against employers who owe wages and overtime pay and impose fines and penalties on their workers; E/C.12/1/Add.107, para. 54.
13. “People’s Daily” online edition, dated 16 July 2008.
14. Amnesty International, China. The human cost of the economic “miracle” (Le coût humain du «miracle» économique), 1 March 2007.
15. This is a type of “temporary residence permit” that a migrant worker has to obtain in order to be able to live and work in a Chinese megalopolis. Without this, a migrant worker is considered to be “illegal”. Even if a number of localities have considerably reduced their fees and simplified the procedures for obtaining such permits, they are nonetheless still beyond the reach of a large number of Chinese migrants. The documents required vary depending on the locality, but in general and at the very least it is necessary to be in possession of a work contract and a valid identity document. Even today, a large number of employees do not have a residence permit.

As is noted in an Amnesty International document, “hukou is still a hereditary status which children obtain from their parents when they are born. Because of the hukou system, even in a modified version, a Chinese child born in Beijing of Chinese parents who originated from a rural village will have the same hukou as their parents, which will stop the child from being given a permanent residence permit for Beijing and will reduce its chances of receiving free, compulsory schooling, of exercising its right to medical care and of benefiting from protection with regard to its place of employment if the child remains sufficiently long in Beijing to start working there.” “People’s Republic of China, Internal Migrants; discrimination and abuse: the human cost of an economic “miracle”; Amnesty international public document; March 2007; index Amnesty international: ASA 17/008/2007.

<http://www.amnesty.org/en/library/info/ASA17/008/2007/en>

The International Covenant on Economic, Social and Cultural Rights, to which China is a signatory, forbids discrimination on the basis of social origin [Article 2-2 of the International Covenant on Economic, Social and Cultural Rights \(ICESCR\)](#):

“The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

16. Study by the “Centre on Housing Rights and Evictions” COHRE 2007; “Fair Play for Housing Rights: Mega-Events, Olympic Games and Housing Rights” (2007); pp. 41, 42 www.cohre.org

17. Chinese speech on the Commission on the Status of Women at United Nations, March 2008:

http://www.un.org/womenwatch/daw/csw/csw52/statements_missions/china-english.pdf

18. Report by the Population Reference Bureau, Judith Banister (<http://www.prb.org/Reports/2003/ShortageofGirlsInChina.aspx>); (http://www.jpr.org.au/upload/JPR21-1_Banister.pdf); “Où sont passées toutes les jeunes filles?”. La discrimination à l’égard des filles en Chine dans une perspective comparative, Centre d’Etudes Français sur la Chine contemporaine, Marina Thorborg (<http://perspectiveschinoises.revues.org/document700.html#texte>).

19. Minority Rights Group International (<http://www.minorityrights.org/1083/reports/china-minority-exclusion-marginalization-and-rising-tensions.html>); Report “China: Minority Exclusion, Marginalization and Rising Tensions”, by Human Rights in China (HRIC) Commissioned by Minority Rights Group International (MRG).

20. Public expression of religion is not protected in the Constitution and religious activities that impair public order, health, or education, and “foreign domination” of religion are prohibited, A/HRC/WG.6/4/CHN/3 § 28, 5 January 2009.

21. International coalition for religious freedom; <http://www.religiousfreedom.com/>

22. Idem, Section B2 and E10.

23. Cf. “The social responsibility of foreign companies in China” (“La responsabilité sociale des entreprises étrangères en Chine”), study by Jean-François Huchet, June 2007, published by CGT/FO-IRES, p. 89.

24. The UN Human Rights Norms for Business. Towards Legal Accountability. Amnesty International Publications 2004, London, UK, Section B2.

25. More detailed recommendations can be found in the following document: “The Human Rights and Business Pages: Non-discrimination and Equality”, pp. 31–33 Amnesty International, the Netherlands, Economic Relations Department (amnesty@amnesty.nl).

26. “The Social Responsibility of Foreign Companies in China” (“La responsabilité sociale des entreprises étrangères en Chine”), a study by Jean-François Huchet, June 2007, published by CGT/FO-IRES, p. 97.

27. According to the ILO, some 12.3 million people are victims of forced labour in the world, with a large portion of these being in Asia. Statistics for China?

See Introduction by the Director General to the International Labour Conference: Consolidating Progress and Pressing Ahead (Introduction by the Director General to the International Labour Conference), ILC, 93rd session, 2005, Report I(A).

28. For more details, see “When in China: Encounters with human rights”, Amnesty International Dutch Section, 2006, p. 35; Jean-François Huchet, FO-IRES publication, “The social responsibility of foreign companies in China” (“La responsabilité sociale des entreprises étrangères en Chine”), June 2007, pp. 46ff.

29. Jean-François Huchet, FO-IRES publication, “The social responsibility of foreign companies in China” (“La responsabilité sociale des entreprises étrangères en Chine”), June 2007, p. 50.

30. See The ICCA Handbook on Corporate Social Responsibility, annexed to Chapter 4 entitled “Why all Companies should Address Human Rights – and how the Business & Human Rights Resource Centre can help”, written by Christopher Avery, Annabel Short and Gregory Tzeuschler Regaignon of the Business & Human Rights Resource Centre.
31. Website of the Laogai Research Foundation: www.laogai.org.
32. Jean-François Huchet, FO-IRES publication, “The social responsibility of foreign companies in China” (“La responsabilité sociale des entreprises étrangères en Chine”), June 2007, p. 51.
33. More detailed recommendations to be found in the following document: “The Human Rights and Business Pages: Forced Labour”, pp. 6–7; 21–23; 27–29, Amnesty International, the Netherlands, Economic Relations Department (amnesty@amnesty.nl).
34. Jean-François Huchet, FO-IRES publication, “The social responsibility of foreign companies in China” (“La responsabilité sociale des entreprises étrangères en Chine”), June 2007, p. 97.
35. UN-Habitat, Global Report on Human Settlements 2007, Enhancing Urban Safety and Security, 2007, Nairobi, p. XXIX, available at <http://www.unhabitat.org/downloads/docs/GRHS.2007.0.pdf> (accessed on 7 October 2008).
36. International Rivers Network (IRN), quoted by Amnesty International, IFI Commission Bulletin No. 19 “China Special” (“Spécial Chine”), May 2008, p. 5.
37. The largest personal finance site devoted to socially responsible investing: www.socialfunds.com
38. International Covenant on Economic, Social and Cultural rights, Article 13 (Pact I). International Convention on the Rights of the Child, Articles 28 and 32,1. ILO Convention 138 – Minimum Age Convention. Convention against Discrimination in Education, especially Articles 1d, 3a and 4a.
39. Cf. “The social responsibility of foreign companies in China” (“La responsabilité sociale des entreprises étrangères en Chine”), study by Jean-François Huchet, June 2007, published by CGT/FO-IRES, p. 53.
40. Ibid. p. 45; Conclusions of the United Nations Committee responsible for the application of Pact I on the report submitted by China, E/C.12/1/Add.107, 13 May 2005, paragraphs 23 and 37, see: <http://www.universalhumanrightsindex.org/hrsearch/displayDocumentVersions.do?lang=fr&docId=738>
41. Jean-François Huchet, FO-IRES publication, “The social responsibility of foreign companies in China” (“La responsabilité sociale des entreprises étrangères en Chine”), June 2007, pp. 52–53.
42. This problem was emphasised by the UN Committee on Economic, Social and Cultural Rights which expressed its concern about child labour and the absence of universal, free access to primary education, especially in rural areas and amongst the migrant population: conclusions of the United Nations Committee responsible for the application of Pact I on the report submitted by China, E/C.12/1/Add.107, 13 May 2005, paragraphs 23 and 37, see: <http://www.universalhumanrightsindex.org/hrsearch/displayDocumentVersions.do?lang=fr&docId=738>
43. This problem is particularly tricky in the electronics industry, which uses cobalt in batteries intended for recharging mobile phones, MP3 consoles, etc. Ninety percent of the cobalt imported by China comes from Zambia and the Democratic Republic of Congo, two countries in which a large number of employers in the mining industry are Chinese and where child labour is common practice. The companies’ responsibilities to respect the rights of the child do not stop at the Chinese border. It ought to be possible for these responsibilities to be applied to the entire production chain, right through to the source (in the specific case in question, in Africa).
44. Jean-François Huchet, FO-IRES publication, “The social responsibility of foreign companies in China” (“La responsabilité sociale des entreprises étrangères en Chine”), June 2007, p. 98.
45. Ibid. p. 97.
46. Cf. CSRchina.net “How Wide Is the Door to Chinese Governments’ Information Disclosure”; <http://www.csrchina.net/page-977.html>
47. For a development, see: <http://opennet.net/research/profiles/china>.
48. This system is based on different laws as a function of the region involved. The special administrative regions of Hong Kong and Macao have their own legal system and these laws are not valid there.

49. One example of censorship of an external site is the blockage of the Wikipedia encyclopedia. This site was blocked on a permanent basis. On 2 April 2008, the site was accessible in all languages except for Chinese. The Chinese BAIDU BAIKE site, an online Chinese encyclopedia, is subject to total control and censorship.

50. The Foreign Correspondents Club of China (FCCC) documented approximately 180 incidents in 2007. By July 2008, this had increased to 230, including over 40 cases after the unrest in Tibet in March and more than 12 after the Sichuan earthquake in May, see: <http://www.fccchina.org/harras.html>

51. For practical recommendations concerning specifically Internet companies operating in China, see Recommendations for action, Undermining freedom of expression in China, Amnesty International, July 2006.

52. Jeremy Kirk, IDG News Service, "Yahoo sued over jailing of Chinese dissident", April 19, 2007. See: http://www.infoworld.com/article/07/04/19/HNyahoosued_1.html

53 Transparency International, The Global Corruption Report 2003, p. 42, cf.: http://www.transparency.org/publications/gcr/download_gcr/download_gcr_2003#download.

54. www.globalnetworkinitiative.org

55. ETI Report, Key Challenges in Ethical Trade, Reports on the Biennial Conference 2003; quoted in Jean-François Huchet, "The social responsibility of foreign companies in China" ("La responsabilité sociale des entreprises étrangère en Chine"), March 2007, p. 94.

56. "The social responsibility of foreign companies in China" ("La responsabilité sociale des entreprises étrangères en Chine"), study by Jean-François Huchet, June 2007, published by CGT/FO- IRES, p. 77.

57. Harriet Fletcher, Corporate transparency in the fight against corruption, cf.: http://www.transparency.org/publications/gcr/download_gcr/download_gcr_2003#download

58. www.source-asia.net

59. For an overview of the scope of Chinese international obligations, see the Compilation prepared by the Office of the High Commissioner for Human Rights, A/HRC/WG.6/4/CHN/2 §7, 16 December 2008, and the national report, A/HRC/WG.6/4/CHN/1, annex 3, 10 November 2008.

60. National Report submitted for the Universal Periodic Review, A/HRC/WG.6/4/CHN/1 §24, 10 November 2008.

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