

EXECUTIVE SUMMARY OF THE CHINA COUNTRY RISK ASSESSMENT

The CRA performed on China has investigated each human right from the Universal Declaration of Human Rights (UDHR) at three levels. First, the rights were investigated for areas of conflict between the prevailing national laws and international human rights law. Second, the prevailing social and cultural practices were analysed to identify any inherent human rights violations frequently perpetrated at the societal level. Third, each right was assigned an overall company risk rating, based on the ratings in the formal law and practice categories and the proximity to company operations. The results of the CRA produced the categorisation of 12 human rights as high-risk areas and 8 human rights as medium risk areas for companies operating in China. Due to the severity of human rights violations in China no rights were categorised a low risk areas. The following presents the overall results of the CRA, including a short description of each right. The full CRA offers a detailed in-depth description of each right and recommendations on how to navigate in relation to the identified risk areas.

COMPANY RISK

The following rights received a red rating in the Company Risk category in the CRA which indicates that these human rights constitute high-risk areas for companies operating in China. A short description of each right follows below.

- Right to Freedom from Discrimination (art. 2)
- Right to Life, Liberty and Security of Person (art. 3)
- Right to Freedom from Forced Labour and Servitude (art. 4)
- Right to Privacy (art. 12)
- Right to Freedom of Movement (art. 13)
- Right to Family Life (art. 16)
- Right to Own Property (art. 17)
- Right to Peaceful Assembly and Freedom of Association (art. 20 and 23)
- Right to an Adequate Standard of Living (art. 22)
- Right to Work and Just and Favourable Conditions of Work (art. 23, 24 and 25)
- Right to Health (art. 25)
- Right to Adequate Housing (art. 25)

Right to freedom from forced labour and servitude and right to freedom of movement constitute high-risk human rights areas that require special attention. Reports from human rights groups inform that forced and bonded labour not only occur in penal institutions and administrative detention centres, but also at some work places. It is common practice at some workplaces to withhold deposits, wages, identity papers, etc., which prevents workers from leaving and seeking employment elsewhere. Moreover, workers are sometimes compelled to work overtime (with or without pay) and have restricted movement in and out of the factory. Internal migrant workers coming from the rural areas for jobs in the cities constitute a particularly vulnerable group that is highly susceptible to abuse in China.

Right to work and just and favourable conditions of work is a high-risk area in China, even though the law offers adequate protection with only minor gaps. According to human rights groups, a number of workers experience violations of the following areas covered under the right to work and just and favourable conditions of work: lack of labour contracts, excessive work hours and insufficient rest, low wages, and inadequate work conditions and work environment. Internal migrant workers, women, children and juveniles constitute particularly vulnerable groups in the Chinese labour force.

Right to peaceful assembly and freedom of association is a high-risk human rights area in China since independent unionising is prohibited. The All China Federation of Trade Union (ACFTU) governs all trade union activity and does not function independently from the Government and the Chinese Communist Party. Moreover, workers are not effectively



allowed the right to strike and collective bargaining, and human rights groups report that labour activists sometimes experience harassment and persecution by the Government.

Right to an adequate standard of living is a high-risk human rights area in China and requires special attention from companies in two vital areas: minimum wage, and social security. Even though China operates with a minimum wage system and a social security system, recent surveys and reports inform that the regulations are not always upheld in practice and workers are often paid below the requirements and are not provided a social security scheme offering protection against unemployment, old-age, industrial injuries, maternity and sickness.

Right to health is a high-risk human rights area, which requires special attention from companies. Occupational health and safety standards are in practice below international standards and the number of industrial accidents and injuries is alarmingly high. Investigations demonstrate that workers often are unaware about OSH issues; monitoring, verification, and enforcement are in many cases always impartial and credible; machinery and equipment is sometimes obsolete, and sanitary conditions are often sub-standard.

Right to adequate housing and *right to own property* constitute high-risk human rights areas, which require particular attention from companies. Both rights are violated through the practice of forced evictions and relocations that occur as a consequence of China's current development and modernization. Recent reports from human rights groups document that a number of citizens are being evicted and relocated without consultation or adequate compensation, and often offered poor or no resettlement options. Even though the violations are perpetrated within the governmental realm, companies must remain vigilant for complicity when purchasing or renting property from the Government. Moreover, companies should be aware that conditions of employee housing is often far below international standards and lack basic facilities like showers or clean toilets, and the rooms are often extremely overcrowded.

Right to freedom from discrimination, *right to privacy* and *the right to family life* constitute high-risk human rights areas in China that require special attention from companies. No data protection law exists in China and there has been a tradition of monitoring citizens by keeping personal files with private information, including, family history, political affiliation, health information etc. According to human rights groups, the information has been widely used as a basis to discriminate against labourers, particularly women, ethnic minorities, people with HIV/AIDS and hepatitis B. Incidences of employers prohibiting employees from getting married or having children have occurred, and women have been forced to sign contracts stating that they will not become pregnant for the following 5 years.

Right to life, liberty and security of person is a high-risk human rights area in China. China still practices the death penalty and human rights groups report of several cases of arbitrary arrest and detention. Political opponents, religious dissidents, critics of the regime, and human rights and labour activists are particularly vulnerable groups. Even though violations are perpetrated in the governmental realm, companies should remain vigilant for complicity. Companies may risk direct involvement in violations of the right to life, liberty and security of person if the company uses state security forces either to guard premises or to maintain orderly and effective production, or in cases where the company provides the government with sensitive information about the political or religious activities of its employees, which may be used to arrest these individuals.

COMPANY RISK

The following rights received a yellow rating in the Company Risk category in the China CRA which indicates that these human rights constitute medium-risk areas for companies operating in China. A short description of each right follows below.

- Right to Freedom from Torture, Cruel, Inhuman or Degrading Treatment and Punishment (art. 5)
- Right to Fair Trial and Recognition as a Person before the Law (art. 6,7,10 and 11)
- Right to Freedom of Opinion, Expression, Thought, Conscience and Religion (art. 18 and 19)
- Right to Take Part in Government (art. 21)



- Right to Adequate Food (art. 25)
- Right to Education (art. 26)
- Right to Participate in Cultural Life (art. 26)
- Right to Intellectual Property (art. 26)

Violations of the *right to freedom from torture, cruel, inhuman or degrading treatment and punishment* and *right to fair trial and recognition as a person before the law* are mostly perpetrated within the governmental realm. According to human rights groups, conditions in penal institutions and administrative detention centres are well below international standards, and incidences of detainees and prisoners being subjected to torture and deprived of their right to a fair trial have been reported. Political opponents, religious dissidents, critics of the regime and human rights and labour activist are particularly vulnerable groups. Due to the severity of the violations companies must remain vigilant for complicity by not passing on sensitive information about employees to the Government which could be used to arrest vulnerable groups and expose them to the offending practices.

Violations of the *right to freedom of opinion, expression, thought, conscience and religion* and *right to take part in government* are predominantly perpetrated in the governmental realm. China practices widespread censorship on controversial and politically sensitive issues and political opposition parties, critics of the regime, as well religious dissidents experience harassment and persecution. The company must remain vigilant for complicity and must refrain from passing on information about employees' political and religious affiliations. Moreover, the company should as a rule, strive towards establishing an apolitical and non-discriminatory work environment. Corruption at all levels is also a serious problem in China and constitutes a human rights risk area for companies. As a rule, companies must not attempt to unjustly influence government officials, local authorities or the political and judicial process itself.

Violations of the *right to adequate food* are particularly relevant if employees are living at company compounds and the company provides food to the employees. Investigations made by labour advocates report that conditions in canteens often are below international standards and employees are served insufficient and unhealthy food. Migrant workers are particularly vulnerable to these conditions, as they are often required to live at company premises and eat company provided food.

The *right to education* is violated at several levels in China. Importantly, compulsory education is not free in practice, even though it is required to be so in law, and it is reported that direct charges in the form of fees are notorious and often very high according to several recent investigations. The consequence is that marginalized groups, such as children of migrant workers and poor farmers have limited access to education. In a company context, companies mainly risk

CONTENT OF THE CHINA COUNTRY RISK ASSESSMENT

The China Country Risk Assessment contains the following components

- 1 Executive summary
The executive summary presents a chart of the overall results of the China CRA followed by a summary of each right and the ratings of all three levels examined in the CRA.
- 2 Focal areas
Based on the results of the CRA, a number of high risk areas for China are selected to inform companies about the most important human rights problems in a company context. A description of the high risk areas is followed by recommendations, which can be used to check the company's own operations and/or the activities of its suppliers and contractors. The focal areas are selected in a two-stage process considering i) the status of the particular human right and the severity of the human rights violation and ii) company risk of non-compliance and the potential severity of the violation.
- 3 Background sheet
The background sheet provides a brief overview of China in terms of country statistics, recent history, form of government, legal system and accession to international human rights law.
- 4 Country risk assessment
This section comprises the full CRA where each right from the UDHR is examined and the level of risk is assessed in three categories: i) Formal Law; ii) Social and Cultural Practices; iii) Company Risk rating followed by recommendations.
- 5 List of recommended stakeholders
This list contains a number of organisations and individuals that have been contacted during the course of the research for the CRA on China. To ensure wider feedback and good public relations, we recommend companies to assemble a group of individuals either already based in China or with strong connections and expertise on China to engage in an ongoing review of the human rights and social impacts of company operations in the country.

