

This submission intends to inform the United Nations Human Rights Council (UNHRC) for its upcoming Universal Periodic Review (UPR) of the People's Republic of China. The State neglected its commitments to the UN Guiding Principles on Business and Human Rights (UNGPs) by failing to provide appropriate conflict sensitivity guidance to Chinese enterprises operating in Burma/Myanmar since the military coup began on 1 February 2021. Although China acknowledged its obligations under the Human Rights Action Plan of China (developed in response to the recommendations of the last UPR cycle), it not only failed to provide guidelines for its companies but also ignored local concerns and even assisted the junta crimes while fully aware of the magnitude of the violence.

Section A

Introduction: Systematic and widespread violence in Burma/Myanmar following the attempted coup

1. On 1 February 2021, the military junta began a coup to prevent elected Members of Parliament from forming government, and detained state leaders, including President Win Myint and State Counselor Aung San Suu Kyi.¹ Junta leader Senior General Min Aung Hlaing established the State Administration Council (SAC) and seized control of government ministries.² In mid-2023, the junta increased military expenditure by 51% for 2023-2024, which suggests that it planned to escalate more indiscriminate deployment of airstrikes and artillery shelling against civilians, mass burning of people alive, and torching of villages to displace civilians.³ The seriousness of these international crimes has been documented and verified by the Independent Investigative Mechanism for Myanmar, and the UN Special Rapporteur on the situation of human rights in Myanmar.
2. On 16 April 2021, the National Unity Consultative Council (NUCC) with the Committee Representing Pyidaungsu Hluttaw (CRPH)—representing 76% of the 498 democratically-elected members of Burma/Myanmar's parliament—announced the formation of the National Unity Government (NUG), the legitimate government of the Republic of the Union of Myanmar.⁴ On 5 May 2021, the NUG formed the People's Defence Forces (PDF), as a forerunner to the Federal Democratic Armed Forces and a means to effective security sector reform.⁵
3. The junta's violence has primarily targeted civilians in territories it has been unable to control, through artillery shelling, airstrikes, and mass killings, including beheading and burning people alive. As of 30 June 2023, there were at least 23,659 armed clashes and attacks, displacing at least 1,523,700 people.⁶ According to the Assistance Association for Political Prisoners (AAPP), as of 6 July 2023, the junta had killed 3,750 civilians since the attempted coup. The junta also sentenced 158 political prisoners to death as of 6 July 2023 and executed four political prisoners on 23 July 2022, including a former Member of Parliament.⁷ The Rohingya minority, survivors of genocidal violence, have been subjected to increased threats including harsh restrictions on freedom of movement.⁸
4. The junta's mismanagement has resulted in economic downfall, including kyat (MMK) depreciation, a surge in the inflation rate, and a severe power crisis.⁹ According to the World Bank, Burma/Myanmar's GDP growth rate dropped from an average of 6% to negative 18% after the attempted coup.¹⁰ The World Bank also said poverty had doubled

compared to March 2020, with about 40% of the population living in poverty.¹¹ The International Labour Organization (ILO) reported that Burma/Myanmar remained deeply affected by heavy job losses, with 1.1 million fewer people employed than before the attempted coup.¹²

5. Beijing was fully aware of the extent of armed conflict in Burma/Myanmar since the coup began. For example, in August 2021, the junta issued an apology to China over artillery shells that landed in the Chinese border city of Wan Ting.¹³ China directly engaged with conflict actors at its own discretion, e.g. in January 2022, it requested the Kachin Independence Organization to suspend military operations near its border, as it was hosting the Winter Olympics and Winter Paralympics in February and March 2022, respectively.¹⁴

Section B

Extraterritorial Obligations of China

6. China, as a permanent member of the UN Security Council (UNSC), has consistently claimed that the junta's seizure of power from an elected civilian government was "an internal affair" at UNSC and Human Rights Council meetings.¹⁵
7. China, as a state party to the International Covenant on Economic, Social, and Cultural Rights (ICESCR), has the duty to respect, protect, and fulfill the human rights specified in the ICESCR.¹⁶
8. China, as a state party to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), has the duty to respect, protect, and fulfill women's rights in the context of businesses' extraterritorial activities.¹⁷
9. China, as a state party to the Convention on the Rights of the Child, has the duty to respect, protect, and fulfill children's rights in the context of businesses' extraterritorial activities.¹⁸
10. China endorsed the United Nations Guiding Principles (UNGPs) on Business and Human Rights, which, in Principle 7, affirms that states should "help ensure that business enterprises operating in those contexts (i.e., armed conflict) are not involved with such abuses."¹⁹ UNGP Principle 23 also states that business enterprises should "seek ways to honor the principles of internationally recognized human rights when faced with conflicting requirements."²⁰
11. China accepted the UPR (third cycle) recommendation 28.133: to "take further measures on business and human rights in line with its international obligations and ensure that companies operating in high-risk, or conflict areas conduct human rights due diligence in line with UNGP on Business and Human Rights."²¹
12. China's Human Rights Action Plan (2021-2025) promised to encourage "Chinese businesses to abide by the UNGP on Business and Human Rights in their foreign trade and investment, to conduct due diligence on human rights, and to fulfill their social

responsibility to respect and promote human rights.”²²

13. Principle IV of China’s Guidelines on Further Guiding and Regulating Overseas Investments imposes stricter standards for investment approval in “sensitive countries and regions,” including those experiencing war or civil disturbance, and directs state institutions to “guide companies to invest prudently and provide the necessary guidance and reminders based on the specific situation.”²³
14. Despite China’s official commitment to promote and protect human rights, it failed to issue clear guidance and/or activate pre-existing standards to Chinese companies operating in Myanmar after the coup began. As a result, Chinese companies have, at best, shown a lack of sensitivity to the conflict-affected population, and, at worst, contributed to serious human rights violations in conflict-affected Burma/Myanmar.

Section C

Death and Displacement: How Chinese projects are fueling conflicts in Burma/Myanmar

15. Following the start of the coup, China dramatically expanded economic ties with the junta, with their involvement in China-Myanmar Economic Corridor, cross-border power grids and connectivity, industrial parks, China-Myanmar oil, and gas pipelines.²⁴ Myanmar Now reported that the junta’s Myanmar Investment Commission (MIC) approved 36 Chinese projects totaling more than USD 105.55 million between April 2022 and January 2023.²⁵
16. In pursuing its goals, China has shown complete disregard for conflict-affected communities’ difficulties. On 1 June 2023, barely two weeks after Cyclone Mocha, China pushed the junta to proceed with the Kyaukphyu deep sea port (Rakhine State) and special economic zone, key parts of China’s Belt and Road Initiative. A resident of Maday Island said that the deep-sea port would cut residents off from accessing the Maday Kyun River, where they make their livelihoods through fishing. The International Commission of Jurists said the economic zone would forcibly relocate nearly 20,000 people. A spokesperson for the Maday Island District Development Association said that the junta and China gave no answers to how they would compensate or provide job opportunities to adversely affected locals.²⁶
17. According to the Shan Human Rights Front, the junta has been able to easily sign new agreements with China and resume controversial projects by prohibiting public protests, often with the use of violence or arbitrary detention.²⁷ Chinese investment has legitimized the illegitimate junta and funded the junta’s atrocities against civilians.
18. The Institute for Strategy and Policy – Myanmar (ISP – Myanmar) reported that the number of clashes doubled in areas where China-Myanmar Economic Corridor projects had been implemented, from at least 101 clashes in 2021 to at least 200 as of 31 October 2022 (within ten months).²⁸ Inclusive Development International (IDI) also developed a map (see Figure 1) showing how clashes and violence against civilians have occurred near the Chinese projects.

19. This report highlights four significant cases in which Chinese business investments have failed to fulfill their responsibility to respect human rights due diligence, and contributed, both directly and indirectly, to serious human rights violations.

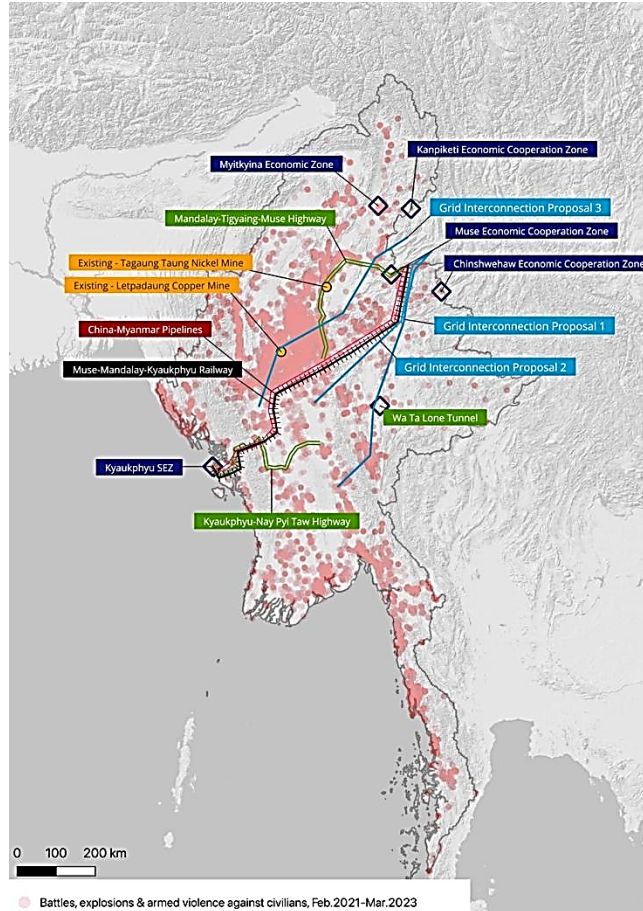


Figure.1. Clashes near Chinese projects during Feb 2021-Mar 2023. Map by Inclusive Development International, conflict data from Armed Conflict Location & Event Data Project (ACLED)

Section D

Cases/Incidents relevant to this submission:

China's demand to protect its projects encourages the junta to plant landmines near the Letpadaung copper mine and twin pipeline projects

(Right to life, Right to participation and consultation and Right to land, territory and adequate housing, Right to live in a healthy environment, Freedom to movement and residence, Right to social security, Right to work)

20. The Landmine Monitor reported that junta-planted-landmines were protecting two important Chinese projects: the Letpadaung copper mine and twin pipeline pumping stations, which were part of the Belt and Road Initiative.²⁹

Killings and mass forced displacement at Letpadaung copper mine in Sagaing Region (most conflict-affected region)

21. The Letpadaung copper mine in Salingyi Township (Sagaing Region) is a joint venture between China's state-owned Wanbao Co. and the junta-owned Myanmar Economic Holding Limited (MEHL).³⁰ China has reportedly pushed both the junta and the NUG government to protect its investments.³¹
22. In April 2022, violence around the copper mine intensified after a long halt in production.³² The junta used the site of the Letpadaung copper mine as a military base and committed atrocities to deter resistance groups by torching villages and torturing and dismembering civilians (including two local employees of the mine).³³
23. In June 2022, locals said that around 80 junta troops raided villages near the Letpadaung copper mine, torched 30 houses, and killed two villagers. In December 2022, a junta operation to protect the Letpadaung copper mine forced nearly 10,000 people from 13 affected villages to flee their homes.³⁴
24. On 1 April 2023, junta troops shot dead a resident near Kan Kone village in Salingyi Township and arrested another, who was later found dead on 3 April. Junta troops were advancing along the Pathein-Monywa road to provide security for the Letpadaung copper mine project.³⁵

Use of explosives (landmines) at twin pipeline project in Northern Shan State

25. The project extends nearly 800 kilometers, with twin pipelines running parallel from the port of Kyaukphyu in Rakhine State on the Bay of Bengal, through the Magwe and Mandalay Regions before entering China.³⁶
26. In September 2021, China asked the junta to "increase the security of the oil and natural gas pipelines."³⁷ In December 2021, the Shan Human Rights Foundation (SHRF) reported that junta troops began planting buried explosive devices near a subordinate center and along a section of pipelines along Union Highway in Hsipaw Township (N. Shan State).³⁸
27. Locals feared stepping on landmines. They also claimed they were afraid to enter the affected forested area, a crucial source of wildlife and firewood. The villagers urged junta troops to remove the mines, but they refused, saying, "This is for our security," and "We will remove them when we leave the area." The mines reignited fears among locals that the pipelines may explode, inflicting widespread damage and loss of life.³⁹
28. It is important to note that to date, there has been no evidence that China has taken steps to halt the use of landmines to protect Chinese investments in Burma/Myanmar, or to

request that these landmines be removed, given that such use may amount to serious breaches of international humanitarian law.

Extrajudicial killings at a Chinese-owned shoe factory in Yangon

(Right to life, Right to peaceful assembly and association, No torture and inhuman treatment, Equal before the law, Right to treated fair by court, No unfair detainment, Right to trial, Right to work)

29. On 17 March 2021, while Xing Jia factory workers in Industrial Zone (1) in Hlaingtharyar Township (Yangon Region) tried to collect their wages, a dispute developed as they were not paid in full. During the dispute, the owner of the factory, a Chinese national, called junta forces.
30. “Junta troops came into the factory and surrounded it. The police slapped a girl who was the leader of the workers. When she hit back, they shot her dead. Junta troops and police then arrested around 70 workers and loaded them onto two prisoner transport trucks. When people gathered to demand their release, the armed forces opened fire into the crowd, killing five more men.”⁴⁰ On 5 April 2021, six people, including three workers, were sentenced to three years at Yangon’s “notoriously inhumane” Insein prison.⁴¹

Chinese-owned garment factory utilizes the junta to crack down on union protests

(Right to peaceful assembly and association, Equal before the law, Right to treated fair by court, No unfair detainment, Right to trial, Right to work)

31. On 12 and 13 June 2023, workers at Hosheng Myanmar, a Chinese-owned Zara-supplier garment factory in Yangon, protested after factory management rejected the union’s daily wage raises of MMK 800 (about USD 0.38), promptly firing the leaders. More than 600 people joined the protests.⁴² Witnesses said the junta sent soldiers into the factory before the protest to threaten the workers, stating, “This is an area under martial law, and your little union doesn’t mean anything under it.”⁴³
32. On 14 June 2023, factory management sent junta soldiers to arrest four union leaders and at least ten other workers. Of those, two were reportedly junta-outlawed Action Labor Rights Group members.⁴⁴ It was reported that several other union members had gone into hiding.⁴⁵ On 20 Jun, Zara’s owner, Spanish company Inditex, announced that it would stop buying from Hosheng, stating, “The events that have occurred in this factory in recent days represent a serious breach of our Code of Conduct for manufacturers and suppliers.”⁴⁶ On 22 Jun, it was reported that, in response to Hosheng Myanmar arrests, the Inditex Group of Companies would decrease the number of products made in Burma and ultimately cease all operations.⁴⁷
33. On 27 June 2023, citing family members and close associates of the arrested workers, it was reported that the junta had charged eight detained workers for incitement and unlawful association under Section 505(a) and Section 17(1) of the Penal Code. The trial was scheduled to begin on 7 July 2023.⁴⁸

Section E

Recommendations

China should:

34. Immediately take steps to halt the actions and behavior of its companies and business partners that contribute to human rights violations in conflict-affected Burma/Myanmar, in particular, to prioritize the removal of landmines laid to protect Chinese investments in the country.
35. Issue clear guidance to Chinese businesses operating in Burma/Myanmar aligned with the UNGPs and other human rights obligations, which includes implementation of human rights due diligence and clear responses if such due diligence cannot be conducted and/or identified human rights risks cannot be mitigated.
36. Implement a monitoring system to ensure compliance with such aforementioned measures so that further harms can be prevented.
37. Establish effective and accessible conflict-sensitive grievance mechanisms, and ensure transparency of such mechanisms and other measures to allow affected communities to seek and receive remedies without fear of reprisal.
38. Review the human rights risks of business partnerships with the illegal junta and bodies under its control, and suspend such engagement if it has involved human rights violations.
39. Ensure compliance with the investment guidelines issued by the National Unity Government.
40. Cooperate with investigations and processes to hold accountable perpetrators of human rights violations in Burma/Myanmar, including those violations linked to business activities.

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