

1. This submission is a joint effort of the Pakistan Kissan Rabita Committee (PKRC), Pakistan; Aarhus Center in BiH, Bosnia and Herzegovina; Center for Ecology and Sustainable Development (Centar za ekologiju i održivi razvoj – CEKOR), Serbia; Just Finance International, and FIAN International. The joint submission focuses on China's extraterritorial states obligations (ETOs) in the area of economic, social, and cultural rights (ESC rights), in particular, the right to food and nutrition (RtFN) and related human rights, such as the right to a healthy, clean and sustainable environment of communities outside of China whose human rights are impacted by coal mines and operations of coal-powered thermal plants, including implications on climate and the rule of law.
2. There is growing awareness of the triple planetary crisis of climate change, biodiversity, and pollution becoming a grave threat to human rights globally. Acknowledging the human rights obligations of states vis-à-vis covenant rights outside their territories on the impacts of climate change,<sup>i</sup> the UN Committee on Economic, Social and Cultural Rights (CESCR) in its recent Concluding Observations on China has specifically called on China to “(S)uspend permissions to construct coal-fired power plants and pause ongoing financing for construction, including in the State party and abroad” and ensure that business entities (also sub-suppliers and those providing financing) acting abroad to be held accountable for their abuses and violations of ESC rights, with “particular attention to Indigenous Peoples’ and peasants’ land rights, environmental impact and expropriation (...)” and to put in place monitoring mechanisms to investigate and impose sanctions for harmful activities.<sup>ii</sup> Several recommendations approved by China in its third review of the Universal Periodic Review also underline the needed effort by China to ensure human rights and respect the environment while regulating the activities of corporations.<sup>iii</sup>
3. Outside of China, China's state-approved financing and construction of coal power generation continues, despite China's President Xi Jinping announcing at the seventy-sixth session of the United Nations General Assembly that China would vigorously support the green and low-carbon development of energy in developing countries and “...would no longer build new coal power projects overseas.” And yet, it has been reported that roughly 70% of the coal plants built globally now rely on Chinese funding. As of mid-2022, Chinese funds have supported at least 77 coal-fired power plants overseas,<sup>iv</sup> many of them in Indonesia<sup>v</sup> and other Belt and Road Initiative countries<sup>vi</sup> including the Western Balkans. China has built 14 overseas coal plants since vowing no new ones, according to research from 2022.<sup>vii</sup>
4. China's active role in support of overseas' coal thermal power plants - from financing, constructing, and expansion – is having not only a detrimental impact on the environment, but also jeopardizes local communities' ability to feed themselves, thereby inflicting abuses, and in the face of actions and omissions of China, causing violations of their human rights. The cases selected for this submission (Annexes 1-3) are exemplary of how the realization of human rights is challenged by the local communities. In the following, the main common issues across the selected cases are highlighted.
5. **Involvement of Chinese Actors, both state and non-state.** Various Chinese enterprises (many state-owned) are involved, either as Engineering, Procurement, and Construction contractors, financiers, project developers, or credit insurance.<sup>viii</sup> It is to be noted that Chinese companies' operations and financing of projects – either through equity or loans issued by Chinese banks – have all been facilitated and approved by Chinese state regulatory authorities.<sup>ix</sup>
6. **Violations of the ESC Rights.** Communities in Sahiwal, Pakistan, faced a coercive land acquisition process for the Sahiwal coal thermal plant project, and many farmers who lived in the villages

Chak 76/5-R, Chak3 77/5-R, and Qadirabad were forced into selling their agricultural lands. Others also claim that there was no adequate compensation.<sup>x</sup> In Kostolac, Serbia, agricultural land was taken to make way for the mine expansion of Drmno and the construction of a public road partially for mining works. Villagers complain that compensation was either inadequate or not paid.<sup>xi</sup> Pollution (air, water, and soil) caused by coal thermal power plants is a major issue in all concerned cases. More than 1300 premature deaths per year in Tuzla, Bosnia and Herzegovina, are attributed to air pollution caused by coal-powered thermal plants.<sup>xii</sup> Despite such a heavy toll on human health, a new unit, Tuzla 7 is under discussion to be established with Chinese support: By providing the loan and approving the construction of the new green field coal-fired power unit 7, Gezhouba and the loan issuer China Eximbank have taken a knowing decision in worsening the environmental pollution. If realized, the Tuzla 7 plant and the auxiliary waste and ash disposal would lock Tuzla 7 and the surrounding communities into at least four more decades of extreme pollution. Soil and water pollution is already affecting locally produced food.<sup>xiii</sup> In Kostolac, there has been damage to agricultural land, including pastureland and crops. In some areas, the water is reportedly so polluted that it is no longer suitable for drinking and daily use. Increasingly, local villagers are forced to buy food in supermarkets - instead of growing food for their own consumption.<sup>xiv</sup> In Sahiwal, farmers no longer can use canal water for irrigation, allegedly due to contamination with toxic substances. Farmers are fearful that polluted water is being discharged onto agricultural lands, damaging the soil and causing potential contamination of food crops in the coming years.<sup>xv</sup> The Sahiwal coal-powered thermal plant has also impacted women's lives: Due to the reduction of agricultural land, women who were formerly engaged in dairy cattle breeding no longer could keep their cattle. Without alternative sources of livelihood, women have started to engage in low-wage jobs, further decreasing their household income. Women are no longer able to maintain basic nutritional sustainability and livelihoods with security.<sup>xvi</sup>

7. In all concerned cases, **irregularities in community consultations and environmental impact assessment procedures** have been reported. In Kostolac, Drmno open cast coal mine expansion was not accompanied by proper conduct of the environmental impact assessment nor community consultation,<sup>xvii</sup> while the Tuzla 7 thermal power plant's environmental permit was renewed despite CSO complaints that there was no prescription of emission value in line with the European Industrial Emission Directive during the impact assessment procedure.<sup>xviii</sup> In Sahiwal, a writ petition was filed arguing that the project commenced without compliance with the National Environmental Quality Standards and pollution charge (Industry Caclulation) rules 2001.<sup>xix</sup>
8. **Breaches of Extraterritorial Human Rights Obligations.** China, as the Home State of all concerned enterprises, is obliged to regulate the conduct of their activities and prevent them from abusing the human rights of affected communities in all cases to not incurring in violations of its international human rights obligations. China's actions and omissions contravene not only its extraterritorial human rights obligations but run afoul of its commitments.<sup>xx</sup> National laws and regulations of the Host States governing public consultation, environmental impact assessment, construction, and transboundary impact assessments were routinely violated in Chinese-financed and constructed coal projects overseas, including those included in this submission.
9. In view of the above, the submitting organizations call upon the member states of the UN Human Rights Council to urge the Government of the People's Republic of China to respect and protect ESC rights, in particular, the right to life, the RTFN and the right to a safe, clean and sustainable environment of communities affected by coal, including those in Pakistan, Serbia, and Bosnia and Herzegovina by swiftly implementing the Concluding Observations of the CESCR on China,

through:

- a. providing an immediate remedy to harms and damages suffered by the concerned communities and avoid future abuses and violations;
- b. disclosing the real-time data of China's overseas coal phase-out and disaggregated data of Chinese institutions, including financial institutions, state-owned enterprises, and insurance that are involved in these overseas coal projects;
- c. disclosing the measures proposed and taken to remedy human rights abuses and damages caused by climate change and the right to life and health directly linked to the aforementioned China-led coal projects internationally. Public consultation should be held in countries where projects are hosted;
- d. establishing monitoring mechanisms to investigate abuses and violations of human rights, and sanctioning business entities domiciled under China's jurisdiction for climate, environmental, and social adverse impacts to the communities affected by the respective projects. Particular attention should be paid to violations and abuses of the right to land of Indigenous People, peasants, and other persons and communities working in rural areas;
- e. making public the monitoring of the implementation of the Concluding Observations of the CESCR on China.

## ENDNOTE

- <sup>i</sup> See E/C.12/2018/1 and Maastricht Principles on the Extraterritorial Obligations of States.
- <sup>ii</sup> See List of Issues to China, E/C.12/CHN/CO/3, para 24, 25 (April 2021 refers)
- <sup>iii</sup> Recommendations 28.130, 28.131, 28.132, 28.133.
- <sup>iv</sup> *China's Global Power Database*. (n.d.). <https://www.bu.edu/cgp/>
- <sup>v</sup> FairPlanet. (n.d.). *The true cost of China's BRI projects in Indonesia | FairPlanet*. FairPlanet. <https://www.fairplanet.org/dossier/loss-and-damage/the-true-cost-of-chinas-bri-projects-in-indonesia>
- <sup>vi</sup> Lee, C. (2022, December 21). China's "no new coal overseas" pledge has a big catch. *FairPlanet*.
- <sup>vii</sup> Murtaugh, D. (2022, September 22). China has built 14 coal plants abroad since vowing no new ones. *Bloomberg.com*. <https://www.bloomberg.com/news/articles/2022-09-22/china-has-built-14-overseas-coal-plants-since-vowing-no-new-ones>
- <sup>viii</sup> China's SOEs Consortium led by China Gezhouba, a subsidiary of China Energy Engineering and Corporation (CEEC), is the Engineering, Procurement, and Construction contractor for the planned Tuzla 7 coal-fired power station project. For Kostolac B3 coal-fired power plant (Serbia), the Chinese SOE – the China Machinery Engineering Corporation (CMEC) is the Engineering, Procurement and Construction contractor. Both projects are financed through the loans issued by China Eximbank. The Drmno coal mine, while operated by Serbia's electricity company Elektroprivreda Srbije (EPS), is also funded by China Eximbank. Sahiwal Power Plant is funded by the consortium of Huaneng Shandong Power Generation Company Ltd and Shandong Ruyi Group, with the former holding 51% of shares and is also responsible for running the plant operations and maintenance.
- <sup>ix</sup> For example, the State Council, the National Reform and Development Commission, the state-owned Assets Supervision and Administration Commission, the Ministry of Commerce and Ministry of Foreign Affairs. This implies a heightened burden of care for the Chinese state, including in the full implementation of its Covenant obligations. See Climate change and human rights: China's questionable "international coast exit": concerns for the breach of the right to life and health. A joint submission to the CESCR by Just Finance International, Aarhus Center, Bosnia and Herzegovina, CEKOR, Serbia, January 2023. P.5 Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCESCR%2FCSS%2FCHN%2F51302&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCESCR%2FCSS%2FCHN%2F51302&Lang=en)
- <sup>x</sup> Project Brief. Sahiwal Coal-Fired Power Plant. Rural Development Policy Institute. September 2021. p.8.
- <sup>xi</sup> Coal Power Ecological Destruction in the Western Balkans. Violations of Communities' right to adequate food and nutrition and a clean, healthy, and sustainable environment (forthcoming). P. 21.
- <sup>xii</sup> See [https://www.fian.org/files/is/htdocs/wp11102127\\_GNIAANVR7U/www/files/s\\_0706\\_BosniaHerzegovina\\_Coal%20related%20impacts\\_with%20Aarhus%20Centre.doc.pdf](https://www.fian.org/files/is/htdocs/wp11102127_GNIAANVR7U/www/files/s_0706_BosniaHerzegovina_Coal%20related%20impacts_with%20Aarhus%20Centre.doc.pdf)
- <sup>xiii</sup> Abdel Đozić, A. and Žiško, D. *Pollution of land, surface and groundwater near the slag and ash disposal site of Tuzla Thermal Power Plant*. Centre for ecology and energy.
- <sup>xiv</sup> *ibid*.
- <sup>xv</sup> According to testimonies gathered during the interviews conducted by PKRC in March 2023.
- <sup>xvi</sup> Niazi, K., He, G., and Ullah, S. (2019). Lifestyle Change of Female Farmers through CPEC's Coal Power Plant Project Initiative. *Journal of International Women's Studies*, 20 (3). 154-167.
- <sup>xvii</sup> Climate change and human rights: China's questionable "international coast exit": concerns for the breach of the right to life and health. A joint submission to the CESCR by Just Finance International, Aarhus Center, Bosnia and Herzegovina, CEKOR, Serbia, January 2023. P.5 Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCESCR%2FCSS%2FCHN%2F51302&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2FCESCR%2FCSS%2FCHN%2F51302&Lang=en)
- <sup>xviii</sup> [http://climatecasechart.com/wp-content/uploads/sites/16/non-us-case-documents/2021/20210317\\_AL-BIH-22021\\_complaint-1.pdf](http://climatecasechart.com/wp-content/uploads/sites/16/non-us-case-documents/2021/20210317_AL-BIH-22021_complaint-1.pdf)
- <sup>xix</sup> Reporter, O. S. (2016, January 26). Court lets Sahiwal power plant go on. *The Nation*. <https://www.nation.com.pk/26-Jan-2016/court-lets-sahiwal-power-plant-go-on>
- <sup>xx</sup> China's law/regulatory framework still does not apply to overseas projects. Some of the commitments to be mentioned are: - Administrative Measures for the Outbound Investment of Enterprises (New Measures) (2018) and the Green Development Guidelines for Overseas Investments and Cooperation (2021). In the countries where projects are implemented, some of the systematic irregularities are with respect to environmental permitting procedures in contravention with national laws and policies (e.g. National Environmental Quality Standards and pollution charge (Industry Calculation) rules 2001 of Pakistan), Environmental Impact Assessment for Serbia (as no EIA was conducted for the expansion of the Drmno mine), a faulty Environmental Impact Assessment and public consultation process for Bosnia-Herzegovina, as well as sham public consultations across several coal-fired power stations involving Chinese financing, equipment and construction and consideration (in the planning and construction phase).