

LEARNING SPACES BRIEF 4

# LEGAL ADVOCACY ON CHINA'S BELT AND ROAD

KEY TAKEAWAYS AND RESOURCES



NOVEMBER 2021



# MAIN TAKEAWAYS FROM THE JUNE 8, 2021 LEARNING SPACES WEBINAR

This Brief summarizes the main takeaways from our June 8, 2021 Learning Spaces Workshop which was the last in our series of Learning Spaces webinars/workshops<sup>1</sup>. This Workshop brought together civil society actors from the Asia-Pacific to co-design actions to hold Chinese government and corporate actors accountable for the human rights and environmental impacts of their investment in BRI partner countries.

It began with a presentation by Aaron Halegua, a lawyer with extensive experience in Chinese labor law. Aaron related a fascinating case study of how litigation was used to successfully hold Chinese construction companies accountable for their mistreatment of Chinese workers in Saipan.

See Learning Spaces Briefs 1-3 for discussion of the previous webinars/workshops.





# CASE STUDY: LITIGATION ON BEHALF OF CHINESE CONSTRUCTION WORKERS IN SAIPAN

## Actors

Chinese construction companies, Chinese workers, the U.S. government

## Location

Saipan

## Time

2017-2021

## Background

Saipan is part of the Commonwealth of the Northern Mariana Islands (CNMI) administered by the United States. For a long time, U.S. labor and immigration laws were not enforced on this island, allowing the CNMI government to use its discretion to design policies attractive to garment manufacturers. The result was the growth of a garment industry employing migrants from around Asia. Due to media exposure of terrible labor conditions in the factories and class action lawsuits in the late 1990s, the U.S. Congress decided to extend federal control over immigration and minimum wage in Saipan.

With the decline of the garment industry, Saipan legalised gambling in 2013 to attract casinos to the island. An exclusive license was issued to Imperial Pacific, a Chinese company, which agreed to build a hotel and hotel using mostly

local workers to boost the local economy. Instead it hired several Chinese construction firms - state-owned companies such as the Metallurgical Corporation of China (MCC), publicly-traded companies such as Gold Mantis, and private firms such as Nanjing Beilida - which proceeded to import thousands of workers from China, many of whom were charged high recruitment fees, and never given a legal working visa.

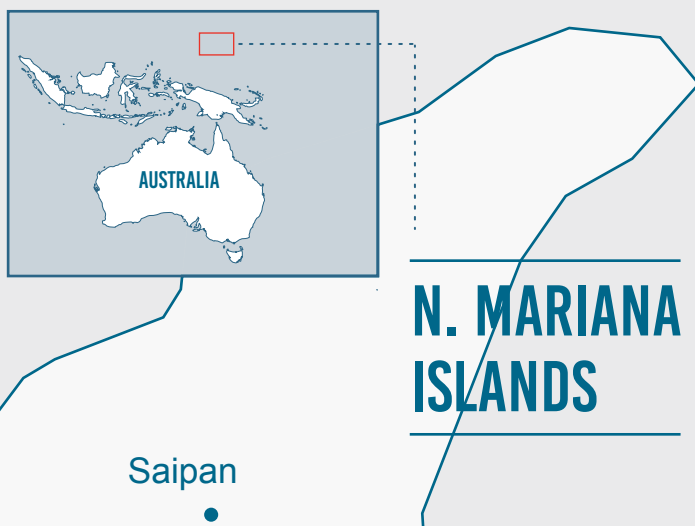
The construction companies' promotional materials promised workers good wages and working conditions, and highlighted their contribution to China's Belt and Road Initiative. The reality was much different. Workers labored in unsafe conditions, resulting in numerous injuries, lived in crowded dormitories, worked 13-hour days, seven days a week, and were paid well below the minimum wage if they were paid at all. A number of workers complained that the safety conditions on site were worse than those in China.

## Summary

These problems eventually came to light in March of 2017 when a worker fell to his death on the construction site, and the FBI found out that the worker was on a tourist visa. The FBI raided the construction companies' offices and arrested several of the managers who later pled guilty to charges of illegally employing undocumented workers. Other Chinese managers fled back to China, abandoning the workers who then began public protests which garnered widespread local and international media attention.

## Outcome

In response to the negative media coverage and perhaps to avoid trouble with the Chinese government, the Chinese companies negotiated settlements in 2018-19 with the U.S. Department of Labor to pay nearly U.S.\$14 million to 2,400 workers in owed wages. In addition, the contractors agreed to pay more than U.S.\$200,000 in fines. Most recently, in May 2021, a private lawsuit filed in the U.S. federal court in Saipan on behalf of seven injured workers resulted in a decision that Imperial Pacific pay compensation totaling \$5.4 million to the workers.



# Q&A SESSION

## **1. At what point did you reach out to the Chinese embassy [in the Saipan case] and what was the reaction?**

**Aaron:** The workers wrote a letter to the Chinese consulate in Los Angeles asking for help to resolve the dispute. I heard Chinese diplomats went to Saipan in response but cannot confirm this. The Chinese government may have some power to persuade or influence Chinese companies to take actions, such as paying abused workers, in order to avoid hurting China's public image.

## **2. Does it make sense to write letters to the government agency about the violations performed by the companies? What regulatory documents should accompany those letters?**

**Aaron:** It may be effective in some cases. I learned of a Chinese company involved in building the Myanmar-China pipeline project that responded to a written complaint by having meetings with the local people.

## **3. How do we leverage the Saipan case for long lasting future impact (e.g. better working conditions)?**

**Aaron:** Regarding better working conditions, establishing local trade unions can be a big part of the solution. Workers will be given the power to monitor themselves instead of relying on the government or an outside party to do so. However, it is extremely rare to have trade unions represent migrants who are working abroad temporarily. Their short time in the host country makes it very unlikely for them to form a union, or for unions to organize or recruit them.

Another policy tool is to have better laws protecting workers and better reinforcement of those laws. There is a need to use the regulatory tools in a smarter way to prevent abuses.

# LINKS TO RESOURCES ON CHINA'S BRI

To understand key Chinese terms in international relations and development cooperation

Check out the [Decoding China Dictionary](#), a new guide which interprets the official Chinese meaning of these terms.

The digital dictionary ["What China says, what China means, and what this means for human rights"](#), explains ten of these terms and phrases.

Databases/reports mapping investment and NGO projects in the BRI

AidData, ["How China Lends: A Rare Look into China's Debt Contracts with Foreign Governments"](#)

[China's Overseas Development Finance: Geospatial Data for Analysis of Biodiversity and Indigenous Lands](#) This interactive database allows users to locate China's overseas development projects and their proximity to indigenous lands, critical habitats, and national protected areas.

The [People's Map of Global China](#) is a resource for sharing and crowdsourcing information about the impacts of BRI on communities, labor, environment and indigenous peoples

GEI's [Report on Chinese NGOs Going Global](#) (2016)

China Development Brief's [Map of Chinese NGO projects in the BRI](#)

[Databases for the Belt and Road Initiative \(BRI\)](#) provides a collection of different databases on BRI

[AIIB Watch](#) documents environmental and social conflicts arising from infrastructure projects financed by the Asian Infrastructure Investment Bank (AIIB)

International Federation for Human Rights' (FIDH), [BRI and Human Rights webpage](#) featuring BRI Watch newsletters, descriptions of Chinese projects, and background on the BRI

Business and Human Rights Resource Center, ["Going out" responsibly: The human rights impact of China's global investments](#) (August 2021)

Peace Research Institute Frankfurt and Saferworld, [Road to peace or bone of contention: the impact of the Belt and Road Initiative on conflict states](#) (March 2021)

Saferworld, **Public perceptions of the Belt and Road Initiative: Guiding 'win-wins' for people, business and policy makers** (August 2021) based on interviews with civil society representatives in Kyrgyzstan, Myanmar and Uganda

**Archaeologies of the Belt and Road Initiative** (2021) is a series of articles exploring the long history of China's international engagement with the global North and South.

## Guidance for civil society working on BRI

Inclusive Development International, **Following the Money**, an online guide for advocates on how to do investment chain mapping

Inclusive Development International, **Safeguarding People and the Environment in Chinese Investments: A Reference Guide for Advocates**

Business and Human Rights Resource Center, **Portal on Chinese Investment Overseas**

## Important Chinese policies, plans and guidelines relevant to the BRI

Inclusive Development International, **Safeguarding People and the Environment in Chinese Investments: A Reference Guide for Advocates**, Part 3 (2019)

Business and Human Rights Resource Center, **Guidance by Government, Business and Civil Society**

Ministry of Commerce and Ministry of Ecology and Environment, **Working Guidelines for Green Development in Overseas Investment and Cooperation (English version) (Chinese version)**



Learning Spaces on China's Belt and Road Initiative (BRI) and Beyond is a collaboration between Social Innovations Advisory (SIA) and Innovation for Change-East Asia (I4C-EA). Our mission is to strengthen Global South civil society's understanding of, and action around, the BRI by 1) organizing webinars/workshops; and 2) facilitating greater regional coordination between activists on strategies and solutions.



# CONTACT US

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