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COMMITTEE ON ECONOMIC, SOCIAL  
AND CULTURAL RIGHTS  
Pre-sessional working group  
17-21 May 2004

**IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON  
ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**List of issues to be taken up in connection with the consideration of the  
initial report of the PEOPLE'S REPUBLIC OF CHINA concerning the  
rights covered by articles 1-15 of the International Covenant on Economic,  
Social and Cultural Rights (E/1990/5/Add.59)**

## **Part One**

### **CHINA**

#### **I. GENERAL INFORMATION**

##### **A. General legal framework within which the Covenant is implemented**

1. Please indicate the extent to which the International Covenant on Economic, Social and Cultural Rights can be invoked before the courts in China.
2. Please indicate whether the State party intends to withdraw the declaration on article 8.1 (a).

##### **B. Information and publicity**

3. Please provide information on the measures taken by the State party to inform and sensitize the competent authorities and the public at large about the provisions of the Covenant, and about the rights of the people of China.

#### **II. ISSUES RELATING TO GENERAL PROVISIONS OF THE COVENANT (arts. 1 to 5)**

##### **Article 1: Self-determination**

4. To what extent is non-violent advocacy for self-determination by the officially recognized ethnic minorities - such as Tibetans, Mongols and Uighurs - considered lawful under the State party's legal regime?

##### **Article 2.2: Non-discrimination**

5. Please describe the national household registration system (*hukou*) and its implications for persons migrating from rural to urban areas.
6. Please provide further information on the existing legislation and policies against discrimination in the enjoyment of rights provided for in the Covenant, specifically, on the grounds of race, religion and sexual orientation.
7. Please describe measures taken by the State party to ensure the implementation of legislative provisions against discrimination such as the Women's Rights and Interests Act, the Protection of Minors Act, the Protection of the Handicapped Act and the Rights and Interests of the Elderly Act. Please cite specific cases whereby these acts have been invoked before the courts. Furthermore, the Committee would like to receive summary descriptions of the contents of the above-mentioned acts, in English if possible.
8. The Special Rapporteur on racism, racial discrimination, xenophobia and related intolerance referred in his report of December 2002 (E/CN.4/2002/24, para. 58) to information indicating that Tibetans in the Tibetan Autonomous Region (TAR) suffer various forms of

systematic and institutional discrimination in the fields of employment, health care, education, housing and public representation. Please comment on this specific concern of the Special Rapporteur's report.

9. Please indicate the number and nationality of asylum-seekers who applied for refugee status during the last five years, and the number of applications accepted. Please provide information on the treatment of refugees with respect to their economic, social and cultural rights. Furthermore, please comment on the statement made by the Special Rapporteur on the right to food on 10 May 2004 that "... the systematic and widespread persecution of the refugees from the Democratic People's Republic of Korea [through] hunger, on Chinese soil, constitutes a grave and repeated violation of the human right to food, which is protected by the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention on the Rights of the Child".

### **Article 3: Equal rights for men and women**

10. Please describe the equal rights of men and women in the enjoyment of economic, social and cultural rights, in particular, in equal pay for work of equal value, as well as in inheritance and land rights. What laws and programmes are being enacted and enforced to ensure gender equality in these areas?

11. Please provide further details on the relative proportions of women vis-à-vis men in managerial positions in the Government, reflecting any changes seen in the last five years. What measures has the Government taken to reduce the representational imbalance between men and women in government, legislative bodies and the judiciary?

## **III. ISSUES RELATING TO SPECIFIC PROVISIONS OF THE COVENANT (arts. 6 to 15)**

### **Article 6: The right to work**

12. Please provide further information on the situation of unemployment in China, including statistics disaggregated by regions, sectors of the economy, sex and age groups, in the last five years.

13. Further to the information in paragraph 29 of the initial report, please provide statistics on workers laid off in the State-sector industries in the last five years, disaggregated by sex, age and regions. The Committee would also like to receive information on the results of the government initiatives taken to tackle this problem, as described in paragraph 28 of the report.

14. Please provide information on the impact of privatization and downsizing of State enterprises on the rights of workers to opportunities and benefits of employment.

### **Article 7: The right to just and favourable conditions of work**

15. Further to the information in paragraphs 53 and 54 of the initial report, please provide information on the situation in practice in various sectors of activity with regard to weekly rest, normal hours of work and overtime, holidays with pay and remuneration for public holidays.

16. Please provide statistics on, and penalties for, employers who violate labour laws on overtime pay.

17. In addition to the information in paragraphs 62 and 63 of the initial report, please provide statistical information on occupational accidents and illnesses in the last five years, disaggregated by nature and frequency of accidents/illnesses, occupation, age and sex.

18. Please clarify the alleged practice of factory managers requiring deposits from migrant workers and the practice of paying wages only annually by construction contractors and factories.

#### **Article 8: Trade union rights**

19. Please indicate whether there are legislative provisions in China on the right to organize trade unions that are independent of the All China Federation of Trade Unions (ACFTU), the public authorities and of the ruling party.

20. Please provide statistics on the legal handling of Chinese workers who have been criminally charged for violating restrictions on the right to organize, including the number of the workers subjected to administrative punishments, such as “re-education through labour” (*laodong jiaoyang*).

21. Please provide further information on the number of work stoppages or slow-down strikes that have taken place in the last five years and please describe how these strikes have been handled by the Government.

22. Please provide information on the number of labour cases brought to courts and labour tribunals by the All China Federation of Trade Unions (ACFTU) on behalf of its members.

#### **Article 9: The right to social security**

23. Please provide information on the unemployment benefits, health insurance and pensions made available to laid-off as well as retired workers in the public sector.

24. Please provide information on any delays on payments in wages, pensions and benefits for workers in State-owned enterprises, and on any measures taken by the Government to rectify the situation.

25. Please provide statistics on the proportion of the Chinese population who enjoy the right to social security benefits, disaggregated according to provinces as well as urban/rural residency.

#### **Article 10: Protection of the family, mothers and children**

26. Please describe actions taken by the State party to combat violence against women and children, in particular in the home. Please provide information on legislative measures and other government initiatives addressing prevention and psychological rehabilitation of victims, as well as educational campaigns for the general public, and penalties for offenders. Please indicate whether the State party envisages amending the existing legislation to include marital rape as a criminal offence and adopting specific legislation on domestic violence.

27. Please explain the factors causing the disproportionately high rate of suicide among women in China as reported in table 11 of the report, and what action the Government has taken to counteract this phenomenon.
28. Please describe to what extent there is a problem of domestic and cross-border trafficking of women and of children, as well as the kidnapping and abduction of children in China.
29. Please describe “diligent work and economical study” (*Qingong jianxue*) in which primary and middle schoolchildren engage in manufacturing and/or agricultural labour to contribute to their schools’ operating budget.

#### **Article 11: The right to an adequate standard of living**

30. The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living reported the demolition of historic buildings and housing complexes in Lhasa, Tibet, and the forced eviction of residents, mostly indigenous Tibetans (E/CN.4/2003/5, para. 25). Please provide an update on the situation.
31. Please provide detailed information on the extent of homelessness in China, and information regarding forced evictions and demolitions (*chaiqian*) of people’s homes in China’s cities by State and private actors.
32. Please describe the positive measures taken to sustain adequate living standards, including livelihood opportunities, for people who have been resettled to make way for large dam projects such as the Three Gorges Project.
33. Please provide information on the availability and accessibility of institutions for older persons, such as old-age homes and day centres, and on their enjoyment of social security and insurance benefits.

#### **Article 12: The right to physical and mental health**

34. Paragraph 167 of the initial report indicates that the health-care system in agricultural villages, especially in areas inhabited by minority peoples, remains sub-standard. By the State party’s own account, a serious shortage of investment in health facilities in rural communities makes it difficult to guarantee the provision of public health and preventive health services. Please update the information on the Government plans to improve the quality of the health care provided and the access by the rural population to health-care services.
35. Please provide updated information on the situation of the recent severe acute respiratory syndrome (SARS) epidemic, including in the Tibetan Autonomous Region (TAR). Furthermore, please describe the measures taken and resources committed by the State party to address this problem.
36. Please describe the extent of the high incidence of HIV/AIDS infection in China, including the extent to which intravenous drug use or poor sanitation in China’s blood-collecting industry have contributed to the spread of HIV/AIDS.

37. Please describe the situation of persons infected with HIV/AIDS and the assistance the Government provides for them, including initiatives to facilitate the formation of support groups and associations to help those suffering from HIV/AIDS. Please describe how they are protected from discrimination, in law and in practice, particularly in employment, marriage, residence and the use of public facilities.

38. Please provide information on how the international aid and funding from international organizations are used to combat the widespread diseases such as HIV/AIDS, sexually transmitted diseases (STDs), viral hepatitis and tuberculosis. Please describe the results obtained and the progress achieved.

39. Please provide statistics on maternal mortality resulting from unsafe abortions.

### **Articles 13 and 14: The right to education**

40. Please indicate what percentages of the central State and local administration budgets were earmarked for education during the past five years, and whether there has been any reduction of the education spending as a share of GDP in recent years.

41. The Committee on the Elimination of Discrimination against Women in its concluding observations (A/54/38, paras. 251-336) of February 1999 stated that it was concerned about the disproportionate persistence of illiteracy among women, especially women in rural and remote areas, and among ethnic and religious minority women. In addition to the information in paragraph 220 of the initial report, please indicate whether any initiatives have been taken by the Government to address this problem. In addition, please provide disaggregated statistical information on literacy rates, by region.

42. Please provide information on the provision of human rights education in school curricula, if any, at all levels of education. Please provide information on human rights training provided to: inter alia, teachers, health workers, judges, law enforcement officers, civil servants and military personnel.

### **Article 15: The right to take part in cultural life and to enjoy the benefits of scientific progress and protection of authors' rights**

43. Please indicate the extent to which restrictions are imposed on the publication of academic research, in particular in the social sciences and humanities.

44. Please provide information on the measures undertaken by the State party regarding the recommendations made by UNESCO in August 2003 towards mitigating the negative impact on the value of historic properties declared as World Heritage sites, brought about by the urban development plan in the Tibetan capital of Lhasa.

45. Please provide information on the positive measures taken by the State party to preserve the indigenous culture of the Mongolian as well as the Tibetan populations residing in the Dulan county, Tsunub "Mongol and Tibetan prefectures", affected by the "China Western Poverty Alleviation Project", in particular the construction of a water storage dam and large-scale irrigation schemes in Qinghai.

46. Please provide information on the enjoyment of the right to freedom of religion as a dimension of cultural rights, by people belonging to minority groups in China, in particular Protestant and Catholic groups, Muslim Uighurs, Tibetan Buddhists and Falun Gong practitioners.

## **Part Two**

### **HONG KONG SPECIAL ADMINISTRATIVE REGION (SAR)**

#### **I. GENERAL LEGAL FRAMEWORK WITHIN WHICH THE COVENANT IS IMPLEMENTED**

47. Please provide information on the extent to which the public at large is aware that the Covenant may be invoked before the courts of the Hong Kong Special Administrative Region. Please cite cases in the past five years when the Covenant has actually been invoked before the courts.

48. Please describe the measures taken by HKSAR to safeguard the independence of the Equal Opportunities Commission (EOC) and provide information on any interventions, if any, made by private or public actors on EOC's operations.

49. Please indicate what change in circumstances would indicate to HKSAR that there is a need for a national human rights institution based on the Paris Principles and the Committee's general comment No. 10 (paragraph 356 of the initial report).

#### **II. ISSUES RELATING TO GENERAL PROVISIONS OF THE COVENANT (arts. 1 to 5)**

##### **Article 2.2: Non-discrimination**

50. Please provide some example of "potentially far-reaching implication" (paragraph 354 of the initial report) that might result from prohibiting discrimination on the basis of age.

51. Please provide updated information on the ongoing analysis towards resolving the question of legislation against racial discrimination in the private sector (paragraph 351 of the initial report).

52. Please describe the public education initiatives undertaken by HKSAR to combat discrimination against those with mental disabilities as recommended by the Committee in its concluding observation on the Hong Kong Special Administrative Region's initial report in 2001 (E/C.12.1/Add.58, para. 20).

##### **Article 3: Equal rights of men and women**

53. Please provide updated information on the amendments of the Sex Discrimination Ordinance as proposed by the Equal Opportunities Commission and, in particular, the extent to which HKSAR has accepted these proposed amendments (paragraph 378 of the initial report of China).

### **III. ISSUES RELATING TO SPECIFIC PROVISIONS OF THE COVENANT (arts. 6 to 15)**

#### **Article 6: The right to work**

54. Please describe measures undertaken to address the growing problem of unemployment within the middle-aged and unskilled labour sector.

#### **Article 7: The right to just and favourable conditions of work**

55. Please provide information on the effects of the HK\$ 400 reduction in 2003 of the minimum allowable wage for foreign domestic helpers and the concurrent HK\$ 400 tax imposed on employers of foreign domestic helpers.

56. Please clarify further how HKSAR intends to protect and fulfil the rights under article 7 of the Covenant in the absence of legislation regarding, inter alia, maximum working hours, statutory overtime pay and rest days (paragraph 410 of the initial report).

57. Please provide information on the results of the 2001 Equal Opportunities Commission study regarding “gender-based pay inequalities” (paragraph 411 of the initial report).

58. Given the wide disparity between male and female workers both in terms of income level and occupational types in HKSAR, what measures have been taken to address such disparities, particularly in terms of fair wages and equal pay for work of equal value?

59. Given the absence of a minimum wage, how does the government of HKSAR determine whether the actual earnings are commensurate with the cost of living for workers and their families?

#### **Article 9: The right to social security**

60. Please provide information on the extent to which the “Ending Exclusion” project has been effective in helping single-parent Comprehensive Social Security Assistance (CSSA) recipients with young children to be self-reliant and integrated into society (paragraph 452 of the initial report).

61. Please indicate to what extent the reductions of basic rates of assistance paid through the CSSA scheme in 1999 and 2003 can continue to provide for an adequate standard of living for the recipients, including children and older persons.

62. What measures has HKSAR adopted to ensure that domestic workers who are mostly women and who are excluded from the Mandatory Provident Fund scheme will be able to enjoy retirement benefits of a comparable level with others who are covered by this scheme?

#### **Article 10: Protection of the family, mothers and children**

63. Please indicate what risk factors lead to suicide among the youth, and provide updated information on the positive results of the various measures undertaken to address the high incidence of youth suicide (paragraphs 486 to 496 of the initial report).

64. Please provide updated information on the Juvenile Offenders (Amendment) Bill 2001 that was being studied by the Legislature Council at the time the report was being drafted (paragraph 507 of the initial report).

65. Please provide detailed information on the progress of right-of-abode claims and their impact on the situations of split families.

#### **Article 11: The right to an adequate standard of living**

66. Please provide information on the issues critical to the formulation of urban development related to the Hong Kong 2030 study, and how HKSAR intends to effectively address these issues.

67. Please indicate the reasons for the continuing non-existence of an official poverty line that would provide a basis for evaluating the progress of HKSAR in its plan to combat poverty and narrow domestic disparities in incomes and wealth.

68. Please provide updated situation on the number of inadequately housed persons in HKSAR, and describe the steps taken to improve the living conditions of squatters in interim housing, in cubicles and in non-self-contained housing.

#### **Article 12: The right to physical and mental health**

69. Please clarify further why HKSAR disagrees with the usefulness of a Mental Health Council as recommended by the Equal Opportunities Commission, in the light of the fragmented mental health-care policies currently in place.

70. Please provide detailed information on the protection against discrimination of people with HIV/AIDS, homosexual men and sex workers, particularly with regard to their enjoyment of health care, as well as their access to HIV/AIDS prevention services.

#### **Articles 13 and 14: The right to education**

71. Please describe support mechanisms that are in place, if any, to assist ethnic minority students in schools to cope with subjects that are taught using Chinese as the medium of instruction. What monitoring mechanisms are in place, if any?

72. Please provide disaggregated data over the past five years on the ratio of applications to admissions at tertiary-level institutions in HKSAR.

73. Please provide information on the total number of mainland children who have no legal right to remain in Hong Kong and therefore are not allowed to enrol in local schools. Further, to what extent does HKSAR also extend its “humanitarian and compassionate grounds” to those children who do not have pending verification of their residential status (paragraph 739 of the initial report)?

**Article 15: The right to take part in cultural life and to enjoy the benefits of scientific progress and protection of authors' rights**

74. Please provide information on why the Cultural and Heritage Commission has been dissolved and what institutions are in place as an alternative.

**Part Three**

**MACAU SPECIAL ADMINISTRATIVE REGION (SAR)**

**I. GENERAL LEGAL FRAMEWORK WITHIN WHICH THE COVENANT IS IMPLEMENTED**

75. Please provide information on the extent to which the public at large is aware that the International Covenant on Economic, Social and Cultural Rights may be invoked before the courts of Macau Special Administrative Region (SAR). Please cite cases in the past five years when the Covenant has actually been invoked before the courts.

76. Please indicate which institutions in Macau SAR are responsible for the protection of the rights stipulated in the Covenant.

**II. ISSUES RELATING TO GENERAL PROVISIONS OF THE COVENANT (arts. 1 to 5)**

**Article 2.2: Non-discrimination**

77. Please provide information on the conditions in which migrant workers work and live in Macau SAR and whether there are special measures taken by the Government to protect the full range of their economic, social and cultural rights.

78. Please describe the practical application of article 25 of the Basic Law which prohibits all forms of discrimination, including on the grounds of sex, and describe the difficulties encountered in the implementation of the law, if any.

**Article 3: Equality between men and women**

79. What legislative provisions are in place to address sexual harassment in the workplace in Macau SAR?

**III. ISSUES RELATING TO SPECIFIC PROVISIONS OF THE COVENANT (arts. 6 to 15)**

**Article 8: Trade union rights**

80. Please provide information on the decrees introduced in 1999 which replaced the laws protecting workers' rights to collective bargaining and their freedom of association.

**Article 10: Protection of the family, mothers and children**

81. Please provide updated information on the issue of family reunification.
82. Please indicate the extent of the problem of trafficking of women into Macau SAR from neighbouring Asian countries, and provide information on the initiatives taken by the Government to address the situation.
83. In Macau SAR, the rights of children are currently protected only in the general framework of civil and political rights legislation aimed to protect all citizens at large. Please indicate whether the State party intends to introduce legislation that is specifically aimed to protect children.
84. To what extent does the Government provide access to education for children of migrant workers, including immigrants without official papers?

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