



**International Convention on
the Elimination
of all forms of
Racial Discrimination**

Distr.
GENERAL

CERD/C/SR.1468
21 May 2003

ENGLISH
Original: FRENCH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-ninth session

SUMMARY RECORD OF THE 1468th MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 31 July 2001, at 3 p.m.

Chairman: Mr. SHERIFIS
later: Mr. FALL

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES
PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Eighth and ninth periodic reports of China

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Eighth and ninth periodic reports of China (CERD/C/357/Add.4 (Parts I-III); HRI/CORE/1/Add.21/Rev.1)

1. At the invitation of the Chairman, Mr. Qiao Zonghuai, Mr. Stephen Wong and Mr. Jorge Oliveria took places at the Committee table.
2. Mr. QIAO ZONGHUAI (China) said that the report under consideration, which had been prepared in conjunction with relevant government authorities and non-governmental organizations (NGOs) in accordance with the general guidelines regarding the form and contents of reports to be submitted by States parties, covered the period from 1996 to 1999 and provided replies to questions raised by the Committee during the consideration of his country's previous report.
3. Promoting equality, unity, mutual assistance and prosperity shared among all ethnic groups was a basic principle applied by the Government of China to manage relations between ethnic communities. That principle was enshrined in the Constitution of the People's Republic of China. In that regard, the Law on the Autonomy of Minority Nationality Regions, adopted in 1984, protected the rights and interests of ethnic minorities. Since its entry into force, significant political and economic changes had taken place, which had led to its revision in February 2001. The original text, which defined the legal status of the system of regional autonomy as one of the basic political systems in China, had been supplemented by new provisions applicable to autonomous regions concerning investment, financing, banking and fiscal systems, external trade relations and the use of foreign capital. The State Council and the relevant government departments drew up regulations and methods for the implementation of the Law on autonomy. The relevant authorities of the regions concerned elaborated or amended their own regulations in that regard in accordance with the revised Law, the adoption of which was an important event in the political life of ethnic minorities and constituted an improvement to the legal system relating to minorities and the system of regional autonomy.
4. Over the past five years, China had been implementing its Ninth Five-Year Plan for National Economic and Social Development. Thanks to the joint efforts of all ethnic communities, the five autonomous regions and the three provinces of Yunnan, Guizhou and Qinghai, which had a high concentration of ethnic communities, had advanced in every respect. The gross domestic product (GDP) of those regions had increased by 50.9 per cent compared to 1993, which was 0.3 percentage points more than the national average. Their agricultural production capacity had increased regularly. Township and village enterprises in those regions had enjoyed a significant boom. From 1994 to 1999, the Central Government had invested in the regions sums equivalent to 38.4 per cent of the investment allocated to similar programmes at the national level, thereby allowing 30 million people to progress from a state of absolute poverty to subsistence level. The standard of living had improved in both rural and urban areas.
5. Moreover, emphasis had been placed on a development strategy based on science and technology and the reorganization of educational institutions. Significant efforts had been made with regard to the compulsory education programme and the attendance rate for higher education institutions, which had increased by 83.9 per cent from 1995 to 1999. Despite those advances and the support of the Central Government, the ethnic minority regions situated in the western part of the country remained less developed than the eastern and coastal regions. To remedy that situation, the Ninth National People's Congress had adopted an overall development programme for those regions with a view to speeding up the process of social and economic development, a strategic decision which had been welcomed by ethnic communities. Special attention would also be paid to the environmental and cultural situation in those regions and the human, material and financial resources deployed for such purposes would be increased.

6. Pursuant to the Macau Special Administrative Region Basic Law and the Hong Kong Special Administrative Region Basic Law, the Chinese Government was responsible for foreign affairs in those two regions and, consequently, for the implementation of international instruments in their territory. The legal, economic and social system of the two regions was different from that of mainland China because the regions had an independent executive, legislature and judiciary. Implementation of the Convention in those regions was therefore the responsibility of their respective governments.
7. Mr. WONG (China: Hong Kong Special Administrative Region), referring to paragraph 20 of the concluding observations on the United Kingdom formulated by the Committee in 1997, in which the Committee had expressed concern that the Hong Kong Bill of Rights Ordinance contained no provisions designed to protect persons from racial discrimination to which they might be subjected by private persons, groups or organizations, said that the outcome of consultations conducted in 1997 had made it clear that the public was opposed to the adoption of such provisions and that legislation of that type would therefore have no effect. Moreover, if it was necessary to plan to adopt new provisions, they should take the form of a specific law elaborated in accordance with the same principles as the ordinances already in force on combating discrimination, rather than an extension of the provisions in the Bill of Rights. Nonetheless, given the growing public interest in those issues and the significance of the year 2001 in terms of racial issues, the consultations taking place with persons likely to be directly concerned by the adoption of a law in that field should result in some decisions.
8. On the subject of former refugees and migrants from Viet Nam, he said that the last reception centre had been closed without incident in 2000 after it had been decided that its residents would be helped to integrate into Hong Kong society. Some 96 per cent of the approximately 1,400 persons concerned had agreed to settle in Hong Kong, while the remaining 4 per cent had declined that option in order to settle elsewhere. All lived freely in Hong Kong and were at total liberty to seek employment and enrol their children in local schools. The same applied to the 350 ex-China Vietnamese whose return to mainland China depended on a ruling by the relevant court of appeal and who received legal aid under the appeal proceedings initiated. The number whose return to Viet Nam had been delayed for reasons relating to health, imprisonment or judicial proceedings had fallen from 132 to 108. Apart from those who were serving a prison sentence, they all enjoyed freedom of movement in Hong Kong. The charitable organization Caritas Hong Kong provided assistance to those in need. Refugee camps and centres were therefore ancient history.
9. Mr. OLIVERIA (China: Macau Special Administrative Region) said that the report under consideration was the first to be submitted to the Committee on the implementation of the Convention in Macau. By dint of its location, the port of Macau had received thousands of refugees throughout its history and was therefore particularly concerned by the issues dealt with by the Committee. The Government of Macau had undertaken to bring its domestic legislation into line with the provisions of the Convention. To that end, article 25 of the Macau Special Administrative Region Basic Law stipulated equality of all before the law and equal treatment without discrimination, principles which were also laid down in several other laws of Macau (paras. 12-27 of part III of the report). The principle of racial non-discrimination was fully respected because of the diversity of cultures, races, religious convictions and languages which was one of the assets of the Macau Special Administrative Region.
10. Mr. VALENCIA RODRÍGUEZ (Country Rapporteur) said that China was a multinational State whose population represented one fifth of the world's population. The majority ethnic group was the Han, and minority ethnic groups represented about 8 per cent of the total population.
11. He noted that the provisions of the Convention were incorporated in Chinese domestic law and took precedence over it. He hoped that China would withdraw its reservation concerning article 22 of the Convention.
12. The Chinese Government had adopted a family planning policy for minority groups that was more flexible than the policy applied to the Han people. In that regard, he drew attention to the discrimination

suffered by newborn girls, which had been highlighted by the Committee on the Rights of the Child. He asked the delegation what action was taken against couples who had more than the legal number of children and said that complaints had been submitted alleging cruel and inhumane treatment committed in the application of that restrictive policy.

13. China had taken measures to promote regional autonomy with a view to improving the living conditions of ethnic groups (part I of the report, paras. 8 et seq.). He requested more detailed information on the specific results achieved through that policy and asked to what extent the autonomous areas were able to manage their own resources, given that local authorities were economically dependent on the Central Government and could not act without the authorization of the Standing Committee of the National People's Congress.

14. He noted with interest the existence of villagers' committees made up particularly of representatives of minority ethnic groups (para. 14). He would like to have more information on how those representatives were elected and what specific benefits minorities derived from the system.

15. There were many laws and regulations prohibiting racial discrimination and promoting the economic, social and cultural development of ethnic groups (paras. 16-19). He would like the Committee to be kept informed about the application of those laws and what improvements they brought to the development of the central and western regions of China, where many minority communities lived.

16. As the State Ethnic Affairs Commission was headed by a representative of an ethnic minority group (paras. 20 and 21), he was interested to know who appointed that person and, if it was the State Council, whether minority groups could propose candidates for the post. He would also like to know how the Commission performed its functions and what results it achieved. In addition, bearing in mind the information provided on the National Working Conference on Ethnic Affairs, held in Beijing in September 1999, he would like to know how the measures mentioned in paragraph 21 of the report had been implemented.

17. The report mentioned that progress had been made in education (paras. 22 and 40). However, he was aware of the concern expressed in the concluding observations of the Committee on the Rights of the Child about the disparities between urban and rural areas with regard to education (CRC/C/15/Add.56, para. 11). In addition, according to various sources, there was inequality in education between minority groups and the majority Han group. Efforts had been made in higher education, particularly in minority regions, and information should be provided about the results achieved.

18. Furthermore, given that substantial financial resources had been allocated to aid projects in minority regions (paras. 29 et seq.), it would be interesting to have statistics indicating to what extent those projects had improved the living conditions of minority groups.

19. He was pleased to note that poverty alleviation programmes had been put in place (paras. 33 and 37), given the gravity of the situation. He was particularly concerned about the situation of women, more than 100 million of whom were illiterate, according to the Committee on the Elimination of Discrimination against Women (document A/54/38). He therefore requested the Government of China to keep the Committee informed of progress on that front and also with regard to measures to promote the development of traditional cultures (para. 34).

20. Turning to the application of article 4 of the Convention, he noted that the Criminal Law of China prohibited racial discrimination and punished those responsible for publishing material which discriminated against or defamed an ethnic group "if the circumstances are flagrant and the consequences are serious" (para. 49). That provision meant that the application of the Criminal Law was subject to the assessment of the judge who classified the offence. More objective criteria for the application of the law should therefore be established.

21. With regard to the application of article 5, he welcomed the fact that, since 1996, the State party had continued to adopt special measures to safeguard the right of minority nationalities to take part in the conduct of public affairs and to ensure that minorities were better represented in elected bodies. However, he would like the delegation to inform the Committee whether the number of representatives of minorities, which had accounted for 5 per cent of the population in 1998, was in proportion to the size of the minority nationality groups.

22. According to two Amnesty International reports for 2000 and 2001, serious human rights violations had been committed against the Uygur population, and 24 of its political leaders accused of “separatism” and “terrorism” had been executed. In addition, the organization Freedom House claimed that the Government was exploiting the mineral resources in the Xingjiang region, where the Uygur minority lived, and was altering the demographic balance by encouraging the Han people to immigrate there. He asked whether the delegation could provide clarification on that point.

23. He also welcomed the fact that legislation on the autonomy of ethnic regions had been further enhanced since 1996 (para. 64) through the promulgation of relevant laws, but he naturally hoped that that policy did not constitute a hidden form of racial discrimination. In addition, more than 10,000 schools across China provided bilingual education in Chinese and the languages of other ethnic minorities—a total of more than 60 languages (para. 69). It would be useful for the Committee to know what percentage those schools represented in comparison with other institutions in which only Chinese was taught. The Committee might wish to reiterate the observation it had formulated in 1996 when it had considered the previous periodic report of China, in which it had recommended that the State party “ensure access by members of minority nationalities to education at all levels and that, in autonomous areas, instruction on the history and culture of the relevant minority nationalities be included in the school curricula”.

24. He also asked the delegation whether the fact that “various nationalities in China have been living either mingled with, or in small communities separately from, or side by side with, their counterparts” (para. 72) was detrimental to them. He asked the delegation to give a brief review of the Decision on Protection of the Equal Rights of Ethnic Minorities Living Mingled or Dispersed (para. 73), promulgated in 1952 by the Central Government.

25. He welcomed the various programmes put in place to recognize television art dedicated to minorities, as well as to writers and film directors. However, the Working Group on Arbitrary Detention of the United Nations Commission on Human Rights had learned that two Chinese writers had been imprisoned in 1998 for compiling information with a view to publishing a document on the Chinese cultural renaissance. One of the two men was said to have since been released. He asked the delegation to comment on the matter.

26. On the issue of religious freedom in Tibet (para. 98), the organization Human Rights Watch stated in its report for the year 2000 that religious freedom was suppressed in Tibet, that monks had been placed in detention and that the authorities were trying to impose atheism in Tibet. Two other NGOs stated that infant mortality was two to three times higher among Tibetans than among Chinese citizens, that Tibetan social services were less developed, and that 80 per cent of Tibetans were illiterate, compared with 25 per cent of the Chinese population. According to some organizations, members of the Han ethnic group were encouraged to settle in Tibet, with the result that the Tibetan population was currently a minority in the territory.

27. With regard to the application of article 6 of the Convention, he said that article 41 of the Constitution, which provided that “citizens who have suffered losses through infringement of their civic rights by any State organ or functionary have the right to compensation in accordance with the law” (HRI/CORE/1/Add.21/Rev.1, para. 44), was restricted to acts committed by the State or its officials. He asked whether there were other provisions specifically guaranteeing the application of article 6 of the Convention and whether the Law on Administrative Sanctions, mentioned in paragraph 108 of the report, which allowed persons whose rights had been violated to claim compensation, had been applied in cases

of racial discrimination. He also asked whether the delegation was able to provide the Committee with detailed information on the number and percentage of detainees belonging to ethnic minorities, the types of offence of which they were accused, and complaints lodged and rulings issued with regard to acts of racial discrimination.

28. Turning to the situation in Hong Kong, he said that, although the report on that region did not explicitly admit it, some practices involving racial discrimination still existed there, according to the Human Rights Committee and the Committee on Economic, Social and Cultural Rights of the United Nations, as well as several NGOs. The Hong Kong Special Administrative Region did not have laws condemning racial discrimination, contrary to the obligations arising from the Convention, and that gap in the legislation should be eliminated so as to protect individuals against racial discrimination. It was also vital to eliminate discriminatory practices against foreign workers, and in particular to abrogate the “two-week rule” (CERD/C/357/Add.4 (Part II), para. 31), under which foreign domestic helpers who no longer had a contract of employment had to leave Hong Kong within two weeks of the termination of their contract.

29. With regard to the situation in Macau, he said that the Penal Code punished incitement to racial discrimination and incitement to acts of violence (CERD/C/357/Add.4 (Part III), para. 16) through establishment of organizations or the development of organized propaganda activities. For the purposes of monitoring the application in Macau of article 4 of the Convention, it would be useful for the Committee to have a copy of articles 229, 230, 231, 233 and 234 of the Penal Code of the Macau Special Administrative Region. He also asked the delegation whether the aforementioned articles had been applied in cases of racial discrimination.

30. Turning to the application of article 5 of the Convention, he asked the delegation to explain why several international human rights instruments, including the Convention, had not been incorporated in the domestic law of Macau. In addition, the forms of reparation and compensation for infringements of fundamental rights, particularly the obligation to make an application for civil compensation during the case in question (para. 170), did not seem to conform with the provisions of article 6 of the Convention.

31. In conclusion, he said that the Committee might wish to recommend that the Chinese Government should consider the possibility of making the declaration provided for in article 14 of the Convention. Much remained to be done to ensure that the Convention was properly applied in China, and it would be desirable for the Government to publish its ninth periodic report and also the recommendations on it which the Committee would formulate.

32. Mr. Fall took the Chair.

33. Mr. DIACONU said that the report of China answered most of the questions which the Committee had raised in 1996 when it had considered the country’s previous periodic report. He was struck by the emphasis in the report on national unity and the prohibition of all acts or programmes intended to create national divisions or undermine national unity, and by the collective approach of the Chinese authorities with regard to racial discrimination. That strategy was certainly important, given that China had 55 different ethnic minority groups representing 109 million people—just under 10 per cent of the total population—but he wondered nonetheless how the policies in place and the laws adopted to combat racial discrimination were applied when the victim belonged to a minority, and whether protection of the individual was sacrificed to objectives of a general nature. He would like to know how those general objectives were reflected in the protection of each individual against racial discrimination.

34. The report mentioned a large number of specific measures and principles designed to prevent and eliminate discrimination, in particular special measures (para. 19) to facilitate and support the social, cultural, economic and other development of minorities and areas inhabited by minorities. It stated that China had adopted a multisectoral policy to eliminate discrimination, which was a positive development, as was the establishment of the new State Ethnic Affairs Commission, directed by a member of an ethnic

minority group. He asked what activities the Commission conducted. Was it a purely advisory body or could it propose draft laws at the central and provincial levels?

35. With regard to the application of article 4 of the Convention, paragraph 48 of the report stated that “there is no organization in China that propagates racial discrimination or the superiority of any people”. However, in the legislation in force in China, there were apparently no provisions expressly punishing acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, as required by article 4 (a) of the Convention. China should therefore revise its legislation in the light of the provisions of that article and take the necessary measures to eliminate the gaps in the law in that field.

36. Paragraph 114 of the report also stated that the Government had encouraged the publication of two books with annexes containing the full text of the International Convention on the Suppression and Punishment of the Crime of Apartheid and the Convention on the Prevention and Punishment of the Crime of Genocide. He wondered why the Convention on the Elimination of Racial Discrimination and the 1992 United Nations General Assembly Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities were not also included in those books.

37. Moreover, while welcoming the fact the two Special Administrative Regions of Macau and Hong Kong had each been the subject of a separate report, he wondered why the text of article 25 of the Macau Basic Law, which guaranteed the equality of all before the law, without discrimination on the grounds of race, colour or ethnic or national origin, was not also included in the Hong Kong Basic Law. That was all the more surprising given that the Hong Kong Basic Law contained no provision in that regard.

38. The Convention was not mentioned in the Hong Kong Special Administrative Region Basic Law, even though that region had explicitly become a party to the Convention in 1969, when it had still been a territory under the jurisdiction of the United Kingdom of Great Britain and Northern Ireland. Moreover, it seemed that treaties applicable to Hong Kong did not have the force of law in its domestic legal system (HRI/CORE/1/Add.21/Rev.1, para. 101). To address that problem, it was vital for the Hong Kong Special Administrative Region to adopt laws incorporating those treaties and prohibiting racial discrimination. He found it difficult to understand why, as the report claimed, the population of Hong Kong would be opposed to the adoption of a law prohibiting racial discrimination. If laws relating to television, film and telecommunications had been adopted (para. 72), why should other laws concerning other aspects of life not be adopted? The Chinese Government stated that the Convention was applied to minorities and that provision was made for criminal penalties in cases of violations, but did not indicate which laws contained those provisions. In the light of the principle that there was no crime or penalty except as provided in law, that situation was very worrying.

39. China, as a State party to the Convention, was obliged to ensure that the Convention was implemented in Hong Kong, as in any other part of its national territory, because Hong Kong could not be left out of the process of implementation without serious doubts being raised about respect for equal rights in that region.

40. Mr. THORNBERRY said that he would comment on certain paragraphs of the general report of China, and then on Hong Kong specifically. Paragraph 10 of the report listed legal provisions governing ethnic issues, but there was no law giving a precise definition of racial discrimination. Paragraph 12 mentioned that all nationalities were equal in law, but in very general terms. Paragraph 16, on the promotion of national culture, did not specify the importance accorded to local cultures.

41. The many references to the concept of development and development projects raised the question of whether the communities concerned were involved in taking decisions which affected them in that regard. Paragraph 20 referred to the powers of the State Ethnic Affairs Commission, which was responsible for studying the living conditions of minorities. It would be interesting to know whether studies had actually been carried out, what their outcome had been and whether they had been published. With regard to

paragraph 21, it should be made clear whether the “development” of minorities was a purely economic concept or whether it included a human, in particular cultural, dimension.

42. Turning to paragraph 34, he said that he would like to know what kinds of project had received investment for the purposes of promoting the traditional culture of minorities. With regard to the participation of minorities in national life, he asked whether there were consultation mechanisms other than the elections to the National People’s Congress mentioned in paragraph 55 of the report. On the subject of bilingualism in education (para. 69), he requested information about teaching methods and asked whether lessons were truly bilingual or whether their sole purpose was to help pupils switch from using their mother tongue to using the majority language.

43. Turning to paragraph 78, he asked what was meant by “healthy” cultural, artistic and sports activities with ethnic characteristics.

44. With regard to paragraphs 82 and 83, he assumed that the category of “writers” covered journalists and intellectuals in general, and pointed out that a distinction should be made between artistic and literary works relating to ethnic minorities and works produced by minorities in their own languages. Turning to paragraph 109, on the treatment of prisoners, he requested more information about the diet of ethnic minority prisoners, which was sometimes associated with the important principle of religious freedom. On the subject of courses on theories relating to ethnic minorities, mentioned in paragraph 111, it would be useful for the Committee to know about the content of the teaching material and the way in which minorities were presented in it, with particular reference to their role in the country’s development or their history.

45. Turning to the report on the Hong Kong Special Administrative Region (CERD/C/357/Add.4 (Part II)), he asked about the consultation process concerning racial discrimination mentioned in paragraph 3 (a) and would like to know how it worked. He asked whether victims of discrimination had been questioned. He endorsed the comments made by Mr. Diaconu on the Chinese Government’s responsibility to ensure that the Convention was applied throughout the territory of China. Referring to the absence of legislation applicable to Hong Kong on the subject of racial discrimination, he said that administrative and educational measures were insufficient to discourage discrimination and should be backed up by appropriate legislation. The lack of legal infrastructure raised a very important issue of principle: the obligation to ensure the application of international instruments which had been carefully drafted and whose implementation had been highly instructive. The Race Discrimination Bill mentioned in paragraph 17 was therefore important. While acknowledging the inherent advantages both of positive measures to promote equal opportunities and of self-regulation mentioned in paragraph 22, he remained convinced that binding legal provisions were necessary. With regard to the assertion that the Government could not rely on majority support for legislation (para. 23), he feared that the opinion of the majority would be systematically unfavourable to minority rights.

46. Bearing in mind those comments, and notwithstanding the harmony which was claimed to prevail in the cosmopolitan society of Hong Kong, he also thought that it was necessary for the Chinese Government to ensure that the Convention was applied in Hong Kong.

47. Mr. de GOUTTES proposed to comment on the ninth report of China in the light of the observations and recommendations formulated by the Committee in 1996 when it had considered the State party’s seventh report, so as to make sure that the ninth report contained replies to the questions previously put to the delegation of China by Committee members. A contrast was immediately noticeable between the report of China, which focused on legislation, and the pragmatic and more specific approach taken by NGO documents. The report under consideration lacked information on the implementation of legislation in particular. His questions would supplement the in-depth analysis done by Mr. Valencia Rodríguez, the Country Rapporteur.

48. On the subject of democracy, he would like to know the results of the fifth national census conducted in 2000 and mentioned in paragraph 6 of the report. With regard to the application of article 2 of the Convention, he would like to know whether, as stated in the core document on China (HRI/CORE/1/Add.21/Rev.1), the Convention could be applied directly in Chinese domestic law without being incorporated in specific legislation and whether it could be invoked before the courts.

49. When the previous report of China had been submitted in 1996, the Committee had been concerned about the situation of minority groups and autonomous regions. The ninth report elaborated on action taken to help minorities and the representative of China had announced amendments to the law on the autonomy of autonomous regions and investment in those regions. On that point, Amnesty International and Human Rights in China reported a discrepancy between the law and the actual situation. It seemed that in three regions—Sin-kiang, Tibet and Mongolia—discrimination against three disadvantaged groups persisted: rural populations, migrants who left rural areas and national minorities. He would like to know what measures had been taken to help those groups. He would also like to know what action had been taken to follow up three of the recommendations set out in the Committee's previous concluding observations in 1996, concerning the demographic balance, freedom of religion and the security of persons in the three autonomous regions.

50. With regard to the application of article 4 of the Convention, the Committee had expressed concern about the punishment of all acts of racial discrimination without exception. The responses contained in paragraphs 48 to 53 of the ninth report, which mentioned in particular two articles of the Criminal Law, were inadequate. He asked the delegation to inform the Committee of all the provisions in the Criminal Law or other legal provisions punishing acts covered by article 4 of the Convention. In that connection, he noted that Hong Kong, unlike Macau, did not have specific criminal legislation punishing those acts.

51. Turning to the application of article 5 of the Convention, he noted a discrepancy between the report under consideration and NGO reports concerning the situation of the Tibetans. Paragraphs 54 to 103 of the report mentioned measures designed to protect the rights of minorities, particularly in Tibet, whereas NGOs reported persistent discrimination against those minorities in the fields of religion, schooling and health. He asked the delegation of China to comment on that point.

52. With regard to the application of article 6 of the Convention, he asked the delegation to provide the Committee with figures indicating the number of complaints, prosecutions and convictions for racial or ethnic discrimination, as well as figures on the proportion of prisoners from minority groups out of the total Chinese prison population. He also asked what percentage of members of minority groups were sentenced to death or executed compared to the total population of China.

53. With regard to the application of article 7 of the Convention, he asked the delegation to indicate what measures were being taken in China to disseminate the text of the Convention and the conclusions and recommendations of the Committee among the public, and to promote cooperation between the Government and NGOs dealing with human rights protection. Lastly, he would like to know whether China was considering making the declaration provided for in article 14 of the Convention, so that any presumed victim of a violation by the Chinese State of one of the rights set forth in the Convention would have the opportunity of submitting a communication on that subject to the Committee. Such a declaration was particularly important in the light of the imminent World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

54. Ms. BRITZ, referring to paragraph 19 of the report (CERD/C/357/Add.4 (Part I)), which dealt with aid to minority regions, in particular development and infrastructure projects and projects for the exploration of mineral resources, wondered how effective those measures were for minorities themselves. Were the measures of direct benefit to minorities or were they mainly beneficial to the majority population? She asked whether there were mechanisms for ensuring that government action directly improved the situation of minorities or, if not, for gauging their effectiveness. As the Country Rapporteur had stated, appropriate statistics would be very useful for the Committee.

55. Mr. PILLAI requested information on the mechanisms for identifying ethnic minorities and asked whether there were still groups in China which claimed ethnic minority status. He would also like to know how the Government assessed the practical effectiveness of measures designed to improve the standard of living of minorities, such as the special measures for socio-economic development and financial investment. It would be useful for the Committee to know the results of those measures.
56. Some information indicated a growing imbalance between the situation of migrant populations and that of indigenous populations in areas inhabited mainly by ethnic minorities, an imbalance which affected important issues such as the right to health, education and employment. In that regard, the Country Rapporteur and other Committee members had mentioned the case of Tibet.
57. He noted that, in general, the report of China revealed a divergence between the right to development and the right of minorities to preserve their ethnic identity—a problem which the State Ethnic Affairs Commission, mentioned in paragraphs 20 and 84 of the report, could perhaps address. He would like the delegation to provide the Committee with precise information about the work of that Commission. Moreover, he understood that incidents of racial discrimination had taken place in the Hong Kong Special Administrative Region but that, because there was no relevant legislation, the victims of those acts had no effective means of redress. The Government of Hong Kong considered that such legislation was unnecessary and that education should be used as the means of improving the situation. However, that was clearly insufficient without the punitive power of the law. In addition, the Government of Hong Kong should draft specific relevant legislation to prevent such incidents.
58. Lastly, he expressed concern about the extent of racial discrimination against migrant workers and said that China had not yet ratified the conventions relevant to that problem.
59. Mr. RESHETOV welcomed the remarkable progress of democracy in the Chinese countryside since 1996 and pointed out the importance of the democratization process for the situation of minorities. In that regard, he welcomed the fact that the Chinese Government had adopted a more flexible family planning policy for minority groups than for the Han. In Tibet, for example, the population was not subject to the birth control policy, which demonstrated the good will of the central authorities towards minorities. However, he would like the delegation to give the Committee more information on the administrative autonomy granted to local communities in which minority nationalities lived.
60. With regard to the violation of religious rights in Tibet, criticized by a number of NGOs, he was in a position to state, following a personal visit to Tibet, that China was certainly not pursuing an obvious policy of repression in that region. On the contrary, he confirmed the information provided in paragraph 98 of the report (CERD/C/357/Add.4 (Part I)) that all worshippers had Buddhist scripture-chanting rooms or shrines or scripture wheels in their homes, which proved that they were able to practise their religion freely.
61. Turning to the conflict between the right to development and the right to preserve cultural identity, he pointed out that Tibet was one of the least developed regions in China and that the arrival of Chinese specialists in various subject areas could demonstrate the desire of the Chinese authorities to develop the region and to change the ethnic composition of the province, especially as China seemed to attach great importance to preserving the culture of minority groups.
62. Ms. JANUARY-BARDILL suggested that China should change the name of the “ethnic-related laws”, which seemed to apply only to part of the population, to “equality laws”, in order to specify the purpose of those laws.
63. Given that the law prohibited “any activities that might ... offend the customs and habits of minority people or undermine national unity” and also “any programmes including anything that incites national division and undermines national unity”, she would like to know what punishments were imposed in the event of violation.

64. According to the report, the Chinese Government had always emphasized the need to safeguard the rights and interests of women members of ethnic minorities and, specifically, had adopted a Law on Mother and Child Health Care in 1994. She asked whether the Government had taken steps to ensure that women belonging to ethnic minorities actually benefited from the provisions of that law.
65. With regard to sexual and reproductive health, she invited the delegation to refer to General Recommendation XXV on gender-related dimensions of racial discrimination.
66. Given that there was currently no legal or administrative provision governing the granting of asylum in China, she would like to know what stage had been reached in the preparation of the draft law on refugees mentioned in the report under consideration.
67. With regard to the Hong Kong Special Administrative Region, she noted the existence of the Code of Practice against Discrimination in Employment on the Ground of Race and asked the delegation whether it was true that there was no law prohibiting racial discrimination in that sphere. Was it not the case that the adoption of an appropriate law would help to make the Code of Practice more effective?
68. According to various NGOs, foreign domestic helpers encountered many difficulties in relation to the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. She hoped that China would provide the Committee with more information on that topic in a future periodic report.
69. Mr. YUTZIS welcomed the interest aroused by the ninth periodic report of China on the application of the Convention, which was demonstrated by the presence of a large delegation representing a country of 1.2 billion people or one fifth of the world's population, as well as the thousand or so pages submitted by NGOs on the application of the Convention in China. Over the past few years, the fear had often been expressed that the implementation of the Convention was hindered by the application of the "one country, two systems" concept.
70. In the report on the Hong Kong Special Administrative Region (CERD/C/357/Add.4 (Part II)), the Chinese authorities recognized their obligation to protect minorities from discrimination, subject to the need to pay attention to public opinion and to strike a balance between conflicting pressures and judgements about what was appropriate at particular times and in particular places. Moreover, legislation with far-reaching social implications required the support of the community in order to be effective, particularly if it was designed to combat discrimination, because it intimately affected people's daily lives. He was concerned by the idea that a Government policy according too much importance to individual claims risked upsetting the social balance and prejudicing the application of certain provisions of the Convention designed to guarantee the full and equal enjoyment of human rights and fundamental freedoms.
71. It was regrettable that the report did not refer to the issue of internal migration, particularly as China applied the "hukou" (residence permit) system, which bound millions of poor peasants to their land so as to prevent a mass exodus to the cities. He feared that that policy, which stigmatized part of the population, risked provoking discriminatory attitudes similar to those affecting immigrants. He would therefore like to know whether China intended to maintain the hukou system.
72. Lastly, with regard to freedom of religion, he asked the delegation to confirm or refute the claim that communist party members still did not have the right to declare a religious affiliation. China should show flexibility in religious matters because religion was very important for the survival of minorities.
73. Mr. BOSSUYT noted in the report of China (CERD/C/357/Add.4 (Part I)) that, according to the national census of 1990, the Han represented 92 per cent of the total population, compared with only 8 per cent for the other 55 ethnic groups (para. 6). In the light of that information, he requested clarification of several statistics provided in the report. For example, the report stated that about

80 per cent of State investment for subsidizing social action at local level had been channelled to poor areas in central and western China and minority areas (para. 26). He thought it unlikely that 80 per cent of State investment was concentrated on the 8 per cent of the population that was made up of minorities. He therefore asked the delegation to specify what percentage was allocated to poor areas in central and western China and what percentage to minority areas. The report also stated that 48 per cent of the total sum allocated to the poverty alleviation programme had been invested in poor minority areas (para. 35), which made it difficult to understand why the minority areas were the poorest in China. According to the report, Tibetans and delegates representing other minority nationalities accounted for 80 per cent of all delegates to the National People's Congress (para. 61). He did not understand how a minority of 8 per cent of the population could hold 80 per cent of the seats in the National People's Congress and requested further information on that point. He also asked whether China applied a policy of affirmative action in student enrolment, whether students were enrolled on the basis of nationality or merit and whether there were any quotas. Similarly, he asked whether State entities, which were encouraged to apply a policy of "first among equals" to candidates from ethnic groups, also took candidates' merits into consideration, and on what criteria they were selected.

74. The report also mentioned "minority-specific medications". He asked the delegation to clarify that point, since an active ingredient should have the same effects on any human being, irrespective of his or her ethnic identity.

75. Islam and Lamaism were mentioned in the report, but no information was given on Christians. He asked what the reason for that was and requested information about the situation of Catholics and Protestants.

76. On the subject of family planning, the report stated (para. 103) that ethnic minorities in agricultural and pastoral areas of Tibet were not subject to any restriction on the number of births. He asked for information about the situation of people living in those regions who did not belong to ethnic minorities. He wondered whether the birth control policy applied to them or whether they were subject to the same rules as the ethnic minorities in the regions in question.

77. The report also stated that, pursuant to the substantial amendments made to the Criminal Procedure Law of 1979, "the innocent are protected against criminal prosecution in a more specific way". Were not all persons presumed innocent until proven guilty, a presumption which protected them against arbitrary criminal prosecution?

78. He suggested, as Mr. Diaconu had already done, that the text of the International Covenants on Human Rights and of the Convention should be incorporated in the two books mentioned in paragraph 114 of the report, especially because, unlike the two conventions already contained in the books, those three instruments granted people direct rights.

79. He noted that China had been a party to the Convention relating to the Status of Refugees since 1982 but that it had not yet adopted relevant domestic laws. In practice, it seemed that refugees were treated in different ways depending on their country of origin, and that refugees from the Democratic People's Republic of Korea faced more difficulties than others. Lastly, China seemed to be opposed to the return of Chinese citizens who had fled the country with the help of criminal organizations. He wondered whether the country's policy in that regard helped those criminal organizations to prosper, since trafficking in human beings was even more lucrative than drug trafficking, and whether China could consider relaxing that policy.

80. The CHAIRMAN said that the Committee had completed the first part of its consideration of the ninth periodic report of China.

The meeting rose at 6.10 p.m.