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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Thirty-fourth session

SUMMARY RECORD OF THE 7th MEETING

Held at the Palais des Nations, Geneva,  
on Thursday, 28 April 2005, at 10 a.m.

Chairperson: Ms. BONOAN-DANDAN

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The meeting was called to order at 10.05 a.m.

ORGANIZATION OF WORK (continued)

Solemn declaration

1. In accordance with rule 13 of the Committee's rules of procedure, Mr. Pillay, a re-elected member, solemnly declared that he would perform his duties as a member of the Committee impartially and conscientiously.

CONSIDERATION OF REPORTS: (continued)

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Initial report of China (continued) (E/1990/5/Add.59; E/C.12/Q/CHN/1; HR/CESCR/NONE/2004/10; HRI/CORE/1/Add.21/Rev.2)

2. At the invitation of the Chairperson, Mr. Sha Zukang and Ms. Shao Wenhong took places at the Committee table.

III. Issues relating to specific provisions of the Covenant (continued)

Articles 6-9 of the Covenant (continued)

3. Mr. KERDOUN, referring to paragraph 73 of the initial report (E/1990/5/Add.50), asked how tripartite labour-relations coordination conferences worked and whether publicly and non-publicly owned enterprises were obliged to set up trade unions. What relationship did Chinese enterprises relocating abroad have with the All-China Federation of Trade Unions? What major challenges did the Federation face in terms of the employment system, the emergence of non-public enterprises, and irregular work.

4. Ms. BRAS GOMES said that the Government had introduced a new pension system in which employers and employees contributed to a communal pension fund and individual pension accounts. According to some sources of information, the communal pension fund was in deficit and local authorities had used the money saved in individual accounts. She wished to know whether that was the case and what measures the Government envisaged to prevent the illicit use of personal savings in future.

5. The belief that land provided a basic safety net for the rural population could explain why many of the reforms in the formal welfare system had still not been extended to the countryside. However, many families were unable to obtain even a subsistence livelihood from the land. She asked what measures could be taken to extend welfare provisions to rural areas. For example, could local governments in poor regions raise additional funds with the help of the central Government in order to provide welfare and social services? It would also be useful to know whether means-tested non-contributory social assistance, which had been extended to all urban areas in 1996, had also been extended to any rural areas and, if so, whether the Government envisaged extending it to more rural areas in future.

6. Referring to paragraph 84 of the report, she asked the delegation to clarify how the old-age pension system worked in practice. What happened to rural workers who did not earn enough to make personal contributions? Were personal contributions calculated on the basis of earnings?

7. Migrants working in factories and mines had very limited access to social security, including medical and unemployment benefits, and were not entitled to medical treatment for occupational injuries. She asked what measures had been envisaged to redress the situation.

8. Mr. RIEDEL asked the delegation what steps had been taken to improve the situation with regard to delays in payment of wages, pensions and benefits to workers in State-owned enterprises. What targets had been set in that regard for the period 2005-2010?

9. The delegation should provide information on social security for the categories specified in International Labour Organization (ILO) Convention No. 102 concerning Minimum Standards of Social Security. Further information should be provided on social insurance and on social assistance for the unemployed and informal sector workers. Information on the Government's plans in that regard and the benchmarks set for the following reporting period would be welcome. Finally, more detailed data should be provided on the number of homeless people and beggars, in particular in rural areas.

10. Mr. RZEPLINSKI asked what percentage of local and provincial administration officials were members of the Communist Party and whether those who were not members had the same opportunities for promotion as members. It would also be useful to know whether women working in the public administration and female teachers had the same opportunities for promotion as their male colleagues. What proportion of officials and judges in local, district and provincial courts and in the Supreme Court were women? Finally, he enquired whether it was true that the proportion of Tibetans and Uighurs in local administration had decreased over the previous years. Could the delegation provide information on the implementation of the right to promotion regardless of ethnic origin?

11. Mr. SHA Zukang (China) said that dual nationality was not allowed in China, so a Chinese woman who married a foreign national could either retain her nationality or give it up if she wished to acquire the nationality of her husband. In the latter case, she would no longer be entitled to the privileges of a Chinese citizen. Any woman could obtain a loan from a commercial bank as long as she fulfilled the conditions imposed by the bank.

12. Although China's accession to the World Trade Organization (WTO) could foster the country's economic development, it also had a negative impact on the enjoyment of economic, social and cultural rights by the Chinese people. As a result of reduced tariffs and free trade measures, a number of foreign products dominated Chinese markets, which had negative repercussions for the agricultural, car and service industries. For example, the Government was making every effort to maintain and develop traditional culture, which was being replaced by imported audio-visual products and books. In addition, in pursuing their economic interests, transnational corporations often disregarded labour rights and environmental protection.

13. Under legislation on the protection of disabled persons, all government departments and enterprises had to ensure that disabled people represented 1.5 per cent of employees. If the requirement was not fulfilled, a contribution had to be paid to the Labour Department, which would be channelled into training and re-employment services for the disabled. Enterprises employing disabled people enjoyed tax breaks and other subsidies. About 80 per cent of the disabled in China were employed.

14. The Constitution affirmed the principle of equality between the sexes. In 1992, the Government had promulgated the Law of the People's Republic of China on the Protection of Rights and Interests of Women. While there were no specific legal provisions on sexual harassment, the courts had heard several sexual harassment cases in the previous few years.

15. In 1990, China had ratified ILO Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value. The Government had also introduced the Law on Labour Relations. Despite those measures, there was a growing gap between the incomes of men and women. The principle of equal pay for work of equal value was not always observed. Efforts were currently being made to improve the situation by monitoring income distribution within enterprises.

16. Both the central Government and local administrations had increased efforts to promote women's development by allocating 1.4 billion and 100 million yuan, respectively, for that purpose in the period 2000-2001. Women, in fact, were the major recipients of basic public services. In its 2004-2005 budget, the Government had budgeted some 100 million yuan for the reduction of maternal and infant mortality in western regions.

17. Regarding the promotion of women in politics, women currently accounted for 24 per cent of the members of the National People's Congress, ranking China thirty-seventh in the world in terms of the percentage of women parliamentarians. Through affirmative action programmes, the Government actively encouraged women to participate in political elections, and there was at least one female cadre in the administrations of the 31 provinces, municipalities and autonomous regions. Despite those efforts, awareness of gender equality was weak in some areas, the capacity of women to participate in policy-making and management required improvement and many women were constrained by the traditional belief that their place was in the home.

18. The Constitution provided that in exercising their freedoms and rights, Chinese citizens could not harm the interests of the State, society or other citizens. That provision applied to the exercise of certain rights protected under the Covenant, but it constituted the sole restriction placed on Covenant rights. Paragraph 15 of China's initial report contained a full explanation of the enjoyment of rights by non-Chinese citizens.

19. Regarding allegations of the removal of some Tibetan citizens to Nepal, it should first be noted that all 55 of China's ethnic groups lived in harmony and enjoyed the right to participate in social life and the affairs of the State. With the support of the central Government, Tibetans enjoyed fully the right to religious belief and to the development of their traditional culture. In recent years, some Tibetans had succumbed to efforts to promote illegal emigration from China,

and a number of separatists had fled to neighbouring countries in order to carry out terrorist activities. Such persons did not fall into the category of refugees. In dealing with neighbouring countries, China had always respected the principle that all countries were equal. As sovereign States, they could deal with the question of illegal immigration in whatever way they saw fit.

20. The People's Republic of China had not yet established national human rights institutions that were fully consistent with the Paris Principles. However, it possessed a number of institutions with similar functions, including the Standing Committee of the National People's Congress and the Peoples' Congresses at various local levels, all of which had special offices for receiving letters and complaints. Regulations stipulated that the relevant government bodies were required to respond to such letters and complaints within a prescribed amount of time.

21. The National People's Congress had a committee on home affairs and judicial affairs that handled human rights matters and was entrusted with considering and making recommendations relating to national human rights legislation. Supervisory bodies existed at various levels of Government to oversee the functions of government officials, and a State committee for ethnic affairs was responsible for the promotion and protection of ethnic minorities.

22. The measures used to treat mentally disabled persons usually included hospitalization and rehabilitation. In no circumstances were mentally disabled persons taken into custody; such measures were expressly prohibited by government regulations.

23. Hong Kong and Macau were Special Administrative Regions with small territories and large populations. In order to preserve the rights and interests of their residents and to maintain a sustainable level of development, the Chinese Government exercised control over the flow of persons between the mainland and Hong Kong and Macau by requiring visitors from the mainland to apply for a travel permit. However, efforts to promote tourism and economic development had led to simplification of the permit procedures, and the number of travellers had increased in recent years.

24. Workers laid off from enterprises in the process of restructuring maintained an employment relationship with their original employers and were therefore not considered to be unemployed. Their living expenses and social security contributions were paid for them during the transition. The published unemployment rate, which in 2004 had stood at 4.2 per cent, was the rate of unemployment in cities and townships. The Government was currently studying ways to improve its methods of researching unemployment in order to be consistent with international practices.

25. Prisoners in Chinese jails were requested to engage in work that was conducive to their physical health and future occupational reintegration. There were clear stipulations concerning the length, conditions and remuneration of prison labour.

26. The main purpose of a minimum wage system in China was to guarantee a basic level of subsistence for workers and their families. Under the Labour Act, the State established the minimum wage system and the level of the minimum wage was set each year at the provincial level. A number of factors were taken into account in determining the minimum wage in a particular province, including the cost of living, the average wage, the size of the labour force

and the ability of enterprises to pay the wage contemplated. A minimum wage system had been implemented in most provinces and municipalities. The minimum wage could vary both within a province and from one province to another.

27. China's Trade Union Act provided for the establishment of a single All-China Federation of Trade Unions across the country. Trade unions in various industries and regions were the component parts of the Federation, although they enjoyed a large degree of autonomy concerning their activities. Although it was illegal to organize a trade union outside the context of the All-China Federation of Trade Unions, the Government resolved attempts to do so through dialogue; no punishment had ever been meted out to trade union organizers. Legal proceedings against persons who engaged in criminal activities under the guise of trade union organization had nothing to do with preventing trade union organization.

28. China's legislation neither provided for the right to strike, nor prohibited strikes. The Labour Act provided that labour disputes should be solved through democratic consultation. The Government did not favour settling labour disputes through strikes because the latter were not in anyone's interest. Nevertheless, strikes did occur in China and were usually resolved successfully through mediation.

29. Numerous laws and regulations contained specific provisions concerning the minimum age of employment and working conditions for minors. The employment of minors under 16 was prohibited; however, those between the ages of 16 and 18 were allowed to engage in work compatible with their age and physical development. The results of labour inspection revealed that the vast majority of Chinese enterprises had never employed child labour.

30. A large percentage of the surplus rural labour force was migrating into China's cities. Rural migrant workers accounted for 30 of the 38 million workers in the nation's construction industry. Allegations of discrimination against migrant workers had elicited strong protest from society and were widely reported in the media. The Government was currently taking steps to strengthen advocacy for the protection of the rights of rural migrant workers, which included ensuring equal educational opportunities for their children and developing employment services, including training courses, to assist them in finding jobs.

31. The rural population of China, which made up the bulk of the national population, still maintained traditions of support from the extended family. The Government had set up a special social security system in a number of rural areas that consisted primarily of an old-age pension scheme. By the end of 2004, such schemes had covered some 57 million persons. Efforts were also under way to establish a new medical care system in rural areas. By the end of June 2004, pilot medical care projects had been set up in the rural areas of 30 provinces and covered some 95 million persons. In addition, a social assistance scheme and a special fund to help the most vulnerable families in rural areas had been established.

32. Regarding the safety of mines and miners, he was unable to confirm or deny the assertion that 18 people a day died in Chinese mines. A recent spate of accidents had been the result of non-implementation of safety regulations on the part of some proprietors of privately owned mines. The Government had initiated the issuing of safety permits; mines that did not fulfil the

requirements for such a permit would be closed, the people responsible for operating an unsafe mine would be tried before the courts, and victims of unsafe working conditions would receive compensation

33. The Government was encouraging trade unions to play a more active role in ensuring safe working conditions in private companies and those owned by local authorities, where the unions were less active in safeguarding workers' rights than in State-owned enterprises. Trade unions had participated in drafting legislation on safety at work and on the prevention of occupational illness, and had been instrumental in establishing safety inspection committees.

34. All workers enjoyed the right to join a trade union, pursuant to trade union legislation. Of the 300 million workers in the country, about 130 million were trade union members. State-owned and private companies that employed over 25 workers could establish unions. Workers in companies employing fewer workers had the right to join with workers in other companies for the formation of unions. Any workers who were recruited in China to work abroad had the right to form trade unions in accordance with Chinese legislation, or to maintain any links they had already established with a Chinese union. Those contracted abroad to work abroad had to abide by local laws.

35. In accordance with the Trade Union Act, all migrant workers had the right to join trade unions. However, since a large number of migrant workers did not realize that trade unions played an important role in protecting workers' rights, many of them had not joined unions. The unions were working to promote trade union membership among rural migrant workers.

36. The Government had investigated the issue of wage arrears owed to rural migrant workers. By the end of 2004 most arrears had been paid, and a permanent mechanism to ensure payment of arrears was under discussion. In some cities, companies had to prove their ability to cover any possible arrears and set up a special bank account for that purpose before employing rural migrant workers. That practice was to be extended to other parts of the country.

37. Since the establishment of the system of national tripartite labour-relations coordination conferences in 2001, 31 provinces, autonomous regions and directly administered municipalities had set up tripartite committees. The system would be extended to other areas in future. The role of those committees was to achieve timely resolution of all issues affecting workers. Eight tripartite labour-relations sessions had taken place nationwide, focusing on labour disputes and on guaranteeing payment of wages. At those sessions, all three parties had participated on an equal basis, and all three had taken the chair.

38. Under Chinese legislation, trafficking in women was a serious violation of criminal law and perpetrators were punished accordingly. Korean women who entered China illegally were treated as illegal immigrants and the relevant provisions of international law were applied.

39. Chinese law prohibited enforced abortions; that included abortions practised on Tibetan women. If enforced abortion was detected, those responsible were punished. Government policy was to encourage all ethnic minority cadres, including Tibetans, to have two children; and no restrictions were placed on childbearing in rural areas.

40. In some localities funds from personal bank accounts had been used to make pension payments. After pilot projects had been conducted in three provinces, work had begun in 2005 to replenish all personal accounts nationwide.

41. Government bodies at all levels were required by law to employ non-partisan staff and staff from parties other than the Communist Party. People with no political affiliation and members of other political parties could also serve as vice-mayors or governors at the local level, and could achieve promotion in public bodies and companies on an equal footing with members of the Communist Party.

42. In accordance with the provisions of the Constitution, all heads of autonomous regions, prefectures and counties were persons from ethnic minorities. The ratio of ethnic minority members in the National People's Congress was higher than that in the total population.

43. Ms. SHAO Wenhong (People's Republic of China) said that about one third of Supreme Court judges were women. Within the Supreme Court, about a quarter of departmental heads were women. Women also accounted for about one third of judges in local courts. While women's representation in legal bodies had increased significantly over the previous 15 years, further efforts were required to address the gender imbalance.

44. Mr. SADI asked how many mines had been closed as a result of non-observance of safety regulations and in how many cases those responsible had been prosecuted. What punishments had the perpetrators received?

45. He also wished to know whether the minimum wages referred to by the delegation were sufficient for workers and their families to attain an adequate standard of living.

46. Mr. SHA Zukang (People's Republic of China) said that many mines had been closed on the ground that they did not fulfil safety requirements. The culprits had been punished in accordance with the law and the workers concerned had received compensation.

47. The standard of living attainable with a minimum wage depended in part on where workers lived. In all cases, however, a minimum wage would provide workers and their families with sufficient food and a little surplus money, which constituted an adequate standard of living in many developing countries.

#### Articles 10-12 of the Covenant

48. Mr. RIEDEL asked why health spending as a percentage of the total government budget had been falling since 1996. What was being done to reverse that trend? Similarly, he was puzzled by the sharp increase in the number of cases of gonorrhoea and syphilis and was therefore anxious to find out what measures had been adopted to curb the spread of sexually transmissible diseases.

49. He wondered what specific steps were being taken to make health care more accessible, especially in the western regions of the country, where few people could afford to visit a doctor or go to hospital. Were those measures proving effective? Did the Government have any benchmarks for measuring progress in that respect? What were the health targets for the next five years?



50. Furthermore he would like to know what was being done to improve the situation of migrants without a *hokou* (residents' registration booklet). Since the high incidence of maternal mortality in cities could probably be ascribed to migrants' lack of access to even the most basic health care, he enquired about the existence and impact of pilot projects or legislative measures to address that issue. He suggested that the next periodic report should include benchmarks, together with the most recent indicators of migrant workers' living standards.

51. It would likewise be helpful if total figures showing trends in HIV/AIDS infection were supplied in the next periodic report. The Committee also needed actual comparative figures and disaggregated data about the prevention and treatment of HIV/AIDS. In addition, he would appreciate information on the Government's response to public demonstrations demanding better care for AIDS sufferers.

52. Lastly, he asked what steps were being adopted to eradicate the practice of ascertaining the sex of a foetus, given that it led to unsafe abortions. What action was being taken on the findings of the Special Rapporteur on violence against women, its causes and consequences (E/CN.4/1998/68/Add.4)?

53. Mr. PILLAY urged the delegation to acknowledge its country's difficulties in implementing the Covenant. Did the Government's poverty alleviation programmes really take account of economic, social and cultural rights?

54. Had people who had been forcibly evicted from their homes to make way for redevelopment schemes, infrastructure projects and the building of facilities for the Olympic Games been given compensation? Had they been consulted prior to the adoption of the schemes in question? Did they have any legal redress? Was due process of the law observed in such cases? Were they given advance warning of their forthcoming eviction? In that context, he drew attention to the Committee's general comment No. 7 and expressed concern about reports that housing rights defenders were being harassed. Furthermore, nothing seemed to have been done to end corruption among local officials who expropriated land. What legal avenues existed for the enforcement of rights which had been violated in that manner? Had the 40 million peasants who had thus been deprived of their livelihood been relocated to comparable land or had they received compensation?

55. He enquired about the number of homeless persons. Had the Housing Act mentioned in paragraph 125 of the report (E/1990/5/Add. 59) been passed? Would it comply with general comments Nos. 4 and 7? Would it emphasize the need to protect the right to adequate housing? Would it provide for an implementation mechanism at the local authority level? Would there be legal redress through the local courts or administrative bodies? Could the Government ensure that the right to housing would be respected? Lastly he requested the inclusion in the next periodic report of detailed data on homelessness, complaints lodged against expropriation, forced evictions and demolition, the prosecution of local officials and the penalties imposed on them.

56. Mr. ATANGANA asked what action was being contemplated to put an end to the practice of schoolchildren sometimes being required to engage in dangerous work in order to earn money to top up their schools' meagre resources. Did the centres set up to evaluate the Government's action to counter domestic violence have any precise, up-to-date figures, indicating a reduction in such violence?

57. Ms. BARAHONA RIERA noted that much still needed to be done to achieve gender equality in rural areas, especially in view of the cumbersome process for instituting criminal proceedings in the event of domestic violence. The legal vacuum which existed in that connection needed to be filled by new legal instruments to supplement the Marriage Act, which was currently the only piece of legislation dealing with family violence.

58. She was concerned about the buying of wives in rural areas and would appreciate details of any amendments to the law or any effective policies designed to halt that practice. While she realized that family planning was necessary on account of China's demographic problems, she was troubled by reports of coercive measures being applied to pregnant women who already had a child. She therefore requested information about forced sterilizations, especially in Tibet. Similarly she would welcome an explanation of the underlying reasons for the high suicide rate among rural women. She pointed out that scans could be used not only to ascertain the sex of an unborn child, but also to determine its health and that of the mother; for that reason, they should not be subject to a blanket ban. It would be advisable to ensure the provision of more reproductive health education in order to obviate recourse to abortions.

59. She asked for further clarification of rules and regulations underpinning environmental protection in China and whether the central Government had recognized the need to base its environmental policies on the principle of sustainable development. Were environmental impact assessments of private- or public-sector investment projects mandatory for industrial or infrastructure schemes? What steps had been taken to reduce air pollution, particulate emissions, noise and water pollution? Lastly she would welcome more information about the vigorous moves by civil society to oppose infrastructure projects, like the scheme concerning a sacred lake in Tibet, which possibly violated the right of the local population to sustainable development and ran counter to the locals' wishes.

60. Mr. RZEPLINSKI asked what actual steps had been taken by the central Government to guarantee everyone's access to clean water. What legal options were open to poor people in defending their homes and workshops against the powerful lobbies and companies which wanted to demolish them in order to build stadiums for the Olympic Games? Did the delegation have any information about cases in which residents' committees had won disputes between city authorities and groups of people who had been evicted? Lastly he was intrigued by the fact that in a socialist economy the gap between the richest and the poorest sectors of society was constantly widening and wondered what the reasons were.

61. Mr. BRAS GOMES requested a brief assessment of policy aimed at meeting the needs of elderly persons in need of long-term care owing to physical and mental incapacity. What specific services were available for that group of persons in urban and rural areas? Were they affordable? What was the status of private, non-profit-making service providers vis-à-vis the public authorities? What had been done to create an enabling environment for them?

62. Mr. MARTYNOV wished to receive additional information about China's poverty reduction strategy. How high had the animal husbandry and agricultural tax been? What specific measures had been taken by the Government to counter the erosion of the country's scarce arable land? What were the results of that policy? Was it true that women lost their homes if they started divorce proceedings because Government work units allotted housing only to men when couples married?

63. Mr. MALINVERNI, noting that female infanticide was skewing the male/female balance of the population, asked what measures the Government intended to apply to stop the abortion of unborn girl children, which was the downside of its policy of allowing only one child per family.

64. Mr. SADI wished to know the exact number of cases in which people had been prosecuted for female infanticide. How many doctors had been prosecuted? Was it possible to provide names and dates? Was the fact that a family could have only a limited number of children the reason for that practice?

The meeting rose at 1 p.m.