



# International Convention on the Elimination of All Forms of Racial Discrimination

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## Committee on the Elimination of Racial Discrimination

### Concluding observations on the combined fourteenth to seventeenth periodic reports of China (including Hong Kong, China and Macao, China)\*

1. The Committee considered the combined fourteenth to seventeenth periodic reports of China (CERD/C/CHN/14-17), including Hong Kong, China (CERD/C/CHN-HKG/14-17), and Macao, China (CERD/C/CHN-MAC/14-17), at its 2654th and 2655th meetings (see CERD/C/SR.2654 and 2655), held on 10 and 13 August 2018. At its 2672nd, 2673rd, 2674th and 2675th meetings, held on 24, 27 and 28 August 2018, it adopted the present concluding observations.

#### A. Introduction

2. The Committee welcomes the submission of the fourteenth to seventeenth periodic reports of the State party, while regretting the delay in their submission. The Committee expresses its appreciation for the open and constructive dialogue with the State party's large delegation. It also wishes to thank the delegation for the additional oral and written information provided during the consideration of the report.

#### B. Positive aspects

3. The Committee welcomes the State party's efforts to amend its legislation, policies, programmes and administrative measures to ensure further the protection of human rights and the implementation of the Convention, including:

(a) The second and third National Human Rights Action Plans (2011–2015, 2016–2020);

(b) The plan for supporting the development of small population ethnic groups (2011–2015);

(c) The repeal of legislation on re-education through labour in 2013;

(d) The plan for rural poverty alleviation and development (2011–2020).

4. The Committee also welcomes the State party's remarkable achievement in significantly reducing poverty both overall and in the eight multi-ethnic provinces and regions.

5. Concerning Hong Kong, China, the Committee welcomes the community outreach programmes aimed at ethnic minorities, and the implementation of the Chinese Language

\* Adopted by the Committee at its ninety-sixth session (6–30 August 2018).



Curriculum Second Language Learning Framework (“Learning Framework”) in primary and secondary schools (2014).

6. Concerning Macao, China, the Committee welcomes the adoption of Law 13/2012, the Legal Aid General Regime (2013), extending eligibility for need-based legal aid to, inter alia, those with non-resident worker status. It also welcomes the introduction of article 153-A of the Criminal Code, strengthening protection against trafficking in persons.

## C. Concerns and recommendations

### Definition and criminalization of racial discrimination

7. The Committee again reiterates its concern that the domestic legislation of the State party does not contain a definition of racial discrimination in full conformity with article 1 of the Convention. It also reiterates its concern that the State party has not adopted a comprehensive anti-discrimination law. The Committee is concerned that in Hong Kong, China, law enforcement activity does not necessarily fall within the scope of the prohibition on racial discrimination contained in the Race Discrimination Ordinance. The Committee is also concerned that Macao, China does not have a domestic law specifically defining and criminalizing racial discrimination that is fully in line with article 1 of the Convention (arts. 1, 2 and 5) (see A/56/18, paras. 241–242 and CERD/C/CHN/CO/10-13, paras. 10–11).

**8. The Committee urges the State party, including Hong Kong, China, and Macao, China, to amend its domestic laws to expressly define and criminalize all forms of racial discrimination in full conformity with article 1 of the Convention, and expressly prohibit both direct and indirect racial discrimination in all fields of public life, including law enforcement and other government powers.**

### National human rights institutions

9. The Committee is concerned by the absence of formal national human rights institutions in China, including Macao, China, despite the functions fulfilled by the Commission against Corruption in Macao, China. While noting the relevant information provided by the Equal Opportunities Commission and the delegation of Hong Kong, China, the Committee is nevertheless concerned by reports that the Commission, which was assigned a C rating by the Global Alliance of National Human Rights Institutions, is not fully independent and accessible to victims (art. 2).

**10. The Committee recommends that the State party, including Macao, China, establish independent national human rights institutions in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). To ensure their effective functioning, the Committee also recommends that the State party, including Hong Kong, China, and Macao, China, provide them with sufficient structural independence and financial and human resources.**

### Declaration

11. The Committee is concerned by the interpretative declaration applying to Hong Kong, China concerning article 6 of the Convention (arts. 2 and 4).

**12. The Committee recommends the withdrawal of the declaration applying to Hong Kong, China concerning article 6 of the Convention.**

### Administrative and civil complaints on racial discrimination

13. The Committee is concerned by the lack of comprehensive statistics, surveys, administrative records and registers provided by the State party on acts of racial discrimination and related administrative and civil complaints, investigations, procedures and sanctions. In the light of reports of acts of racial discrimination committed in various sectors of public and private life in Hong Kong, China, the Committee expresses its concern at the statement of Hong Kong, China that racial discrimination is not a prevalent

or serious problem there. The Committee also notes with concern that the courts in Macao, China did not receive any cases relating to racial discrimination during the reporting period (arts. 2, 5, 6 and 7).

**14. The Committee recommends that the State party, including Hong Kong, China and Macao, China, conduct training programmes for government officials and civil servants, including law enforcement officials, on anti-racial discrimination laws and related administrative and civil complaint mechanisms, to ensure that victims are aware of their rights. The Committee requests that it provide in its next periodic reports surveys, administrative records or registers and statistics, disaggregated by ethnic and national origin of the complainant, indicating the number, type and outcome of civil and administrative complaints relating to acts of racial discrimination and submitted to national human rights institutions, courts and other relevant bodies.**

#### **Racist hate speech and hate crimes**

15. The Committee:

(a) Notes the two court cases cited by the State party imposing sanctions for inciting ethnic hatred, and that, between 2015 and June 2018, no criminal complaints were received and no criminal investigations were conducted relating to racial discrimination in Macao, China;

(b) Recalls that an absence or a small number of complaints does not signify the absence of racial discrimination or expressions of racial hatred, but may rather indicate that there are barriers to the invoking of the rights in the Convention, including a lack of public awareness of the rights under the Convention; a lack of access to, availability of or confidence in methods for seeking judicial recourse; fear of reprisals; and limited access to the police including due to language barriers or a lack of attention to or sensitivity to cases of racial discrimination;

(c) Is concerned by the lack of information on tools made available to assist victims in reporting hate crimes;

(d) Is also concerned by reports from Hong Kong, China of negative portrayals and hostile statements in traditional and social media targeting ethnic minorities, in particular South Asians, by inflammatory public statements made against them, and by reports that commensurate action is not consistently taken by the authorities in Hong Kong, China in response to acts of hate speech. In this regard, the Committee notes the absence of statistics provided by Hong Kong, China on sanctions imposed for acts of racist hate speech (arts. 2 and 4).

**16. Recalling its general recommendations No. 7 (1985) relating to the implementation of article 4 of the Convention and No. 35 (2013) on combating racist hate speech, the Committee recommends that the State party, including Hong Kong, China and Macao, China:**

(a) **Conduct training programmes on racist hate crimes for police, prosecutors, members of the judiciary and other law enforcement officers, including on the difficulties faced by victims in reporting such crimes;**

(b) **Ensure that law enforcement officials consistently monitor, record, investigate, prosecute and sanction racist hate crimes;**

(c) **Establish specialized prosecutors on hate crimes, and encourage them to initiate proceedings ex officio in cases of racist hate crimes and racist hate speech, as proposed in the Committee's general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system;**

(d) **Ensure that victims of racist hate crimes and hate speech receive support to facilitate reporting and are provided with appropriate remedies;**

(e) **Ensure that politicians publicly condemn racist hate speech and hate crimes.**

17. **The Committee requests that the State party, including Hong Kong, China and Macao, China, provide in its next periodic report statistics or administrative records, disaggregated by ethnic origin and national origin of the victims, on investigations, prosecutions, convictions, sentences, sanctions and remedies for racist hate crimes.**

#### **Development and poverty reduction**

18. The Committee welcomes the State party's commitment, in its National Human Rights Action Plan (2016–2020), to a “people-centred development approach”. The Committee is however concerned by the information provided by the State party according to which poverty remains broad and deep throughout ethnic autonomous areas. The Committee is concerned by poverty-related inequality and by the lack of specific indicators of progress in the assessment report of June 2016 on the National Human Rights Action Plan (2012–2015). It is also concerned by the information provided by the State party according to which poverty statistics disaggregated by ethnicity are not collected. The Committee is further concerned at reports that, in Hong Kong, China, the percentage of ethnic minorities living in poverty has risen in recent years, and that the poverty rates of South Asians overall and Pakistanis specifically are disproportionately high. It is also concerned by reports according to which in Macao, China, where large numbers of foreign migrant workers reside, the actual incidence of poverty is much higher than the official rate when the high cost of living is taken into account (arts. 2 and 5).

19. **The Committee encourages the State party to continue its poverty reduction programmes and to ensure the inclusion of human rights in its people-centred approach to development, leaving no one behind. It recommends that the State party, including Hong Kong, China and Macao, China, take further steps to eliminate ethnic economic disparities by, inter alia:**

(a) **Enhancing meaningful consultation with ethnic minority groups prior to and during poverty alleviation projects;**

(b) **Expanding special measures to reduce high levels of poverty and related inequality among affected ethnic minorities;**

(c) **Further strengthening basic infrastructure and public services in predominantly ethnic areas, including rural areas.**

20. **The Committee requests the State party, including Hong Kong, China and Macao, China, to provide in its next periodic report updated poverty rate statistics and other indicators, disaggregated by ethnic and national origin, revealing the enjoyment of economic, social and cultural rights and the effectiveness of measures taken, including under the National Human Rights Action Plan (2016–2020).**

#### **Unrecognized ethnic groups**

21. The Committee notes that, according to the data provided by the State party, in 2010, there were over 640,000 people who did not belong to one of the 56 recognized ethnic groups. While acknowledging the statement delivered by the State party delegation that these people fully enjoy equal rights, the Committee is concerned by reports that they might encounter difficulties in obtaining political representation and special measures as minorities (arts. 2 and 5).

22. **The Committee recommends that the State party ensure the official recognition of all ethnic groups in its territory and the political representation of persons belonging to these groups.**

#### **Education**

23. While welcoming the State party's education initiatives, some of which have led to a decline in illiteracy among both the general population and ethnic minorities from 2000 to 2010, the Committee remains concerned by reports that ethnic minority children living in rural areas have unequal access to quality education owing to various factors, including long distances from homes to schools. The Committee is further concerned by reports that, despite the abolition of English-medium “designated schools” in Hong Kong, China, many

ethnic minority children continue to attend a few of these former “designated schools” that are not fully resourced to provide quality education, and that, despite the Chinese Language Curriculum Second Language Learning Framework, Chinese language instruction for non-Chinese speaking students in such schools is insufficient (arts. 2 and 5).

**24. The Committee recommends that the State party:**

**(a) Strengthen special measures to ensure equal access to and the availability and quality of primary and secondary education for all ethnic groups;**

**(b) Increase human, technical and financial resources to day schools and boarding schools in disadvantaged ethnic minority areas;**

**(c) Facilitate the smooth integration of non-Chinese speaking students in Hong Kong, China into the education system, and ensure that children of all ethnicities enjoy their right to inclusive and Chinese-language education.**

**25. In addition, the Committee, with a view to ascertaining the treatment of ethnic minorities in educational curricula, requests the State party, including Hong Kong, China and Macao, China, to describe in its next periodic report information contained in school textbooks on the historical presence and contributions of ethnic minorities in their territories.**

#### **Resettlement and land expropriation**

26. The Committee is concerned by reports that large numbers of farmers and nomadic herders, including from ethnic autonomous areas, have lost their traditional lands and livelihoods owing to poverty alleviation and ecological restoration resettlement measures that could be seen as aggressive development models. While noting the statements delivered by the State party delegation concerning assistance and compensation provided to individuals who have been resettled through these measures, the Committee is nevertheless concerned by reports that compensation for expropriated property is often insufficient to maintain an adequate standard of living; the Committee is concerned, for example, by reports that many resettled ethnic Mongolians have not received sufficient compensation for the loss of their traditional livelihoods as herders owing to a ban on livestock grazing. It is also concerned by reports that, despite an official policy of voluntary resettlement, in practice informed consent is not consistently obtained (arts. 2 and 5).

**27. The Committee recommends that the State party fully implement the recommendations contained in paragraphs 30 and 31 of the concluding observations of the Committee on Economic, Social and Cultural Rights (E/C.12/CHN/CO/2). It also recommends that, in cases of resettlement in ethnic minority areas, the authorities work closely and effectively with ethnic minority government officials and communities and provide financial allowances that ensure an adequate standard of living, as well as livelihood restoration measures and, where needed, linguistic and cultural integration assistance.**

#### **Health**

28. The Committee welcomes the significant improvements made in recent years with regard to life expectancy and access to health care in ethnic minority areas, as stated by the State party in the information provided. The Committee is however concerned by reports that, despite the increase in health-care funding and service provision in these areas, certain ethnic minority groups in the State party have poorer access to health care, including prenatal care (arts. 2 and 5).

**29. While recognizing the progress already made, the Committee recommends that the State party strengthen its efforts to address disparities in health affecting certain minority ethnic groups, including by addressing the obstacles that hinder their access to affordable and adequate health care, taking into consideration the difficulties posed by their geographical location. The Committee also recommends that the State party gather and provide to the Committee in its next periodic report statistics, disaggregated by ethnic and national origin, on a wide range of health indicators, including on life expectancy.**

### Foreign domestic workers

30. The Committee notes the labour law protections afforded to foreign domestic workers in Hong Kong, China, and notes the delegation's position on the rationale of the live-in requirement. The Committee is, however, concerned that the live-in requirement renders workers vulnerable to abuse, and that the rule requiring workers to leave the territory within two weeks of termination of contract hinders their ability to obtain redress for labour violations. It is also concerned by reports that many foreign migrant workers are subjected to physical abuse and have their passports confiscated by their employers. The Committee notes that, in Macao, China, between January 2015 and June 2018, only 11 complaints from non-resident workers about employment agencies were found to be substantiated (arts. 2 and 5).

**31. The Committee reiterates its recommendation that effective measures be taken to ensure non-discrimination against domestic migrant workers, and again calls for the repeal of the “two weeks rule” and the live-in requirement (see CERD/C/CHN/CO/10-13, para. 30). It also recommends that Hong Kong, China and Macao, China further strengthen monitoring of the employment and living conditions of domestic migrant workers, and their access to education and affordable health care. It requests that the State party provide in its next periodic report statistics on complaints, self-initiated and other investigations, prosecutions, sanctions and remedies to protect domestic migrant workers.**

### Civil society

32. The Committee is concerned by reports that, under the Law on the Administration of Activities of Overseas Non-governmental Organizations in the Mainland of China and the Charity Law, many civil society organizations and charitable organizations have been unable to register or re-register as required in order to be able to operate in mainland China. The Committee is also concerned by reports that the number of non-governmental organizations in China has decreased tremendously in the past few years, and that no organizations working to combat racial discrimination are registered there (arts. 2 and 5).

**33. Recalling that civil society can play an important role in meeting the challenges of implementing the Convention, the Committee:**

(a) **Recommends that the State party ensure that its laws and regulations, including the Law on the Administration of Activities of Overseas Non-governmental Organizations in the Mainland of China and the Charity Law, provide an open space for civil society, and specifically for non-governmental organizations working to combat racial discrimination, improving transparency of registration procedures;**

(b) **Requests the State party to provide in its follow-up report the number of non-governmental organizations that are working on issues relating to the Convention and are officially registered in China.**

### Hukou system

34. The Committee welcomes the State party's information that, by 2020, it will eliminate the distinction between agricultural and non-agricultural residence registration. The Committee is, however, concerned by reports that recent efforts to reform the *hukou* system have not made substantial positive changes for many rural migrants, including ethnic minorities (arts. 2 and 5).

**35. The Committee refers to its previous recommendation (see CERD/C/CHN/CO/10-13, para. 14), and recommends that the State party ensure that reforms to the *hukou* system allow internal migrants, in particular members of ethnic minorities, enjoy the same work and social security, health and education benefits as long-time urban residents.**

### Broad definitions of terrorism and separatism

36. The Committee is concerned by reports that the broad definition of terrorism, the vague references to extremism and the unclear definition of separatism in Chinese laws

could potentially lead to the criminalization of peaceful civic and religious expression and facilitate the criminal profiling of ethnic and ethno-religious minorities, including Muslim Uighurs, Buddhist Tibetans and Mongolians.

**37. The Committee recommends that the State party review its existing relevant laws, regulations and practices in order to ensure that they are narrowly tailored, that there are effective monitoring mechanisms and sufficient safeguards against abuse, and that they are implemented in a manner that does not constitute profiling or discrimination on the grounds of race, colour, descent, nationality, ethnicity or ethno-religious identity. The Committee requests the State party to provide in its next periodic report statistics, disaggregated by ethnicity, on prosecutions, convictions, sentences and other sanctions for crimes relating to terrorism, separatism and extremism.**

#### **Torture and ill-treatment**

38. The Committee, while noting that, according to the State party, the reports are false, is concerned by reports according to which certain Tibetans, Uighurs and other ethnic minorities, peaceful political protestors and human rights defenders have been tortured or otherwise subjected to ill-treatment. It is also concerned by reports that certain Uighur detainees have been held incommunicado for prolonged periods, which puts them at risk of torture and other ill-treatment.

**39. The Committee recommends that the State party:**

**(a) Strengthen measures to prevent acts of torture and ill-treatment committed against members of ethnic minorities, including by improving their access to lawyers;**

**(b) Ensure that all custodial deaths, allegations of torture and ill-treatment, harassment and reported use of excessive force against members of ethnic minorities are promptly, impartially and effectively investigated by an independent mechanism, and that perpetrators are brought to justice;**

**(c) Allow independent experts to conduct an investigation into the deaths of members of ethnic minorities in custody;**

**(d) Fully implement the recommendations contained in paragraph 41 of the concluding observations adopted in 2015 by the Committee against Torture (CAT/C/CHN/CO/5);**

**(e) Take all necessary measures to provide a safe environment for those working to protect and promote human rights.**

#### **Xinjiang Uighur Autonomous Region**

40. The Committee notes the statements delivered by the State party delegation concerning the non-discriminatory enjoyment of freedoms and rights in the Xinjiang Uighur Autonomous Region. The Committee is, however, alarmed by:

(a) Numerous reports of the detention of large numbers of ethnic Uighurs and other Muslim minorities, held incommunicado and often for long periods, without being charged or tried, under the pretext of countering religious extremism. The Committee regrets the lack of official data on how many people are in long-term detention or who have been forced to spend varying periods in political “re-education camps” for even non-threatening expressions of Muslim ethno-religious culture, such as a daily greeting. Estimates of the number of people detained range from tens of thousands to over a million. The Committee also notes that the delegation stated that vocational training centres exist for people who have committed minor offences without qualifying what that means;

(b) Reports of mass surveillance disproportionately targeting ethnic Uighurs, such as frequent baseless police stops and the scanning of mobile phones at police checkpoint stations; additional reports have been received of the mandatory collection of extensive biometric data in the Xinjiang Uighur Autonomous Region, including DNA samples and iris scans, of large groups of Uighur residents;

(c) Reports that all residents of the Xinjiang Uighur Autonomous Region are required to hand over their travel documents to police and apply for permission to leave the country, and that permission may not come for years. This restriction particularly affects those who wish to travel for religious purposes;

(d) Reports that many Uighurs who had left China have allegedly been returned to the country against their will. There are fears for the current safety of those returned to China against their will.

41. While acknowledging the State party's denials, the Committee takes note of reports that Uighur language education has been banned in schools in the Hotan (Hetian) prefecture in the Xinjiang Uighur Autonomous Region (arts. 2 and 5).

42. **The Committee recommends that the State party:**

(a) **Halt the practice of detaining individuals who have not been lawfully charged, tried and convicted for a criminal offence in any extralegal detention facility;**

(b) **Immediately release individuals currently detained under these circumstances, and allow those wrongfully held to seek redress;**

(c) **Undertake prompt, thorough and impartial investigations into all allegations of racial, ethnic and ethno-religious profiling, holding those responsible accountable and providing effective remedies, including compensation and guarantees of non-repetition;**

(d) **Implement mandatory collection and analysis of data on the ethnicity of all individuals stopped by law enforcement, the reasons for and outcome of those stops, report publicly on the information collected at regular intervals and include it in its follow-up report;**

(e) **Ensure that all collection, retention and use of biometric data is regulated in law and in practice, is narrow in scope, transparent, necessary and proportionate to meeting a legitimate security goal, and is not based on any distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin;**

(f) **Eliminate travel restrictions that disproportionately affect members of ethnic minorities;**

(g) **Disclose the current location and status of Uighur students, refugees and asylum seekers who returned to China pursuant to a demand made by the State party in the past five years;**

(h) **Provide the number of persons held against their will in all extralegal detention facilities in the Xinjiang Uighur Autonomous Region in the past five years, together with the duration of their detention, the grounds for detention, the humanitarian conditions in the centres, the content of any training or political curriculum and activities, the rights that detainees have to challenge the illegality of their detention or appeal the detention, and any measures taken to ensure that their families are promptly notified of their detention.**

#### **Tibetans**

43. The Committee is concerned by reports that Tibetans are subjected to significant restrictions on movement within and beyond Tibet Autonomous Region, and that the issuance of passports for foreign travel is almost entirely banned in the region. It is also concerned by reports that Tibetan language teaching in schools in the Tibet Autonomous Region has not been placed on an equal footing in law, policy and practice with Chinese, and that it has been significantly restricted; that Tibetan language advocacy has been punished; and that Tibetans do not have access to Tibetan language translations during court proceedings, which are held in Mandarin (arts. 2 and 5).

44. **The Committee recommends that the State party:**



(a) **Revise its regulations and practices to ensure non-discriminatory determinations on passport applications and freedom of movement for Tibetans who would like to travel within and beyond the Tibet Autonomous Region and abroad;**

(b) **Preserve the Tibetan language in the Tibet Autonomous Region by, inter alia, encouraging and promoting its use in the fields of education, the judicial system and the media;**

(c) **Provide the Committee with information regarding the promotion of, and any restrictions on the use of, ethnic minority languages.**

#### **Ethnic Mongolians**

45. The Committee is concerned by reports of abuses by State authorities against ethnic Mongolians peacefully protesting against the confiscation of land and development activities that have resulted in environmental harm. The Committee is also concerned by reports of a significant reduction in the availability of Mongolian-language public schooling (arts. 2 and 5).

46. **The Committee recommends that the State party ensure the ability of ethnic minorities to safely conduct peaceful protests, and investigate and sanction any allegations of abuse or harassment during such incidents, whether inflicted by private or State agents. The Committee also recommends that the State party ensure the availability of Mongolian-language public education for ethnic Mongolians, including those residing outside of the Inner Mongolia Autonomous Region.**

#### **Employment**

47. The Committee welcomes the information provided by the State party, including Hong Kong, China, on the measures they have taken to promote the employment of ethnic minorities. While noting the State party's regional unemployment rate statistics, the Committee observes with concern, however, that they are not disaggregated by ethnicity. The Committee is also concerned by the lack of information from the State party about labour inspections and investigations relating to racially discriminatory practices in employment. It notes with concern that most of the 51 employment-related racial discrimination complaints handled by the Equal Opportunities Commission in Hong Kong, China between April 2013 and March 2018 were discontinued owing to a lack of substance. The Committee is also concerned by reports that ethnic Uighurs, Mongolians and Tibetans, together with certain other ethnic minorities in China, including Hong Kong, China, often face discrimination in job advertisements and recruitment processes. The Committee is further concerned that, from 2015 to 2017, the Labour Affairs Bureau in Macao, China did not open any cases relating to racial discrimination (arts. 2, 5 and 6).

48. **The Committee:**

(a) **Recommends that the State party, including Hong Kong, China, strengthen measures to prevent, detect and where appropriate sanction racial discrimination in public and private sector labour conditions, including recruitment and promotion, and ensure that any company or institution placing discriminatory job advertisements is held legally accountable;**

(b) **Encourages employers to lower the Chinese-language proficiency requirements in Hong Kong, China;**

(c) **Requests the State party, including Hong Kong, China, to describe the above measures together with goals, targets and results achieved in ensuring equal opportunity and treatment in employment without distinction as to race, colour, descent or national or ethnic origin;**

(d) **Requests China, including Hong Kong, China and Macao, China, to provide in its next periodic report statistics, disaggregated by ethnicity, on activity rates and employment and unemployment rates and on political and civil service employment, including at the managerial level, including in the judiciary, the police force and the prosecutor's office. It also requests data on labour inspection visits**

**conducted with a view to detecting discriminatory practices against ethnic minorities, as well as statistics on violations detected, sanctions imposed and compensation provided to victims.**

#### **Trafficking in persons**

49. The Committee welcomes the State party's National Plan of Action on Combating Human Trafficking (2013–2020), and notes the measures taken by Hong Kong, China to improve victim identification and protection. The Committee is, however, concerned that China, including Hong Kong, China, does not have a comprehensive law criminalizing all forms of human trafficking. It is also concerned by the absence of statistics from the State party on investigations, prosecutions and sanctions for criminal offences involving human trafficking. The Committee is further concerned by the low number of prosecutions and convictions for trafficking in persons to or from Hong Kong, China. While welcoming the information provided by Macao, China on anti-trafficking laws and measures and on services available to victims, the Committee is nevertheless concerned that, from 2015 through June 2018, there were only two prosecutions and zero convictions for trafficking in persons (arts. 2, 5 and 6).

**50. The Committee recommends that the State party, including Hong Kong, China, adopt comprehensive anti-human trafficking laws that prohibit all forms of human trafficking. It also recommends that the State party, including Hong Kong, China and Macao, China:**

- (a) **Intensify efforts to prevent, detect and combat trafficking in persons;**
- (b) **Consistently apply standard operating procedures for proactively identifying, assisting and rehabilitating victims of trafficking;**
- (c) **Provide in its next periodic report data, disaggregated by the nationality or ethnicity of the victims, on the number of acts of trafficking and enslavement identified, investigated, prosecuted and sanctioned, and on remedies and assistance provided to victims.**

#### **Refugees and asylum seekers**

51. The Committee is concerned that the State party, which is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, has not adopted a comprehensive refugee law. While noting the statements made by the State party delegation concerning the screening of non-refoulement claims by Hong Kong, China, the Committee is concerned that it does not grant asylum to or determine the refugee status of asylum seekers. The Committee again reiterates its concern at reports that asylum seekers from the Democratic People's Republic of Korea continue to be forcibly returned despite credible claims for non-refoulement protection (see A/56/18, para. 246 and CERD/C/CHN/CO/10-13, para. 16). The Committee is also concerned by reports that many of their Chinese-born children are stateless and do not enjoy public education or other services because their parents fear facing refoulement upon registration of the births (arts. 2, 5 and 6).

**52. The Committee reiterates its recommendations (see CERD/C/CHN/CO/10-13, paras. 16 and 29), that:**

- (a) **The State party, including Hong Kong, China, adopt comprehensive laws on refugee status in conformity with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol;**
- (b) **The State party take all necessary legal and policy measures to ensure that all asylum seekers have the merits of their individual cases considered by an independent and impartial authority.**

**53. The Committee recommends that the State party ensure that all children born in the State party are issued with a birth certificate, irrespective of the legal status of the parents or the ability to present residence registration papers, and that it intensify efforts to identify stateless persons. It also recommends that the State party implement**

the recommendations contained in paragraphs 47 and 48 of the concluding observations of the Committee against Torture (CAT/C/CHN/CO/5).

54. The Committee requests the State party, including Hong Kong, China and Macao, China, to provide in its next periodic report information on asylum procedures and statistics, disaggregated by nationality, and on applications for asylum or other non-refoulement protections filed, granted and denied.

## **D. Other recommendations**

### **Ratification of other instruments**

55. Bearing in mind the indivisibility of all human rights, the Committee urges the State party to consider ratifying those international human rights instruments that it has not yet ratified, including the International Covenant on Civil and Political Rights, the International Convention for the Protection of All Persons from Enforced Disappearance, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and International Labour Organization conventions No. 81, on labour inspections, No. 143, on migrant workers, No. 169, on indigenous peoples, and No. 189, on domestic workers.

### **Follow-up to the Durban Declaration and Programme of Action**

56. The Committee takes note of the information the State party provided concerning the measures it has taken to give effect to the Durban Declaration and Programme of Action, adopted at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in September 2001, and encourages it to continue these efforts and to report accordingly.

### **International Decade for People of African Descent**

57. In the light of General Assembly resolution 68/237, the Committee requests the State party to include in its next periodic report precise information on the concrete measures adopted in the framework of the International Decade for People of African Descent, taking into account the Committee's general recommendation No. 34 (2011) on racial discrimination against people of African descent.

### **Consultations with civil society**

58. The Committee recommends that the State party, including Hong Kong, China and Macao, China, increase its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

### **Declaration under article 14 of the Convention**

59. The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the Committee's competence to receive and consider individual communications.

### **Common core document**

60. Noting that the State party submitted its common core document (HRI/CORE/CHN/2010) in 2010 and is currently in the process of updating it, the Committee encourages the State party to ensure that the updated document is in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN.2/Rev.6, chap. I). In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.

**Follow-up to the present concluding observations**

61. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 33 (b), 42 (a)–(d), 42 (f)–(h) and 44 (c) above.

**Paragraphs of particular importance**

62. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 8, 33 (a), 37 and 39 above, and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

**Dissemination of information**

63. The Committee recommends that the State party's reports be made readily available to and accessible by the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly publicized in the official and other commonly used languages, as appropriate.

**Preparation of the next periodic report**

64. The Committee recommends that the State party submit its combined eighteenth to twentieth periodic reports, as a single document, by 28 January 2023, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.

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