



Economic and Social Council

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Committee on Economic, Social and Cultural Rights

List of issues in relation to the fourth periodic report of Hong Kong, China*, **

I. General information

1. With reference to the information provided by Hong Kong, China (E/C.12/CHN-HKG/4, paras. 10–12 and annex 2A), please provide information on the mechanisms in place for the regular review of the legislation implementing the Covenant to ensure its compliance with the Covenant. Please specify any efforts made to provide specialized training on the provisions of the Covenant and their justiciability, including through the Hong Kong Judicial Institute. Please provide information on cases in which provisions of the Covenant were applied by or invoked before domestic courts, including examples of such cases.
2. With reference to the information provided by Hong Kong, China (paras. 33–34), please clarify the extent to which the mandate of the existing statutory institutions covers the rights enshrined in the Covenant. Please indicate any measures taken to strengthen the mandate and powers of those institutions to promote and protect economic, social and cultural rights for all persons in Hong Kong. Please provide information on legal aid provided in cases of alleged violation of economic, social and cultural rights.
3. Please indicate any steps taken to adopt a legislative or policy framework to ensure that businesses exercise human rights due diligence. In this context, please provide information on any consideration being taken to incorporate human rights due diligence into the environmental, social and governance reporting framework of Hong Kong Exchanges and Clearing Limited. Please specify the measures taken to hold business entities domiciled in Hong Kong accountable for violations of economic, social and cultural rights and to provide for access to remedy in Hong Kong by victims of such violations who are non-nationals.
4. Please specify the progress made in meeting the carbon intensity target of 65 to 70 per cent by 2030, compared with the levels recorded in 2005 and carbon neutrality by 2050. Please provide information on the adaptation measures taken by Hong Kong under its Climate Action Plan 2030+ to address the adverse effects of climate change on the enjoyment of economic, social and cultural rights, particularly by disadvantaged and marginalized individuals and groups.
5. Please provide information on the measures taken to protect human rights defenders advocating for economic, social and cultural rights, including trade union activists, journalists, lawyers and civil society actors, and to create an enabling environment for civil society. In particular, please indicate any efforts undertaken to ensure that the enforcement of the national security law does not shrink civic space for human rights defenders advocating

* Adopted by the pre-sessional working group at its sixty-eighth session (8–12 March 2021).

** The present document forms part of the list of issues in relation to the State party report of China (E/C.12/CHN/Q/3), which also includes the list of issues in relation to the report of Macao, China (E/C.12/CHN-MAC/Q/3).



for economic, social and cultural rights. Please provide information on any measures taken to address reports that pro-democracy activists and their families are facing discrimination and retribution in accessing employment, social protection, housing, health care and education.

II. Issues relating to the general provisions of the Covenant (arts. 1–5)

Maximum available resources (art. 2 (1))

6. In order for the Committee to assess whether Hong Kong, China, is using the maximum available resources to realize the rights recognized in the Covenant, please provide information on the evolution over the past 10 years of:

(a) The proportion of the population living below the poverty line as defined at the national level, before and after taxes and transfers;

(b) The levels of income inequality, defined as the ratio between the total income accruing to the richest decile of the population and the total income of the poorest 40 per cent of the population, before and after taxes and transfers;

(c) The levels of wealth inequality, defined as the ratio between the assets owned by the richest decile of the population and the assets owned by the poorest 50 per cent of the population;

(d) The proportion of public revenue that is financed through taxes;

(e) Tax rates levied on corporate profits and on personal income, value-added tax (exclusive of value-added tax on luxury items, tobacco, alcohol, sugary drinks and snacks, and petrol and diesel) and the percentage of total revenue from personal income tax that is collected from the richest 10 per cent of the population;

(f) Public expenses as a percentage of gross domestic product and, within total public expenses, the proportion of the public budget that is dedicated to social priorities, including employment, education, food, health, water and sanitation, social security, housing and culture;

(g) Inflation-adjusted absolute levels of social spending.

Non-discrimination (art. 2 (2))

7. Please provide updated information on the steps taken to adopt comprehensive anti-discrimination legislation. Please clarify the legislative framework that provides for the prohibition of and protection from discrimination based on the grounds that are not covered by the four anti-discrimination laws, including age, language, religion, sexual orientation, gender identity and criminal record, and the avenues for victims of discrimination in such cases to seek legal remedy.

8. In anticipation of the replies of Hong Kong, China, to the list of issues adopted by the Human Rights Committee (CCPR/C/CHN-HKG/Q/4, para. 8), the Committee also requests Hong Kong, China, to provide information on:

(a) The measures taken to address the discrimination and harassment faced by lesbian, gay, bisexual, transgender and intersex persons in accessing employment, housing, health care, education and social services, and the impact of those measures;

(b) Any reviews carried out on the practice of early surgery and medical interventions on intersex children, and statistical data on the number of intersex children who have undergone such medical interventions;

(c) Any measures taken to recognize same-sex couples, including those married abroad, especially following the decision of the Hong Kong Court of First Instance in *Infinger Nick v. The Hong Kong Housing Authority* (4 March 2020).

9. Please indicate any steps taken to provide durable solutions to the status of persons claiming non-refoulement protection whose claim has been substantiated so as to enable them to enjoy their rights guaranteed in the Covenant. In particular, please provide information on any steps taken to:

- (a) Consider recognizing their right to work during their stay in Hong Kong;
- (b) Increase the level of assistance provided to these persons to a level sufficient to ensure a decent living;
- (c) Develop any health policy guidelines for those persons and to improve the medical fee waiver programme for them in terms of the application process, the scope of health-care services covered by the programme and the awareness of the programme among them and medical personnel.

Equal rights of men and women (art. 3)

10. Please provide information on the measures taken to improve women's labour market participation. Please also indicate the efforts made to enhance the equal distribution of family responsibilities between men and women and, in particular, to increase the availability of public childcare services. Please provide information on the measures taken to ensure equal rights of women to access and use land and property and, in this context, please indicate the measures taken to address the discriminatory effects of the Small House Policy.

III. Issues relating to the specific provisions of the Covenant (arts. 6–15)

Right to work (art. 6)

11. Please indicate the impact of the measures taken to address the high incidence of youth unemployment and include relevant statistical data. Please also indicate the impact of the measures taken to eliminate age discrimination in recruitment and in the workplace (E/C.12/CHN-HKG/4, para. 24).

12. Please indicate any measures taken to strengthen the legislative and policy framework prohibiting forced labour, including contemporary forms of slavery and servitude, and recruitment through human trafficking. In this context, please provide information on the status of the Modern Slavery Bill.

Right to just and favourable conditions of work (art. 7)

13. Please indicate the coverage of the statutory minimum wage and the measures taken to extend its coverage to all workers, including those in the informal economy and in non-standard forms of employment. In addition, please provide information on the ratios of the statutory minimum wage to the average wage and to the median wage during the reporting period and on the measures taken to ensure that the statutory minimum wage provides workers and their families with a decent living.

14. Please indicate any progress made in adopting legislation or policies to regulate working hours, rest, leisure and periodic holidays with pay, and the measures taken particularly to address the excessive working hours of low-skilled workers. Please specify any efforts made to enhance the protection of workers in non-standard forms of employment in relation to their working conditions and social security. In this context, please indicate any steps taken to address reports of employers who circumvent the 418 Rule relating to continuous employment, including by inserting an unpaid break in the working periods, and to introduce the concept of "fixed-term employees" to the Employment Ordinance.

15. In anticipation of the replies of Hong Kong, China, to the list of issues adopted by the Human Rights Committee (CCPR/C/CHN-HKG/Q/4, para. 16), please provide information on:

- (a) The steps taken to address the persistent difficulties faced by migrant domestic workers due to the two-week rule and the live-in requirement applied to them;

(b) Any efforts made to ensure that the Minimum Allowable Wage provides domestic workers and their families with a decent living, and any standards or guidelines established for the accommodation, food and in-kind benefits provided by employers of migrant domestic workers and the compliance by employers with such standards or guidelines;

(c) The complaints filed by migrant domestic workers regarding their working and living conditions, and the inspections carried out;

(d) The measures taken to address the adverse impact of the lockdowns introduced in response to the coronavirus disease (COVID-19) pandemic on the safety and health of migrant domestic workers.

Trade union rights (art. 8)

16. Please provide information on any steps taken to address the criticism that domestic laws, including the Trade Union Ordinance, the Public Order Ordinance and the national security law, hamper the exercise of the rights guaranteed in article 8 of the Covenant. Please indicate how effective the Employment (Amendment) (No. 2) Ordinance 2018 has been in ensuring the reinstatement of workers dismissed on unreasonable or unlawful grounds, including relevant statistical data in this regard. Please indicate what measures have been taken, if any, to combat discrimination and intimidation against workers engaged in trade union activities and what investigations have been carried out into such cases and their outcomes.

17. Please provide information on any legislation or policies adopted to strengthen the collective bargaining framework in terms of its scope, protection and enforcement. Please also provide information on the number of collective agreements concluded, the sectors to which they apply and the number of workers covered, and on any efforts made to increase the coverage of collective agreements. Please indicate what steps have been taken, if any, to consider allowing public servants not engaged in the administration of the State to exercise the right to collective bargaining.

Right to social security (art. 9)

18. Please provide information on:

(a) The coverage of privately managed mandatory occupation-based contributory systems, including the Mandatory Provident Fund System, and any measures taken to expand the coverage and to ensure the adequacy of pension benefits to provide recipients with a decent living;

(b) The coverage of the Integrated Employment Assistance Programme for Self-reliance and the adequacy of the benefits in terms of their amount and duration, and the effectiveness of the employment support scheme launched in response to economic fallouts due to the COVID-19 pandemic;

(c) The implementation of the Guangdong Scheme and the Fujian Scheme, and any arrangements established for migrant workers to transfer their social security contributions to their country of origin upon return.

Protection of the family and children (art. 10)

19. Please provide information on the implementation of the Elderly Services Programme Plan, including the achievements and challenges faced in implementing the Plan. Please indicate whether any efforts have been made to ensure that policies and programmes relating to older persons, such as the Plan, are designed and implemented based on a human rights perspective.

Right to an adequate standard of living (art. 11)

20. Please indicate whether any framework policy has been adopted to eradicate poverty and any fiscal measures taken during the reporting period to facilitate poverty reduction. Please provide updated information on the impact of the measures taken (E/C.12/CHN-

HKG/4, paras. 127–129), particularly on children, older persons, persons with disabilities, and new arrivals from mainland China. Please specify the measures taken to reduce inequalities in income and wealth, and their effectiveness.

21. Please provide information on the measures taken under the Long Term Housing Strategy to increase the provision of affordable rental housing, and their effectiveness. Please also provide information on the effectiveness of rental housing subsidies provided to low-income households and the measures taken to assist those low-income households that do not meet the financial eligibility threshold for public housing. In addition, please provide information on the legislative and policy framework in place to protect security of tenure, particularly of informal housing such as subdivided units, and the extent to which the measures taken by the Government have improved living conditions in subdivided units. Furthermore, please provide information on the complaint mechanisms for addressing housing issues and their effectiveness, and on legal aid available to those pursuing legal proceedings.

Right to physical and mental health (art. 12)

22. Please provide information on the outcomes of the measures taken to secure a sufficient number of doctors and other medical personnel (E/C.12/CHN-HKG/4, para. 134), and on the measures taken to address the uneven distribution of doctors and medical professionals in the public and private health-care sectors. Please specify the impact of the measures taken, such as the General Outpatient Clinic Public-Private Partnership Programme and the Voluntary Health Insurance Scheme, on the availability, accessibility, affordability and quality of health-care services. Please provide information on the efforts made to increase the budget allocation in the public health sector and to expand the scope and coverage of public health-care services.

23. Please indicate the steps taken to implement the recommendations of the Review Committee on Mental Health. Please provide information on the results of the implementation so far and indicate the progress achieved and challenges faced in implementing them.

Right to education (arts. 13–14)

24. Please provide information on any policy guidelines prepared on the education of children in an irregular immigration situation, especially those at the age of compulsory education, and any plans to extend the higher education fees for local students to non-resident students whose non-refoulement claims have been substantiated. Please also provide information on the effectiveness of the measures taken to implement the biliteracy and trilingualism policy (E/C.12/CHN-HKG/4, annex 13C), particularly their impact on students belonging to ethnic minority groups or newly arrived students from mainland China. Please indicate the progress made through the measures taken (E/C.12/CHN-HKG/4, paras. 168–170 and annex 13D) in eliminating de facto discrimination against those students.

25. In anticipation of the replies of Hong Kong, China, to the list of issues adopted by the Human Rights Committee (CCPR/C/CHN-HKG/Q/4, para. 22) in relation to the allocation of funding for, and appointments to and management of higher education institutions, the Committee also requests Hong Kong, China, to indicate the measures taken to protect the academic freedom of staff and students in higher education from political and other pressures. In particular, please indicate any steps taken to ensure that the enforcement of the national security law, particularly provisions 9, 10, 16 and 38, does not undermine academic freedom. Please provide information on the cases of dismissal of university professors and the deregistration of a schoolteacher allegedly for manifesting their political views.

Cultural rights (art. 15)

26. Please indicate the measures taken to ensure access, without discrimination, to the benefits of scientific progress and its applications for everyone, especially for women, persons with disabilities and persons living in poverty. Please also indicate the measures taken to improve access to the Internet and to information communication technology, especially for disadvantaged and marginalized individuals and groups, and to ensure the free

exchange of ideas and information online without interference to further their enjoyment of Covenant rights. Furthermore, please provide information on the measures taken to address the difficulties faced by these groups in accessing digitalized public services.
