



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### Concluding observations on the third periodic report of China, including Hong Kong, China, and Macao, China\*

1. The Committee considered the third periodic report of China,<sup>1</sup> including the fourth periodic report of Hong Kong, China,<sup>2</sup> and the third periodic report of Macao, China,<sup>3</sup> on the implementation of the International Covenant on Economic, Social and Cultural Rights at its 5th and 7th meetings,<sup>4</sup> held on 15 and 16 February 2023, and adopted the present concluding observations at its 30th meeting, held on 3 March 2023.<sup>5</sup>

#### A. Introduction

2. The Committee welcomes the submission of the third periodic report of China, including the fourth periodic report of Hong Kong, China, and the third periodic report of Macao, China. The Committee also notes with appreciation the written replies that it received to its list of issues.<sup>6</sup> The Committee appreciates the constructive dialogue that it held with the State party's delegation.

#### B. Positive aspects

3. In addition to those mentioned in the concluding observations below, the Committee welcomes the legislative, institutional and policy measures taken by the State party to increase the protection of economic, social and cultural rights, such as:

(a) The ratification of the International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29), and the ILO Abolition of Forced Labour Convention, 1957 (No. 105);

(b) The adoption of the fourth National Human Rights Action Plan (2021–2025).

4. The Committee welcomes the adoption by Macao, China, of the following legislative and policy measures:

(a) The Law on Preventing and Combating Domestic Violence (2016);

(b) The amendments to the Labour Relations Law, which increase the number of days for maternity leave and establish paternity leave (2020);

(c) Law 5/2020 on the Minimum Wage for Workers (2020).

\* Adopted by the Committee at its seventy-third session (13 February–3 March 2023).

<sup>1</sup> E/C.12/CHN/3.

<sup>2</sup> E/C.12/CHN-HKG/4.

<sup>3</sup> E/C.12/CHN-MAC/3.

<sup>4</sup> E/C.12/2023/SR.5 and E/C.12/2023/SR.7.

<sup>5</sup> E/C.12/2023/SR.30.

<sup>6</sup> E/C.12/CHN/RQ/3, E/C.12/CHN-HKG/RQ/4, E/C.12/CHN-MAC/RQ/3.



## C. Principal subjects of concern and recommendations: China

### Domestic application of the Covenant

5. Noting the information provided during the dialogue with the State party, the Committee remains concerned that reservations to the Covenant's incorporation into domestic legislation mean that not all the provisions of the Covenant are directly applicable by national courts and tribunals. The Committee is also concerned about the insufficient incorporation of human rights in legislative and policy processes.

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

(a) **Remove all reservations to the Covenant to guarantee the direct applicability of all rights under the Covenant in its domestic legal order;**

(b) **Systematize a human rights impact assessment in the process of formulating legislation and policies in the areas of economic, social and cultural rights;**

(c) **Be guided by and follow the Committee's general comment No. 9 (1998) on the domestic application of the Covenant.**

### Data collection

7. The Committee is concerned that the lack of disaggregated statistical data hampers accurate assessment of the extent of inequality and discrimination, as well as the development of effective and targeted policies and programmes.

8. **The Committee recommends that the State party improve its data collection, with a view to producing reliable data disaggregated by sex, gender, ethnic origin, urban and rural populations and other relevant criteria and to identifying those groups that are disadvantaged in their exercise of economic, social and cultural rights. The Committee refers the State party to the publication by the Office of the United Nations High Commissioner for Human Rights (OHCHR) on a human rights-based approach to data.<sup>7</sup>**

### Independence of the judiciary

9. Noting the information provided during the dialogue with the State party, the Committee is concerned about the lack of independence of the judiciary in the State party, as well as reports about the tendency in recent years towards increased political interference in the judiciary. The Committee is also concerned about the lack of adequate training on human rights, including economic, social and cultural rights, for judges, lawyers and law enforcement officers.

10. **The Committee reiterates its recommendation<sup>8</sup> that the State party take all necessary legislative and administrative measures to guarantee the full independence and impartiality of the judiciary. The Committee also recommends that the State party provide systematic training to judges, lawyers and law enforcement personnel on all human rights, including economic, social and cultural rights.**

### National human rights institution

11. The Committee regrets that the State party still has not established an independent national human rights institution, despite the Committee's previous recommendation<sup>9</sup> to do so.

12. **The Committee urges the State party to establish an independent national human rights institution with a broad mandate in line with the principles relating to the status**

<sup>7</sup> OHCHR, "A human rights-based approach to data: leaving no one behind in the 2030 Agenda for Sustainable Development" (2018). Available at <https://www.ohchr.org/sites/default/files/Documents/Issues/HRIndicators/GuidanceNoteonApproachtodata.pdf>.

<sup>8</sup> E/C.12/CHN/CO/2, para. 10.

<sup>9</sup> Ibid., para. 8.

**of national institutions for the promotion and protection of human rights (the Paris Principles),<sup>10</sup> and to allocate sufficient human, technical and financial resources for it to fully exercise its mandate in relation to economic, social and cultural rights. In this regard, the Committee recalls its general comment No. 10 (1998) on the role of national human rights institutions in the protection of economic, social and cultural rights.**

#### **Civil society organizations**

13. Noting the information provided during the dialogue with the State party, the Committee is concerned about reports of excessive restrictions with regard to the operation of independent non-governmental organizations, both in law and in practice, particularly with respect to non-governmental organizations working for the rights of ethnic and religious minorities. The Committee notes that such restrictions hinder the operations of those organizations, which are working for the protection and promotion of all human rights, including economic, social and cultural rights.

**14. The Committee recommends that the State party repeal any legal provisions and policy practices that unduly restrict the activities of non-governmental organizations. It also recommends that the State party guarantee an enabling environment for all non-governmental and/or non-profit organizations engaged in the promotion and protection of economic, social and cultural rights.**

#### **Human rights defenders and lawyers working on human rights**

15. Noting the information provided during the dialogue with the State party, the Committee is concerned about reports that human rights defenders and lawyers working on human rights issues are systematically subjected to prosecution, reprisals and intimidation for their legitimate activities, including by being arbitrarily sentenced to long terms in prison or under house arrest, tortured, subjected to enforced disappearance and denied access to medical treatment, legal aid and contact with their families, as well as reports of lawyers working on human rights issues being disbarred.

**16. The Committee reminds the State party that the exercise of the right to freedom of opinion and expression includes the right to have a critical and dissenting opinion about the State party's activities and policies pertaining to, inter alia, economic, social and cultural rights, and requests the State party to adhere to its legal obligations under international human rights law and to refrain from persecuting and prosecuting human rights defenders and lawyers working on human rights issues for broadly defined offences. In this regard, the Committee refers the State party to the statement by the Committee on human rights defenders and economic, social and cultural rights of 2016.<sup>11</sup>**

#### **Business and human rights**

17. Noting the information provided during the dialogue with the State party, the Committee is concerned by the inadequacy of legal obligations for businesses under the State party's jurisdiction to exercise human rights due diligence, including the absence of a national action plan for businesses and human rights. The Committee is also concerned about reports that environmental and proprietary impact assessments and consultations with affected local communities in the context of real estate and infrastructure development projects are not always effective and do not always prevent violations of obligations under the Covenant (art. 2 (1)).

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

**(a) Establish a clear regulatory framework for companies operating in the State party to ensure that their activities promote and do not negatively affect the enjoyment of economic, social and cultural human rights;**

<sup>10</sup> General Assembly resolution 48/134, annex.

<sup>11</sup> E/C.12/2016/2.

(b) **Adopt a national action plan for businesses and human rights;**

(c) **Ensure that business entities operating in the State party or those domiciled under the State party's jurisdiction and those acting abroad, including their sub-suppliers, as well as institutions that provide financing, are held accountable for their violations of economic, social and cultural rights, paying particular attention to Indigenous Peoples' and peasants' land rights, environmental impacts and expropriation in the context of real estate and infrastructure projects, and that follow-up and monitoring mechanisms are put in place to investigate and sanction them for their harmful activities;**

(d) **Ensure that victims of such violations have access to effective complaint mechanisms and affordable and effective remedies, including judicial remedies and adequate reparation.**

19. Noting the information provided during the dialogue with the State party, the Committee remains concerned about the lack of adequate and effective measures adopted by the State party to ensure that companies legally domiciled in the State party, both State-owned and private, respect economic, social and cultural rights when operating abroad, particularly with respect to, but not limited to, the operations of companies working with the extraction of raw materials, construction and infrastructure projects (art. 2 (1)).

20. **The Committee recalls its recommendation<sup>12</sup> that the State party adopt appropriate legislative and administrative measures to ensure the legal liability of business entities and their subsidiaries, as well as sub-suppliers, legally domiciled in and/or owned by the State party, regarding violations of economic, social and cultural rights in the context of their activities abroad, particularly, but not limited to, companies working on the extraction of raw materials, construction and infrastructure projects.**

21. **The Committee encourages the State party to be guided by and follow the Committee's general comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social And Cultural Rights in the context of business activities.**

#### **Belt and Road Initiative**

22. Noting the information provided during the dialogue with the State party, the Committee is concerned about reports of the negative effects of the State party's lending practices and conditions in connection with the Belt and Road Initiative infrastructure development in third countries, which are negatively affecting the enjoyment of economic, social and cultural rights in third countries. Concerns include lack of transparency, corruption and the fact that certain projects have not been viable and have had a low cost-benefit ratio for the borrowing countries, including as a result of conditionalities such as the mandatory use of suppliers and labourers from the State party. The Committee is also concerned that loans have resulted in unsustainable debt levels for borrowing countries (art. 2 (1)).

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

(a) **Review its current loan repayment conditions to ensure that borrowing countries are not overloaded with unsustainable debt, particularly in a context of globally rising interest rates, and consider coordinating this with other States parties and international partners;**

(b) **Ensure that future loans are negotiated in accordance with international best practices and with a view to protecting and facilitating the enjoyment of economic, social and cultural rights, including a transparent process free from corruption;**

(c) **Extend loans only to projects with a sustainable cost-benefit ratio and that entail the use of the borrowing country's domestic suppliers and labourers;**

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<sup>12</sup> E/C.12/CHN/CO/2, para. 13 (b).

(d) **Rely less on lengthened payment timetables and extended grace periods for borrowing countries that are having repayment difficulties and more on renegotiation and/or debt cancellation;**

(e) **Ensure that conditionalities contribute positively to the enjoyment of human rights, particularly economic, social and cultural rights.**

#### **Climate change**

24. The Committee welcomes the 2021 statement of the President of the State party that the State party will cease to build new coal power projects overseas, and the creation of a domestic emissions trading system in 2021. However, the Committee is concerned that current emission-reducing policies may not be sufficient for the State party to observe its obligations under the Paris Agreement and that unsustainable practices have had an adverse impact on climate change beyond the State party's borders, including the increase in recent years in the construction of coal-fired power plants, abroad as well as within the State party, and the increase in licences and permits to construct coal-fired power plants (art. 2 (1)).

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

(a) **Take measures to achieve its nationally determined contributions under the Paris Agreement by, inter alia, increasing taxation of emissions;**

(b) **Further expand the emissions trading system to industries and sectors not currently included therein;**

(c) **Make all efforts to replace fossil fuel in its energy mix, including by increasing renewable energy as an alternative;**

(d) **Suspend permissions to construct coal-fired power plants and pause ongoing financing for construction, including in the State party and abroad;**

(e) **Be guided by and follow the Committee's statement on climate change and the International Covenant on Economic, Social and Cultural Rights.<sup>13</sup>**

26. **The recommendations contained in paragraph 25 above also apply to Hong Kong, China, and Macao, China, as appropriate.**

#### **Indigenous Peoples**

27. Noting the information provided during the dialogue with the State party, the Committee remains concerned about reports that resettlement of nomadic herders, particularly Tibetan herders, is carried out in the State party without proper consultation and in most cases without free, prior and informed consent, particularly in the western provinces and in autonomous regions. The Committee is also concerned about reports that large numbers of small-scale farmers and nomadic herders, including from ethnic autonomous areas, have lost their traditional lands and livelihoods owing to poverty alleviation schemes and ecological restoration resettlement measures, and that compensation for expropriated property is often insufficient to maintain an adequate standard of living (arts. 1 (2) and 2 (2)).

28. **The Committee reiterates its recommendation<sup>14</sup> that the State party take all necessary measures to immediately halt non-voluntary resettlement of nomadic herders, including Tibetan herders, from their traditional lands and non-voluntary relocation or rehousing programmes for other rural residents, such as small-scale farmers, and that the State party carry out meaningful consultations with the affected communities in order to examine and evaluate all available alternative options, and offer full, adequate and timely compensation for expropriations that have already been carried out.**

<sup>13</sup> E/C.12/2018/1.

<sup>14</sup> E/C.12/CHN/CO/2, para. 31.

**Maximum available resources**

29. The Committee is concerned that the share of the gross domestic product allocated to public spending related to social security, housing, health care and education remains relatively low, notwithstanding its steady overall increase since 2014 (art. 2 (1)).

30. **The Committee recommends that the State party increase the level of social spending at both the national and local levels and that it undertake a human rights impact assessment of its macroeconomic and budgetary policies with a view to maximizing the resources available to achieve the full realization of economic, social and cultural rights for the most disadvantaged and marginalized persons. The Committee encourages the State party to be guided by and follow the 2030 Agenda for Sustainable Development and the principle of leaving no one behind.**

**Corruption**

31. Noting the information provided during the dialogue with the State party regarding the State party's legislative enactments and revisions and the founding of the National Supervisory Commission and its designation as the main body responsible for fighting corruption, the Committee is concerned that corruption still occurs and that the selection of cases of corruption for prosecution can be arbitrary and not based on objective criteria, thus undermining the effect of the anti-corruption efforts of the State party (art. 2 (1)).

32. **The Committee recommends that the State party further intensify the fight against corruption and evaluate and further strengthen adherence to objective selection criteria for prosecution of corruption cases. The Committee also recommends that the State party strengthen safe and accessible channels for reporting corruption and adopt measures to ensure the protection of anti-corruption activists, whistle-blowers and witnesses.**

**Anti-discrimination legislation**

33. Noting the information provided during the dialogue with the State party, the Committee is concerned that the State party has not passed comprehensive, all-encompassing anti-discrimination legislation explicitly prohibiting all forms of discrimination, which is impeding full protection against discrimination in accordance with the provisions of the Covenant. The Committee is also concerned at the lack of effective measures to combat de facto discrimination in the effective enjoyment of economic, social and cultural rights experienced by disadvantaged and marginalized individuals and groups (art. 2 (2)).

34. **The Committee recommends that the State party adopt comprehensive anti-discrimination legislative, political and administrative measures prohibiting direct, indirect and multiple discrimination and harassment, and that it consider criminalizing hate speech and hate crimes against lesbian, gay, bisexual, transgender and intersex persons in accordance with article 2 (2) of the Covenant and taking into account the Committee's general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.**

**Discrimination in the Xinjiang Uighur Autonomous Region**

35. Noting the information provided during the dialogue with the State party, the Committee is concerned about reports of the discriminatory character of severe, systematic, vast and undue restrictions on a wide range of economic, social and cultural human rights, as well as the targeting of predominantly Uighur, Kazakh, Kyrgyz, Hui and Turkic-speaking peoples, as well as other ethnic Muslim communities, in the Xinjiang Uighur Autonomous Region (arts. 2 (1)).

36. **The Committee urges the State party to immediately bring to an end the violations of human rights in the Xinjiang Uighur Autonomous Region. The Committee also urges the State party, in line with decision 1 adopted by the Committee on the Elimination of Racial Discrimination at its 108<sup>th</sup> session, under the early warning and urgent action procedure, to effectively implement the concluding observations of the Committee on the Elimination of Racial Discrimination and the Committee against**

**Torture, as well as the recommendations included in paragraph 151 of the OHCHR assessment of human rights concerns in the Xinjiang Uighur Autonomous Region.<sup>15</sup>**

#### **Household registration system**

37. The Committee remains concerned that rural-to-urban migrant workers, particularly those who lack household registration, are still de facto discriminated against in the fields of housing, employment, social security, health care and education (arts. 2 (2), 6, 9 and 11).

**38. The Committee reiterates its previous recommendation<sup>16</sup> that the State party strengthen its efforts to abolish the household registration system (*hukou*) and ensure that all rural-to-urban migrants are able to enjoy the work opportunities, as well as the social security, housing, health-care and education benefits, enjoyed by residents in urban areas.**

#### **Persons with disabilities**

39. The Committee is concerned that the disability-related legislation and policies of the State party have not yet been fully brought into line with the Convention on the Rights of Persons with Disabilities and that the human rights model of disability has not been consistently harmonized across all policies and legislation (art. 2 (2)).<sup>17</sup>

**40. The Committee recommends that the State party adopt a unified concept of disability in all professional and legal areas that covers all persons with disabilities, including women and children with disabilities, as also raised by the Committee on the Rights of Persons with Disabilities.<sup>18</sup>**

#### **Regional disparities**

41. Noting the information provided during the dialogue with the State party, the Committee is concerned about persistent regional disparities in access to social services and employment opportunities, as well as the insufficiency of the measures taken to address these issues and the low and varying levels of financial and administrative capacity of local governments (art. 2 (2)).

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

(a) **Strengthen the financial and administrative capacity of local governments with a view to ensuring that people in the State party enjoy Covenant rights on an equal basis regardless of the region in which they live;**

(b) **Increase the transfer of public funds from wealthier, coastal eastern regions to poorer, in-land western regions.**

#### **Equality between men and women**

43. Noting the information provided during the dialogue with the State party, the Committee remains concerned that gender disparities persist, especially in relation to employment, the gender wage gap, housing and access to higher education, and that rural women continue to be disadvantaged, in particular with regard to land tenure and access to education, health care and employment. The Committee is also concerned that gender role stereotypes persist and that women's representation in the judiciary and in senior public administration and political leadership positions remains unsatisfactory (arts. 3 and 7).

<sup>15</sup> Available at <https://www.ohchr.org/sites/default/files/documents/countries/2022-08-31/22-08-31-final-assesment.pdf>.

<sup>16</sup> E/C.12/1/Add.107, para. 46, and E/C.12/CHN/CO/2, para. 15.

<sup>17</sup> CRPD/C/CHN/CO/2-3, para. 6.

<sup>18</sup> *Ibid.*, para. 7.

44. **The Committee reiterates its previous recommendation<sup>19</sup> that the State party:**
- (a) **Adopt effective measures to ensure the strict enforcement of the Law on the Protection of the Rights and Interests of Women;**
  - (b) **Take concrete steps to eliminate the persistent disparities between men and women and promote full access to employment, housing and higher education;**
  - (c) **Adopt all necessary measures, with specific targets and a time frame, to eliminate the persistent gender wage gap;**
  - (d) **Take measures to eliminate the multiple discrimination faced by rural women, in particular with regard to land tenure and access to education, health care and employment.**

45. **The Committee also recommends that the State party increase its efforts to combat gender stereotypes, including by increasing the use of the media and awareness-raising campaigns and enhancing women's representation in the judiciary, senior public positions and the top political leadership and by considering quotas. In this regard, the Committee recalls its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights.**

#### **Unemployment**

46. The Committee is concerned at the increase in recent years in the youth unemployment rate, particularly youth with tertiary education, and at the lack of sufficient measures to address it (art. 6).

47. **The Committee recommends that the State party increase its efforts to address youth unemployment, for example by implementing targeted public sector employment schemes paying particular attention to youth, including youth with tertiary education.**

#### **Informal economy, security in employment and social protection**

48. The Committee is concerned about the considerable proportion of workers in the informal economy in the State party and the fact that such workers are de facto not adequately covered by labour and social protection laws (arts. 7 and 9).

49. **The Committee recommends that the State party adopt a holistic approach in addressing the informal economy and take all measures necessary to reduce the extent of the informal economy and to increase employment opportunities in the formal labour market.**

#### **Coercive measures, including forced labour**

50. Noting the information provided during the dialogue with the State party, the Committee is concerned about reports regarding the employment situation of Uighur, Kazakh, Kyrgyz, Hui and Turkic-speaking peoples, as well as other ethnic minorities, particularly Muslim minorities, in the State party that provide numerous indications of coercive measures, including forced labour. These reportedly include government-led mobilization of rural households, with local townships, in accordance with labour export quotas, sending labourers involuntarily to other places in the State party; the relocation or transfer of workers under security escort; onsite management and retention of workers under strict surveillance; and the threat of and actual internment of workers in vocational education and training centres. The Committee is also concerned that the vocational education and training centres system amounts to large-scale arbitrary deprivation of liberty. Furthermore, the Committee is concerned about the lack of access to the centres by United Nations independent human rights experts.

51. **The Committee urges the State party to take all necessary measures to ensure the effective implementation of national legislation prohibiting coercive measures, including forced labour, immediately dismantle all systems of forced labour in place,**

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<sup>19</sup> E/C.12/CHN/CO/2, para. 16.



**both private and public, including at the local level, and release all individuals subject to forced labour. The Committee also urges the State party to effectively end these forms of arbitrary detention, while implementing both the ILO Forced Labour Convention, 1930 (No. 29), and the ILO Abolition of Forced Labour Convention, 1957 (No. 105), and to give United Nations independent human rights experts unhindered access to all vocational education and training centres.**

#### **Working conditions**

52. Noting the information provided during the dialogue with the State party, the Committee remains concerned about reports of unsafe working conditions, including instances of injury and death, such as workers dying in factory fires where they were confined as part of coronavirus disease (COVID-19) quarantines. The Committee is concerned about reports of widespread harassment in the workplace, particularly sexual harassment of women. The Committee is also concerned about the non-signature of labour contracts and insufficient medical and accident insurance, particularly in the private and informal sectors, as well as insufficient labour inspection mechanisms, including in the Tibet Autonomous Region and in the Xinjiang Uighur Autonomous Region (art. 7).

**53. Reiterating its previous recommendations,<sup>20</sup> the Committee urges the State party:**

**(a) To adopt all necessary measures to ensure just and favourable conditions of work, especially for workers in the private sector;**

**(b) To take measures to regularize the situation of informal sector workers by progressively improving their working conditions and including them in the social security system;**

**(c) To ensure that all categories of workers have access to medical and accident insurance, as well as to adequate compensation for injuries and work-related diseases;**

**(d) To define and prohibit harassment, including sexual harassment in the workplace, through law, and establish criminal sanctions for sexual harassment;**

**(e) To ensure that labour inspection mechanisms and independent audit companies have sufficient legal grounds and adequate resources to investigate allegations of violations of the labour law and to take effective action against those employers and enterprises found to be in breach of the law, including in the Tibet Autonomous Region and in the Xinjiang Uighur Autonomous Region.**

**54. The Committee also recommends that the State party consider ratifying the ILO Domestic Workers Convention, 2011 (No. 189), and the ILO Violence and Harassment Convention, 2019 (No. 190), and that the State party be guided by and follow the Committee's general comment No. 23 (2016) on the right to just and favourable conditions of work.**

#### **Trade union rights**

55. Noting the information provided during the dialogue with the State party, the Committee remains concerned that the All China Federation of Trade Unions is the only allowed structure for trade unions, preventing workers from freely exercising their right to form and join trade unions. The Committee is also concerned that the right of workers to strike is not provided for in the Trade Union Law (art. 8).

**56. The Committee reiterates its previous recommendations<sup>21</sup> that:**

**(a) The Trade Union Law be amended to allow workers to form independent trade unions, both within and outside the structure of the All China Federation of Trade Unions;**

<sup>20</sup> Ibid., para. 20.

<sup>21</sup> Ibid., para. 23.

(b) **The State party consider legal recognition of the right to strike;**

(c) **The State party consider withdrawing its declaration on article 8, paragraph 1, of the Covenant.**

57. **The Committee also recommends that the State party consider ratifying the ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), and the ILO Right to Organize and Collective Bargaining Convention, 1949 (No. 98).**

#### **Pensions**

58. Noting that the State party has achieved almost universal coverage of at least minimum pension protection for its older population, the Committee is concerned that pension payouts amount to less than the national poverty line (art. 9).

59. **The Committee recommends that the State party increase the public pension payouts to a level not lower than the poverty line and index pensions on a recurrent basis to ensure an adequate standard of living.**

60. The Committee is concerned that the financial sustainability of the pension system is negatively affected by the lack of sufficient measures to adjust to the relatively rapidly ageing population, and that this may negatively affect retirees' enjoyment of their economic and social rights (art. 9).

61. **The Committee recommends that the State party ensure the financial sustainability of the public old-age pension system without negatively affecting retirees' enjoyment of their economic and social rights. This could include, for example, increasing the statutory retirement age and letting it gradually rise in tandem with the increase in the average lifespan.**

62. Noting the State party's introduction of a private pension scheme in select cities (third pillar), the Committee is concerned about limitations to participation in this scheme, as well as about the oversight and control mechanisms in place to ensure its robustness and longevity (art. 9).

63. **The Committee recommends that the State party consider enhancing the private pension scheme (third pillar) to cover the whole territory of the State party, and that it strengthen the oversight and control mechanisms, including by ensuring the institutional independence of the State party bodies responsible for monitoring the private companies participating in the scheme.**

#### **Social security**

64. The Committee remains concerned about the significant persistence of disparities in access to and the quality and amount of benefits between the urban and rural populations and among rural-to-urban migrant workers (art. 9).

65. **The Committee reiterates its previous recommendation<sup>22</sup> that the State party:**

(a) **Strengthen its efforts to extend the coverage of the social security system, especially to individuals belonging to ethnic minorities, to residents in rural areas and to rural-to-urban migrants, as well as to informal sector workers;**

(b) **Adopt the necessary measures to ensure that the amount of social assistance benefits is sufficient to cover the costs of living, including by setting up an effective and transparent indexation system;**

(c) **Be guided by and follow the Committee's general comment No. 19 (2008) on the right to social security.**

66. The Committee is concerned that the *hukou* system remains a source of inequality and in practice prevents many older persons from claiming their social benefits (art. 9).

<sup>22</sup> Ibid., para. 24.

67. **The Committee recommends that the State party end this de facto discrimination and ensure that older internal urban migrants enjoy social security, health-care and other benefits without discrimination, as do long-time urban residents, as also raised by the Independent Expert on the enjoyment of all human rights by older persons.**<sup>23</sup>

#### Protection of the family and children

68. Noting the information provided during the dialogue with the State party, the Committee is concerned about reports of wide-scale homestay campaigns in predominantly rural areas in the Xinjiang Uighur Autonomous Region, which have entailed extensive surveillance through the enforced imposition of co-habitation for millions of people in the Xinjiang Uighur Autonomous Region, with obvious and significant implications for the privacy of family life (art. 10).

69. **The Committee urges the State party to ensure that surveillance, both online and offline, complies with strict tests of legality, necessity and proportionality, including for matters of national security, and does not infringe on the fundamental rights and freedoms of individuals, and immediately cease imposed co-habitation.**

70. Noting the information provided during the dialogue with the State party, the Committee remains concerned about reports that coercive measures, such as forced abortions, sexual violence, forced sterilizations and torture, have been and are employed to accompany enforcement of family planning policies in the Xinjiang Uighur Autonomous Region and in predominantly Uighur-populated areas, and that these have been a cause of the unusual and stark difference in birth rates, sterilizations and intrauterine device placements in those areas in comparison with the rest of the State party (art. 10).

71. **The Committee reiterates its previous recommendation<sup>24</sup> and urges the State party to take immediate action to end, prevent and criminalize effectively the use of coercive measures, such as forced abortions, sexual violence, forced sterilizations and torture, in the implementation of family planning policies. The Committee also urges the State party to investigate effectively, without further delay, all reported cases of forced abortion and forced sterilization and to hold accountable those responsible for such acts. The Committee also recommends that the State party take all necessary measures to ensure that victims receive adequate compensation.**

#### Poverty reduction

72. Noting the continued significant progress made by the State party in alleviating poverty, the Committee remains concerned that large disparities in living standards between regions and between urban and rural areas still persist and that the living conditions of rural-to-urban migrants are poor, including with regard to the quality of housing, sanitation and access to safe drinking water (art. 11).

73. **The Committee reiterates its recommendation<sup>25</sup> that the State party pay particular attention to shortfalls in poverty reduction and the differences in living standards existing among the regions, as well as between urban and rural areas, and ensure that poverty reduction programmes prioritize and allocate sufficient resources to alleviate the poverty of rural-to-urban migrants, including with regard to housing, sanitation and access to clean, potable water.**

#### Climate change adaptation

74. Noting the creation of the State party's National Climate Change Adaptation Strategy 2035, the Committee is concerned that the environmental consequences of climate change have a considerable impact on the enjoyment of economic, social and cultural rights in the State party, including the increase in the number and severity of heat waves, the rise in sea-

<sup>23</sup> A/HRC/45/14/Add.1, para. 85.

<sup>24</sup> E/C.12/CHN/CO/2, para. 26.

<sup>25</sup> Ibid., para. 28.

level, degradation of arable land, droughts, storms and a lack of freshwater resources (art. 11).

**75. The Committee recommends that the State party take all the adaptation measures necessary to protect the environment and address environmental degradation, taking into account its effects on economic, social and cultural rights, particularly on the most affected and marginalized groups, and operationalize without delay its National Climate Change Adaptation Strategy 2035 accordingly, making its implementation a governance, institutional performance and budgetary priority.**

#### **Health-care services**

76. Noting the overall trend in recent years of increases in the budget allocation to health care, the Committee remains concerned about the inadequacy of funding, which particularly affects rural areas and exacerbates the persistent disparities in access to public health-care services between urban and rural areas and within regions (art. 12).

**77. The Committee reiterates its previous recommendation<sup>26</sup> that the State party:**

**(a) Undertake all necessary measures to improve its health-care services and to guarantee the enjoyment of the right to good quality and affordable health care to all persons throughout the State party, particularly to disadvantaged and marginalized individuals, ethnic minorities and rural-to-urban migrants;**

**(b) Increase the budgetary allocations to the health sector and ensure their equitable distribution among the provincial, municipal and local authorities.**

#### **COVID-19 pandemic**

78. Noting the information provided during the dialogue with the State party, the Committee is concerned about reports that the relatively recent strategic change from a zero-case policy to abruptly easing and lifting restrictions has placed a great strain on the general health-care system and its staff, as well as its equipment, which has been overused and is worn. The Committee is also concerned about reports of growing problems with mental health care, which have been aggravated by the prolonged lockdowns (art. 12).

**79. The Committee recommends that the State party immediately allocate emergency funding to hospitals and health clinics to rebuild the general health-care system, particularly intensive care units, with a particular prioritization of training and hiring staff and acquiring new equipment, as well as repairing existing equipment. The Committee also recommends that the State party earmark funding to improve mental health-care services, at both the preventive and the curative levels.**

80. Noting the information provided during the dialogue with the State party, the Committee is concerned about the backlog building up from operations, procedures and medical examinations postponed as a result of an increased influx of COVID-19 patients, and its potential effect on the viability of the health-care system (art. 12).

**81. The Committee recommends that the State party earmark additional funding specifically to strengthen the resilience of the health-care system to health emergencies such as the COVID-19 pandemic. In this regard, the Committee recalls its general comment No. 14 (2000) on the right to the highest attainable standard of health.**

82. Noting the information provided during the dialogue with the State party, the Committee is concerned that the lack of clear and concise COVID-19 directives, communication and policies at the national level has led to fragmented and improvised responses and implementation at the regional, local and municipal levels, including over-implementation of measures intended to keep the infection rate down, all of which have created confusion and eroded public trust in government COVID-19-related policies and impeded the public's cooperation with government policies (art. 12).

<sup>26</sup> [Ibid.](#), para. 33.

83. **The Committee recommends that the State party issue clear and concise national directives and ensure their timely implementation at the regional, local and municipal levels, and that the directives be communicated to the public to eliminate all doubt about current rules and to rebuild trust in government COVID-19-related policies to ensure the public's cooperation.**

84. Noting the information provided during the dialogue with the State party, the Committee is concerned about reports that the State party's cooperation with international partners, including international institutions, is insufficient, particularly in the realm of timely and accurate information and data-sharing regarding the COVID-19 pandemic, and that this hampers efforts to combat and understand the pandemic's evolution, including potential mutations of the virus (art. 12).

85. **The Committee urges the State party to fully, accurately and in a timely manner cooperate and share data and information with international partners, with a view to efficiently and effectively combating and understanding the pandemic's evolution, including potential mutations of the virus.**

#### **Access to education**

86. The Committee is concerned about trends in recent years of reducing expenditure on education as a percentage of the gross domestic product, and remains concerned that compulsory education is still not de facto free and is often unaffordable for children in rural and poor urban areas. The Committee also remains concerned that unequal geographic distribution of funds is increasing the disparities between urban and rural areas with respect to access to, and the availability of, education (arts. 13 and 14).

87. **The Committee recommends that the State party increase its overall expenditure on education as a percentage of the gross national product to reverse the relative downward trend of recent years. The Committee also reiterates its previous recommendations<sup>27</sup> that the nine years of compulsory public education should be free and that the State party take appropriate measures to ensure the equal distribution of funds, with a view to ensuring equal access to, and the availability of, education in urban and rural areas.**

#### **Cultural and linguistic identity and expression in education**

88. Noting the information provided during the dialogue with the State party, the Committee remains concerned about reports that ethnic minorities continue to face severe restrictions in the realization of their right to take part in cultural life, including the right to use and teach minority languages, history and culture. The Committee is concerned about reports of closures of schools providing instruction in minority languages, as well as in the Tibetan, Uighur and Kazakh languages. The Committee is also concerned about reports of the large-scale campaign to eradicate Tibetan culture and language, as well as the general undermining of the linguistic identity of ethnic minorities through the assimilation policy of the State party, known as sinicization, including the coerced residential (boarding) school system imposed on Tibetan children (arts. 13, 14 and 15).

89. **The Committee reiterates its recommendation<sup>28</sup> that the State party take all necessary measures to ensure the full and unrestricted enjoyment by peoples and minorities of their right to enjoy fully their own cultural identity and take part in cultural life, to ensure the use and practice of their language and culture, and to abolish immediately the coerced residential (boarding) school system imposed on Tibetan children and allow private Tibetan schools to be established. The Committee also recommends that the State party ensure that Mandarin is not the only language of instruction allowed for ethnic minorities and peoples.**

<sup>27</sup> Ibid., para. 35.

<sup>28</sup> Ibid., para. 36.

### **Cultural heritage and practices of religious minorities**

90. Noting the information provided during the dialogue with the State party, the Committee is concerned about reports of increasingly tighter regulation of religious practices in the context of the State party's counter-terrorism and counter-extremism strategies, in particular the increased restrictions on expression of Muslim religious practices, which put persons following the standard tenets of the religion and practice of Islam at risk of criminal sanction and/or being coerced into re-education in vocational education and training centres and/or being coerced into employment schemes, which de facto amount to forced labour. The Committee is also concerned about reports of systematic and massive destruction of religious sites, such as mosques, monasteries, shrines and cemeteries, particularly in the Xinjiang Uighur Autonomous Region and in the Tibet Autonomous Region (art. 15).

91. **The Committee reiterates its recommendation<sup>29</sup> that the State party take adequate measures to protect cultural diversity and the cultural practices and heritage of religious minorities, including the religious practices of Tibetans, Uighurs, Kazakhs, Hui and Mongols, including by protecting and restoring religious sites.**

92. **The Committee draws the attention of the State party to paragraphs 17 to 20 of its general comment No. 21 (2009) on the right of everyone to take part in cultural life.**

### **Right to enjoy the benefits of scientific progress and its applications**

93. Noting the information provided during the dialogue with the State party, the Committee is concerned about widespread censorship. Most international social media and messaging platforms are blocked in the State party, and blocks on global search engines also severely limit the content available on the State party's Internet. The Committee is also concerned about widespread and growing content restriction, and the fact that service providers are barred from setting up virtual private networks without government approval (art. 15).

94. **The Committee recommends that the State party respect the freedom indispensable for creative activity and the enjoyment of the benefits of scientific progress and its applications, including by ensuring that online and analogue censorship does not limit them.**

95. Noting the information provided during the dialogue with the State party, the Committee is concerned about reports that the State party's approach to obtaining know-how and critical technologies de facto restricts scientific cooperation with foreign universities and research institutes, through the requirement in its 2017 National Intelligence Law (amended in 2018) that all State party organizations and citizens support, assist and cooperate with national intelligence efforts. The Committee is specifically concerned that this may cause foreign universities and research institutes to limit scientific cooperation with individuals and institutions from the State party out of a fear of industrial espionage (art. 15).

96. **The Committee recommends that the State party take appropriate measures to facilitate scientific cooperation, including by considering revising relevant legislation to mitigate the negative impact on international scientific cooperation in order to enable all persons and organizations under its jurisdiction to enjoy the benefits of scientific progress and its applications.**

97. **The Committee draws the attention of the State party to its general comment No. 25 (2020) on science and economic, social and cultural rights.**

## **D. Principal subjects of concern and recommendations: Hong Kong, China**

### **National human rights institution**

98. Noting that the Equal Opportunities Commission continues to have a limited mandate, the Committee regrets the continued lack of concrete results with respect to the establishment

<sup>29</sup> Ibid.

of an actual independent national human rights institution, despite years of recommendations by various human rights mechanisms.

99. **The Committee urges Hong Kong, China, to establish an independent national human rights institution with a broad mandate in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), and to allocate sufficient human, technical and financial resources for it to fully exercise its mandate in relation to economic, social and cultural rights. In this regard, the Committee recall its general comment No. 10 (1998) on the role of national human rights institutions in the protection of economic, social and cultural rights.**

#### **Independence of the judiciary**

100. Noting the information provided during the dialogue with the State party, the Committee is concerned about reports that the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (2020) has de facto abolished the independence of the judiciary of Hong Kong, China.

101. **The Committee urges Hong Kong, China, to cooperate with the State party to review the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (2020) to ensure the full independence of the judiciary and to ensure that national security legislation is not arbitrarily used to interfere with it.**

#### **Civil society, human rights defenders, journalists and lawyers working on human rights**

102. Noting the information provided during the dialogue with the State party, the Committee is concerned about reports of arrests, detention and trials without due process of civil society actors, journalists, human rights defenders, lawyers working on human rights, including the disbarment of such lawyers, and others working to defend economic, social and cultural rights, particularly in, but not limited to, the context of the 2019/20 protests against the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill. The Committee is particularly concerned about reports of a lack of transparency regarding their detention and trials, and the lack of access to lawyers during the proceedings. The Committee is also concerned that the national security hotline is used extensively and might have detrimental effects on the work and expression of civil society, trade unions, teachers and other actors, including those mentioned above, working on human rights.

103. **The Committee recommends that Hong Kong, China, immediately provide all due process guarantees to human rights defenders, civil society actors, journalists, lawyers working on human rights and others working to defend economic, social and cultural rights, including access to independent and effective legal representation at every stage of the proceedings. The Committee urges Hong Kong, China, to cooperate with the State party to review the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (2020) to that end. The Committee also recommends the abolition of the national security hotline. The Committee refers Hong Kong, China, to its statement on human rights defenders and economic, social and cultural rights.<sup>30</sup>**

#### **Discrimination based on sexual orientation and gender identity**

104. Noting the information provided during the dialogue with State party, the Committee is concerned that Hong Kong, China, has not passed comprehensive, all-encompassing anti-discrimination legislation explicitly prohibiting all forms of discrimination, which is impeding full protection against discrimination in accordance with the provisions of the Covenant. The Committee is also concerned at the lack of effective measures to combat the

<sup>30</sup> E/C.12/2016/2.

de facto discrimination in the effective enjoyment of economic, social and cultural rights experienced by disadvantaged and marginalized individuals and groups (art. 3).

105. **The Committee recommends that Hong Kong, China:**<sup>31</sup>

(a) **Adopt comprehensive anti-discrimination legislative, political and administrative measures prohibiting direct, indirect and multiple discrimination, including explicitly prohibiting discrimination and criminalizing harassment, hate speech and hate crimes against lesbian, gay, bisexual, transgender and intersex persons in accordance with article 2 (2) of the Covenant and taking into account the Committee's general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights;**

(b) **Intensify its efforts to combat discrimination against lesbian, gay, bisexual, transgender and intersex persons, including by conducting public awareness-raising campaigns.**

#### **Equality between men and women**

106. The Committee is concerned that gender disparities persist, especially in relation to employment and wages. The Committee is also concerned that gender role stereotypes persist and that women's representation in senior positions within the public administration remains unsatisfactory (arts. 3 and 7).

107. **The Committee recommends that Hong Kong, China:**

(a) **Adopt all necessary measures, with specific targets and a time frame, to eliminate the persistent gender wage gap;**

(b) **Increase its efforts to combat gender stereotypes, including by increasing the use of the media and awareness-raising campaigns;**

(c) **Enhance women's representation in senior public positions, including by considering quotas;**

(d) **Be guided by and follow its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights.**

#### **Youth unemployment**

108. The Committee is concerned about the high rate of youth unemployment, and in particular the sharp rise in recent years. The Committee is also concerned that there is no legislation explicitly prohibiting age discrimination in employment (art. 6).

109. **The Committee recommends that Hong Kong, China, increase its efforts to address youth unemployment, for example by implementing targeted public sector employment schemes and/or by subsidizing youth employment in private sector companies, as well as by enacting legislation explicitly prohibiting age discrimination in employment.**

#### **Working conditions**

110. Noting the information provided during the dialogue with the State party, the Committee is concerned that the statutory minimum wage does not apply to student employees and live-in domestic workers. It is also concerned about the persistent difficulties faced by migrant domestic workers owing to the rule of having to leave the territory of Hong Kong, China, within two weeks after termination of a contract (the two-weeks rule), as well as the live-in requirement applied to them (art. 7).

111. **The Committee recommends that Hong Kong, China, expand the application of the statutory minimum wage to include all categories of employees and amend the two-**

<sup>31</sup> As also recommended by the Human Rights Committee (CCPR/C/CHN-HKG/CO/4, paras. 11 (a) and (b)).



**weeks rule and the live-in requirement, with a view to enabling migrant domestic workers' full enjoyment of their rights under the Covenant.**

112. The Committee is concerned about reports of exploitative practices by employers of domestic migrant workers, as well as trafficking of migrant women. The Committee is also concerned that complaints filed by migrant domestic workers regarding their working and living conditions are not adequately followed up on by labour inspection authorities (art. 7).

**113. The Committee recommends that Hong Kong, China, adequately monitor conditions of migrant domestic workers, including by raising the level of fines for employers and increasing the number of unannounced inspections by labour inspection authorities, as well as by increasing measures to prevent and combat trafficking. In this regard, the Committee recalls its general comment No. 23 on the right to just and favourable conditions of work.**

#### **Trade union rights**

114. Noting the information provided during the dialogue with the State party, the Committee is concerned about reports that domestic laws and regulations, including the Trade Union Ordinance, the Public Order Ordinance, and the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (2020), are implemented in such a way as to hamper the exercise of the right to freely form trade unions guaranteed in the Covenant (art. 8).

**115. The Committee recommends that Hong Kong, China, review the said laws and ordinances and their implementation, with a view to enabling the exercise of the right to freely form trade unions.**

#### **Right to social security**

116. The Committee is concerned about the coverage of privately managed mandatory occupation-based contributory systems, including the Mandatory Provident Fund System. It is also concerned that the pension benefits are inadequate to provide recipients with a decent living (art. 9).

**117. The Committee recommends that Hong Kong, China, expand the coverage of occupation-based contributory systems and raise the pension benefits to ensure an adequate standard of living, particularly in a context of rapidly rising inflation.**

#### **Older persons**

118. The Committee is concerned that the implementation of the Elderly Services Programme Plan has not adequately incorporated a human rights perspective (art. 10).

**119. The Committee recommends that Hong Kong, China, review the implementation of the Elderly Services Programme Plan to ensure that human rights are adequately taken into consideration.**

#### **Housing**

120. The Committee is concerned that the Long-term Housing Strategy has not sufficiently increased the availability of rental housing subsidies for low-income households. The Committee is also concerned that the financial eligibility threshold for public housing excludes a large number of low-income households (art. 11).

**121. The Committee recommends that Hong Kong, China, expand the scope of rental housing subsidies to low-income households and consider increasing the financing of public housing construction projects. The Committee also recommends that Hong Kong, China, lower the threshold for financial eligibility for public housing.**

#### **COVID-19 pandemic**

122. The Committee is concerned that the relatively recent strategic change from a zero-case policy to abruptly easing and lifting restrictions has strained the health-care system of

Hong Kong, China. The Committee is also concerned about reports of growing problems with mental health care, which have been aggravated by the prolonged lockdowns (art. 12).

**123. The Committee recommends that Hong Kong, China, allocate emergency funding to hospitals and health clinics to expand the capacity of intensive care units, including staff and material. The Committee also recommends that funding be earmarked to improve mental health-care services, at both the preventive and the curative levels.**

124. The Committee is concerned about the backlog building up from operations, procedures and medical examinations postponed as a result of an increased influx of COVID-19 patients, and its potential effect on the viability of the health-care system (art. 12).

**125. The Committee recommends that Hong Kong, China, earmark additional funding specifically to strengthen the resilience of the health-care system to health emergencies such as the COVID-19 pandemic. In this regard, the Committee recalls its general comment No. 14 (2000) on the right to the highest attainable standard of health.**

#### **Right to education**

126. Noting the information provided during the dialogue with the State party, the Committee is concerned about reports that the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (2020) is being used to put pressure on staff and students in higher education institutions, censor content and undermine academic freedom, and has led to the dismissal and arrest of students and teachers and other university staff (arts. 13 and 14).

**127. The Committee urges Hong Kong, China, in cooperation with the State party, to review its legislation to ensure the full academic freedom of students, teachers and other university staff.**

#### **Right to take part in cultural life and enjoy the benefits of scientific progress and its applications**

128. Noting the information provided during the dialogue with the State party, the Committee is concerned about reports that the implementation of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (2020) is negatively impacting the right to culture, as it has led to the harassment and arrest of cartoonists, as well as censorship of online and offline satiric content, including censorship of independent cinema, theatre productions, podcasts and radio broadcasts. The Committee is also concerned that broad surveillance and censorship of online content is negatively affecting the right to enjoy scientific progress (art. 15).

**129. The Committee urges Hong Kong, China, in cooperation with the State party, to review the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (2020) to ensure full artistic freedom and enjoyment of the rights to history, culture and science.**

### **E. Principal subjects of concern and recommendations: Macao, China**

#### **National human rights institution**

130. Noting that Macao, China, has designated the Commission against Corruption to fulfil the role of a national human rights institution, the Committee is concerned about the lack of a broad human rights mandate, including economic, social and cultural rights, for the Commission and of measures taken to strengthen its independence.

**131. The Committee urges Macao, China, to establish an independent national human rights institution with a broad mandate in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), and to allocate sufficient human, technical and financial resources for it to fully exercise its mandate in relation to economic, social and cultural rights. In this**

regard, the Committee recalls its general comment No. 10 (1998) on the role of national human rights institutions in the protection of economic, social and cultural rights.

#### **Equality between men and women**

132. The Committee remains concerned about reports that gender role stereotypes persist and that women's representation in senior positions within the public administration and private companies remains unsatisfactory. The Committee is also concerned about the lower labour market participation rate of women and the concentration of women in traditionally female-dominated professions, which contribute to the gender pay gap (arts. 3 and 7).

**133. The Committee recommends that Macao, China, increase its efforts to combat gender stereotypes, including by increasing the use of the media and awareness-raising campaigns and enhancing women's participation in senior public and private positions, including by considering quotas. The Committee also recommends that Macao, China, intensify its efforts to close the gender pay gap, including by addressing the gender-based segregation in the labour market, reviewing its social and tax policies and addressing the factors that discourage women from continuing their careers or taking up full-time employment. In this regard, the Committee recalls its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights.**

#### **Informal economy**

134. The Committee is concerned about the considerable proportion of workers in the informal economy, such as low-skilled workers in gambling-associated service industries. It is also concerned that workers are not adequately covered by labour and social protection laws (arts. 7 and 9).

**135. The Committee recommends that Macao, China, take all measures necessary to reduce the extent of the informal economy and to increase employment opportunities in the formal labour market, with a view to ensuring that workers are covered by labour and social protection laws.**

#### **Exploitative practices**

136. The Committee is concerned about reports that migrant construction and domestic workers are vulnerable to exploitative measures, such as recruitment fees, the withholding of passports and debt-based coercion, and the fact that domestic helpers are excluded from minimum wage protection. The Committee is also concerned about reports that children and migrants are forced to work long hours and are vulnerable to forced sex and labour trafficking, including having their freedom of movement restricted and being threatened with and subjected to violence (art. 7).

**137. The Committee recommends that Macao, China:**

(a) **Extend minimum wage protection to domestic helpers and increase the effectiveness of labour inspectorates;**

(b) **Take all appropriate measures to ensure the effective and equal application of labour legislation to migrant workers in order to guarantee their right to just and favourable conditions of work, as enshrined in article 7 of the Covenant and as previously recommended by the Committee;**<sup>32</sup>

(c) **Be guided by and follow the Committee's general comment No. 23 (2016) on just and favourable conditions of work.**

#### **Trade union rights**

138. Noting that the Basic Law of Macao, China, guarantees, inter alia, the right to form and join trade unions and to strike, the Committee is concerned that no legislation has been passed to regulate this right, and that the law does not provide for collective bargaining or

<sup>32</sup> E/C.12/CHN/CO/2, para. 56.

specific protection from retribution for workers who strike. The Committee is also concerned that employers and the Government are influencing certain unions (art. 8).

**139. The Committee recommends that Macao, China, pass legislation to regulate the right to form and join trade unions and the right to strike. The Committee also reiterates its previous recommendation that, in line with its obligations under article 8 of the Covenant, Macao, China, take all necessary measures to ensure that workers enjoy their trade union rights without undue restrictions or interference.<sup>33</sup>**

#### **Social security systems**

140. Noting the information provided during the dialogue, the Committee is concerned that a substantial number of migrant workers (classified as non-resident workers), particularly migrant domestic workers, are employed without formal contracts and thereby excluded from the social security system and that a number of employers withhold mandatory social security system contributions (art. 9).

**141. The Committee recommends that Macao, China, take all necessary measures to increase the participation of, in particular, but not limited to, migrant workers (classified as non-resident workers) in the social security system, ensure employers' full compliance with mandatory social security system contributions and extend the mandatory system to non-resident workers.**

#### **Domestic violence**

142. The Committee is concerned that the Law on Preventing and Combating Domestic Violence does not cover same-sex couples. It is also concerned about reports of insufficient implementation of the Law in the context of a relatively high report rate with low investigation and prosecution rates (art. 10).

**143. The Committee recommends that Macao, China, review the Law on Preventing and Combating Domestic Violence with a view to including same-sex couples, and ensure its effective implementation by raising awareness and conducting specific training for law enforcement agents and prosecutors to protect all victims, bring perpetrators to justice and prevent impunity.**

#### **Right to an adequate standard of living**

144. The Committee is concerned that Macao, China, does not have data on the proportion of people living below the poverty line, as this makes targeted poverty-eradication programmes difficult to implement. The Committee is also concerned about the emphasis placed by Macao, China, on employment schemes and self-reliance as a means to raise the standard of living, as this may exclude persons who are unable to work (art. 11).

**145. The Committee recommends that Macao, China, ensure comprehensive and accurate data collection on poverty to allow for analysis and subsequent implementation of targeted poverty-eradication programmes. The Committee also recommends that Macao, China, take a holistic approach to raising the standard of living, including by expanding its approach and reducing its emphasis on employment schemes and self-reliance.**

#### **COVID-19 pandemic**

146. Noting the information provided during the dialogue with the State party, the Committee is concerned that the relatively recent strategic change from a zero-case policy to abruptly easing and lifting restrictions has strained the health-care system of Macao, China (art. 12).

**147. The Committee recommends that Macao, China, immediately allocate emergency funding to hospitals and health clinics to expand the capacity of intensive care units, including staff and material.**

<sup>33</sup> *Ibid.*, para. 57.

148. Noting the information provided during the dialogue, the Committee is concerned about the backlog building up from operations, procedures and medical examinations postponed as a result of an increased influx of COVID-19 patients, and its potential effect on the viability of the health-care system. The Committee is also concerned about reports of growing problems with mental health care, which have been aggravated by the prolonged lockdowns (art. 12).

**149. The Committee recommends that Macao, China, earmark additional funding specifically to strengthen the resilience of the health-care system to the health emergencies such as the COVID-19 pandemic. The Committee also recommends that funding be earmarked to improve mental health care services at both the preventive and the curative levels. In this regard, the Committee recalls its general comment No. 14 (2000) on the right to the highest attainable standard of health.**

#### **Right to education**

150. The Committee is concerned that net enrolment rates at the pre-primary education level continue to decrease, that children of migrants are disproportionately overrepresented in the non-enrolment rates and that the measures taken by Macao, China, to increase those rates have been insufficient (arts. 13 and 14).

**151. The Committee recommends that Macao, China, redouble its efforts to increase pre-primary education enrolment and intensify its efforts to ensure equal opportunities in access to quality pre-primary education for children of migrants.**

#### **Digital divide**

152. The Committee is concerned about the persistence of the digital divide, which is disproportionately affecting older persons (art. 15).

**153. The Committee recommends that Macao, China, take appropriate measures to narrow the digital divide for the benefit of older persons, including by increasing programmes aimed at providing increased access to the Internet and training in its use.**

### **F. Other recommendations**

154. **The Committee encourages the State party to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.**

**155. The Committee recommends that the State party consider ratifying 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 the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.**

**156. The Committee recommends that the State party take fully into account its obligations under the Covenant and ensure the full enjoyment of the rights enshrined therein in the implementation of the 2030 Agenda for Sustainable Development at the national level, including in the recovery from the COVID-19 pandemic. Achievement of the Sustainable Development Goals would be significantly facilitated by the State party establishing independent mechanisms to monitor progress and by treating beneficiaries of public programmes as rights holders who can claim entitlements. Moreover, the Committee recommends that the State party support the global commitment to the decade of action to achieve the Sustainable Development Goals. Implementing the Goals on the basis of the principles of participation, accountability and non-discrimination would ensure that no one is left behind. In this regard, the Committee draws the State party's attention to its statement on the pledge to leave no one behind.**

**157. The Committee requests that the State party disseminate the present concluding observations widely at all levels of society, including at the national and municipal levels,**

in particular among public officials and judicial authorities, and that it inform the Committee in its next periodic report about the steps taken to implement them. The Committee encourages the State party to engage with non-governmental organizations and other members of civil society in the follow-up to the present concluding observations and in the process of consultation at the national level prior to the submission of its next periodic report.

158. In accordance with the procedure on follow-up to concluding observations adopted by the Committee, the State party is requested to provide, within 24 months of the adoption of the present concluding observations, information on the implementation of the recommendations contained firstly in paragraphs 34 (adoption of a general anti-discrimination law) and 36 (discrimination in the Xinjiang Uighur Autonomous Region), secondly in paragraph 89 (cultural and linguistic identity and expression in education) and thirdly in paragraph 103 (civil society, human rights defenders, journalists and lawyers working on human rights (Hong Kong, China)).

159. The Committee requests the State party to submit its fourth periodic report in accordance with article 16 of the Covenant by 31 March 2028, unless otherwise notified as a result of a change in the review cycle. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words.

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