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Committee on Economic, Social and Cultural Rights
Pre-sessional working group**List of issues in relation to the second periodic report of China (E/C.12/CHN/2) including Hong Kong, China (E/C.12/CHN-HKG/3) and Macao, China (E/C.12/CHN-MAC/2), adopted by the pre-sessional working group at its fifty-first session (21-24 May 2013)****Part One****China****I. General Information**

1. Please clarify whether the State party will establish a national human rights institution, with a broad human rights mandate, in line with the Paris Principles (General Assembly resolution 48/134, annex).
2. Please provide information on measures taken, including legislation, regulations, policies and guidance, to ensure that businesses respect economic, social and cultural rights throughout their operations – including when operating abroad –, in particular in the extractives sector and in commercial operations involving the appropriation of land.
3. Please provide information on whether and to what extent the rights contained in the Covenant have been incorporated into domestic law and whether these can be invoked before domestic courts by all persons under the jurisdiction of the State party.

II. Issues relating to the general provisions of the Covenant (arts. 1-5)**Article 2, paragraph 1 – Obligation to take steps to the maximum of available resources**

4. Please provide information on effective measures taken by the State party to combat corruption in the context of maximizing resources available for the promotion and enjoyment of economic, social and cultural rights.

Article 2, paragraph 2 – Non-discrimination

5. Please provide information on steps taken and their impact to address de facto discrimination based on a person's birthplace and urban or rural status, especially for internal migrants, due to the national household registration system (*hukou*), in particular regarding access to employment, social security, public health services and education. Please also provide information on the status of the proposed reform of the *hukou* system.

6. Please provide information on steps taken to prevent and combat discrimination against persons living with HIV/AIDS, including refusal to extend hospital care, rejection of AIDS orphans by schools and difficulties in accessing welfare benefits.

7. Please provide information on steps taken to address the underrepresentation of persons belonging to ethnic minorities in public administration at all levels, as well as in the police force and the military.

Article 3 - Equal rights of men and women

8. Please provide information on steps taken to ensure equal representation of women, including those from ethnic minorities, in public and political life, in particular in decision-making positions. Please also provide information on steps taken to address the persistent wage gap between men and women.

9. Please provide information on steps taken to guarantee land tenure for women, in particular women relying on agriculture for their subsistence.

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

Article 6 - The right to work

10. Please clarify whether the official urban unemployment rate includes categories such as unemployed internal migrants, laid-off workers, unemployed college graduates, as well as men older than 60 years of age and women older than 50 years of age. Please also provide information on steps taken, including under the 2007 Employment Promotion Act, to address the high rate of unemployment among persons belonging to ethnic minorities, as well as their impact.

Article 7 - The right to just and favourable conditions of work

11. Please provide information on steps taken to ensure that minimum wages determined by municipal and provincial governments are set at a level to ensure a decent living for workers and their families.

12. Please provide information on steps taken to address abusive labour conditions, such as non-payment of wages, injuries and death, and instances of absence of medical and accident insurance. Please specify which measures are in place for the protection of rural migrants, in particular those employed in the construction sector.

13. Please provide information on the status of the process to reform the Re-education Through Labour system and whether this is envisaged as a step leading to the eventual abolition of the system. Please also provide information on the number of children and adolescents who remain detained in Re-education Through Labour camps.

14. Please provide information on steps taken to ensure that Tibetans, Inner Mongolians, and Uyghurs do not experience de-facto discrimination in their conditions of work, business permits and loans.

Article 8 – Right to form and join trade unions and right to strike

15. Please provide information on steps taken to ensure that workers can freely exercise their right to form and join trade unions, including outside the control of the All China Federation of Trade Unions. Please provide information on steps taken to ensure that internal migrants can join trade unions.

Article 9 - The right to social security

16. Please clarify which steps are taken to ensure universal access to social security, and to ensure that rural residents receive the same amount of benefits as those in urban areas, in particular for basic health care and old-age pension. Please provide information on steps taken to increase awareness of social security and assistance benefits, in particular in rural areas.

17. Please provide information on steps taken to ensure that rural-urban migrants have equal access to social services and social security benefits, including the minimum living standard scheme (*di bao*) guaranteed to urban residents.

Article 10 - Protection of the family, mothers and children

18. Please provide information on steps taken to prevent abandonment of children, in particular those with disabilities, by their parents and to promote family-type care rather than institutional care for children deprived of a family environment.

19. Please provide information on the extent of the problem of child labour. Please provide information on steps taken to prevent schools from sending under-age students to factories as “interns”, where they are allegedly subjected to the same conditions as full-time employees. Please also provide information on steps taken to combat the abduction and forced labour of persons with intellectual disabilities, in particular children.

20. Please clarify whether the State party has adopted legislation criminalizing domestic violence, including marital rape.

21. Please clarify whether the definition of the crime of trafficking in the Penal Code will be broadened from the current focus on exploitation of prostitution in order to bring it in line with international standards. Please also provide information on the implementation of the National Plan of Action against Trafficking in Women and Children 2008-2012.

22. Please inform the Committee whether the State party intends to introduce legislative amendments with a view to prohibiting corporal punishment in all settings.

23. Please provide updated information on the nature or the effects of the one-child policy. Please also provide information on envisaged reforms of the policy, as well as on the expected impact on the elimination of the practice of non-registration of children.

Article 11 - The right to an adequate standard of living

24. Please provide information on steps taken, and their impact, to combat poverty, especially among the disadvantaged and marginalized groups, such as internal migrants and

persons with disabilities, and to reduce the growing disparities between rural and urban regions.

25. Please provide information on steps taken to address food insecurity, in particular in poor rural regions situated in the western mountainous areas. Please also specify which measures are taken to address child malnutrition, in particular in rural areas and the Tibet Autonomous Region.

26. Please provide information on steps taken to address the loss of farmland due to urbanization, industrial development, water pollution and soil erosion, and the impact on food prices and the increasing proportion of the cost of food in the overall household budget of families.

27. Please provide information on steps taken, and their impact, to address the problem of urban air and water pollution, in particular in highly industrialized areas. Please also provide information on steps taken to address water shortages in northern China.

28. Please provide updated information on progress achieved in ensuring access to adequate housing for low-income households and other disadvantaged and marginalized groups and individuals, in particular those living in urban areas, including through the provision of social housing units. Please also provide statistical data on the extent of homelessness in the State party.

29. Please provide information on steps taken to implement the 2011 Regulation on the Expropriation of Houses on State-owned Land and Compensation, as well as other steps to prevent land takings and forced evictions. Please clarify whether the regulation will be amended to extend protection to tenants and rural residents. Please provide statistical data on the number of forced evictions, on an annual basis, and clarify whether such evictions are preceded by consultations with residents with a view to seeking their prior and informed consent. Please clarify whether authorities have resorted to deprivation of services, such as water, heat or electricity, as well as violence in order to forcibly evict residents from their homes.

30. Please provide information on steps taken to stop non-voluntary resettlement of nomadic herders from their traditional lands and non-voluntary relocation or rehousing programmes of other rural residents, in particular in Tibet Autonomous Region, Sichuan, Qinghai, Inner Mongolia and Xinjiang Autonomous Region.

Article 12 - The right to physical and mental health

31. Please provide information on steps taken to ensure access to public health care services in rural and remote areas. Please provide information on steps taken to address the imposition of prohibitive user fees for health care in hospitals. Please also provide information on steps taken to address the high maternal, infant and child mortality rates in rural and remote areas, in particular in the Tibet Autonomous Region.

32. Please provide information on the implementation of legislation against sex-selective abortion practices and female infanticide, as well its impact. Please also inform the Committee whether the State party has conducted a study on the root causes of such practices.

33. Please provide information on the system of mental health services and psychiatric treatment and care available to adults as well as children. Please clarify whether the 2012 Mental Health Law forbids involuntary psychiatric confinement of persons who do not suffer from any mental illness.

34. Please provide information on the number of persons that have been infected with HIV/AIDS and Hepatitis B and C through blood transfusions in hospitals, in particular in rural areas.

35. Please provide information on steps taken to address child obesity, in particular in urban areas.

Articles 13 and 14 - The right to education

36. Please clarify whether the allocation of financial resources to the education sector has increased in step with the rise in Gross Domestic Product, as directed by the Education Law. Please also clarify whether the State party uses budgetary re-allocations to provide sufficient resources to less-developed regions, in particular rural areas.

37. Please provide information on steps taken, and their impact, to improve access to and availability of education, in particular for children living in rural areas and the western provinces, as well as migrant children. Please clarify which steps have been taken to eliminate all miscellaneous fees for compulsory primary education. Please provide information on steps taken to address illiteracy and school dropout rates in rural areas, in particular among ethnic minority groups.

38. Please provide information on steps taken, and their impact, to ensure that children with disabilities are educated in mainstream public schools and provided with the necessary equipment and support.

Article 15 – Cultural rights

39. Please provide information on steps taken to ensure that Tibetans as well as Uyghurs can fully exercise their right to preserve and take part in their own cultural life, including using and teaching their own languages, history and culture, as well as practising their religion freely and without State interference.

Part Two

Hong Kong, China

IV. Issues relating to the general provisions of the Covenant (arts. 1-5)

Article 2 paragraph 2 - Non-discrimination

40. Please provide information on steps taken to review and repeal the “two-week rule” and to address discrimination and abuse against migrant domestic workers as a consequence of this rule.

41. Please clarify whether steps are foreseen to introduce legislation prohibiting discrimination on the grounds of sexual orientation and gender identity, and provide information on steps taken to prevent and combat discrimination based on such grounds.

42. Please inform the Committee whether measures, legislative or otherwise, have been envisaged to extend coverage of the Race Discrimination Ordinance to all public

functions, including the immigration service, police force, foreign domestic workers, as well as to all grounds of discrimination, including nationality, citizenship and residence.

Article 3 - Equal rights of men and women

43. Please provide information on the impact of steps taken to ensure the principle of equal pay for work of equal value, and provide updated information on the current wage disparities between men and women.

V. Issues relating to the specific provisions of the Covenant (arts. 6-15)

Article 6 - The right to work

44. Please clarify whether refugees have access to the labour market and to tertiary or vocational training.

Article 7 - The right to just and favourable conditions of work

45. Please provide information on legislation regulating standard working hours, statutory overtime pay and rest breaks, and protecting against unfair dismissal.

46. Please provide information on steps taken to ensure that migrant domestic workers do not receive a wage below the minimum allowable wage currently in place for this category of workers. Please clarify whether the Minimum Wage Ordinance will be amended to also cover live-in migrant domestic workers. Please also specify which steps are taken to ensure that migrant domestic workers are granted weekly rest days in accordance with section 17 of the Employment Ordinance.

47. Please provide information on steps taken to ensure that persons with disabilities do not receive a lower salary for equal work, compared to persons without disabilities.

Article 8 – The right to form and join trade unions and right to strike

48. Please provide updated information on the protection against dismissal for workers who engage in trade union activities.

Article 9 - The right to social security

49. Please provide information on the practical reasons for setting the residency rule at seven (7) years as one of the application criteria for the Comprehensive Social Security Assistance scheme, and explain whether this period may be reduced for particular groups at risk of living in poverty, rather than being based on an individual assessment of each particular case.

50. Please provide information on steps taken to ensure that persons with disabilities have access to their right to social security.

Article 10 - Protection of the family, mothers and children

51. Please provide information on measures taken to counter the adverse impact of right of abode policies and to ensure that families are not separated between mainland China and Hong Kong, China, as a result of such policies.

52. Please provide more detailed information on practical steps taken to prevent and combat trafficking in persons in Hong Kong, China, as a source, destination and transit point, and specify whether these efforts have also focused on abusive practices regarding foreign domestic workers.

53. Please inform the Committee whether legislative amendments will be introduced with a view to prohibiting corporal punishment in all settings. Please also provide information on steps taken, other than legislative, to prevent the use of corporal punishment in the home and alternative care settings.

Article 11 - The right to an adequate standard of living

54. Please clarify how the Hong Kong, China, authorities ensure that the level of the Comprehensive Social Security Assistance is an accurate measure of the minimum standard of living. Please also clarify whether a comprehensive policy and plan is in place to combat poverty, including an official poverty line, adjusted annually for inflation.

55. Please provide information on steps taken to introduce rental subsidies for those in need. Please provide information on how rent levels are protected against real estate speculation, in view of the lifting of rent control through the amendments to the Landlord and Tenant (Consolidation) Ordinance. Please also clarify the housing situation for asylum seekers and refugees..

Article 12 - The right to physical and mental health

56. Please clarify whether the Hong Kong, China, authorities will introduce the Mental Health Policy as recommended by the Equal Opportunities Commission and civil society.

57. Please provide information on the reportedly high number of rejections of persons with disabilities by health insurance companies.

Articles 13 and 14 - The right to education

58. Please provide information on steps taken to ensure that all school-age children of migrants without the legal right to remain in Hong Kong, China, and who are unlikely to be removed in the short term, as well as children of ethnic minorities, have unconditional access to public school education.

59. Please provide information on steps taken to address the high dropout rate in secondary schools. Please also provide information on progress made in the implementation of the “Chinese as a Second Language” curriculum.

Part Three

Macao, China

VI. Issues relating to the general provisions of the Covenant (arts. 1-5)

Article 3 - Equal rights of men and women

60. Please provide information on steps taken to address the persistent wage gap between women and men in Macao, China, and to ensure that women receive equal pay for work of equal value.

VII. Issues relating to the specific provisions of the Covenant (arts. 6-15)

Article 6 - The right to work

61. Please provide information on the proposals made so far by the Commission for the Rehabilitation of Persons with Disabilities regarding the integration of persons with disabilities into the labour market.

Article 7 - The right to just and favourable conditions of work

62. Please provide information on steps taken to ensure that migrant workers are employed under formal contracts, that they do not have to pay excessive fees to recruitment agencies, and that they are paid equal wages for equal work in comparison to local workers.

63. Please clarify whether the 2008 Labour Law will be amended to introduce maximum working hours and minimum wages. Please also clarify what sanctions can be imposed against employers in case of non-payment of wages.

Article 8 – Right to form and join trade unions and right to strike

64. Please provide information on restrictions, if any, to the right to form and join trade unions. Please also clarify whether the Basic Law protects workers from retribution following their engagement in trade union activity or participation in a strike.

Article 9 - The right to social security

65. Please clarify whether migrant workers have access to the social welfare system.

Article 10 - Protection of the family, mothers and children

66. Please provide information on steps taken to criminalize domestic violence as a separate offence. Please provide further details on steps taken by the authorities to combat domestic violence and to strengthen the services available to victims.

67. Please inform the Committee whether legislative amendments are envisaged with a view to prohibiting corporal punishment in all settings.

Article 11 - The right to an adequate standard of living

68. Please provide updated information on the implementation of the plan to increase the supply of public social housing.

Article 12 - The right to physical and mental health

69. Please provide more information on the work of the Commission on the Fight against Drugs, established in 2008, as well as the impact of programmes implemented to prevent illicit drug consumption.

Articles 13 and 14 - The right to education

70. Please clarify whether steps are foreseen to ensure that primary education is provided free of charge to children of migrants.
