



# Convention on the Elimination of All Forms of Discrimination against Women

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## Committee on the Elimination of Discrimination against Women

Thirty-sixth session

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### Concluding comments of the Committee on the Elimination of Discrimination against Women: China

1. The Committee considered the combined fifth and sixth periodic reports of China (CEDAW/C/CHN/5-6 and Add.1 and 2) at its 743rd and 744th meetings, on 10 August 2006 (see CEDAW/C/SR.743 and 744). Addendum 1 to the combined fifth and sixth periodic reports covered the implementation of the Convention by the Government of the Hong Kong Special Administrative Region, over which the Government of China resumed the exercise of sovereignty on 1 July 1997. Addendum 2 covered the implementation of the Convention by the Government of the Macao Special Administrative Region, over which the Government of China resumed the exercise of sovereignty on 20 December 1999. The Committee's list of issues and questions is contained in document CEDAW/C/CHN/Q/6 and the responses of China are contained in document CEDAW/C/CHN/Q/6/Add.1.

#### Introduction

2. The Committee commends the State party for submitting its combined fifth and sixth periodic reports and addenda, which followed the Committee's guidelines for the preparation of periodic reports and have taken into account the Committee's previous concluding comments. It regrets, however, that the report was overdue and did not state whether the Committee's general recommendations had been taken into account. The Committee further regrets that the report fails to provide sufficient statistical data disaggregated by sex as well as analytical information on the de facto situation of women in China.

3. The Committee expresses appreciation to the State party for the written replies to the list of issues and questions of the pre-session working group and for the oral presentation and further clarification offered in response to the questions posed orally by the Committee.

4. The Committee commends the State party for having sent a large and high-level delegation, headed by the Executive Vice-Chairperson of the National Working Committee on Women and Children of the State Council, which included



representatives of the central Government and of the Hong Kong Special Administrative Region and the Macao Special Administrative Region. It expresses appreciation that the delegation included specialists from different ministries and departments of the central Government, including the Ministries of Foreign Affairs, Education, Civil Affairs, Health, Labour and Social Security, and Personnel, and the National Population and Family Planning Commission, the Supreme Court, and the State Ethnic Affairs Commission, as well as from the Hong Kong Special Administrative Region and the Macao Special Administrative Region. The Committee appreciates the frank and constructive dialogue that took place between the delegation and the members of the Committee.

### **Positive aspects**

5. The Committee commends the State party on the range of recent legal reforms and policies and programmes aimed at eliminating discrimination against women and promoting gender equality and at achieving compliance with the obligations under the Convention. In particular, it welcomes the 2005 amendment to the Law on the Protection of Rights and Interests of Women, the 2001 amendment to the Marriage Law adding provisions in a number of areas, including on domestic violence, property of couples and relations among family members, the promulgation in 2002 of the Law on Contracting of Rural Land, which contains provisions for the allocation of land to married, divorced and widowed women, and the 2006 amendment to the Law on Compulsory Education. It also welcomes the Programme for the Development of Chinese Women (2001-2010), which makes gender equality a basic State policy for the enhancement of national social progress.

6. The Committee welcomes the active involvement of civil society in particular women's non-governmental organizations, in the Hong Kong Special Administrative Region, in safeguarding the human rights of women.

7. The Committee commends the State party for the continuing applicability of the Convention to the Macao Special Administrative Region following resumption of Chinese sovereignty over Macao on 20 December 1999 under the principle of "one country, two systems".

### **Principal areas of concern and recommendations**

**8. While recalling the State party's obligation to systematically and continuously implement all the provisions of the Convention, the Committee views the concerns and recommendations identified in the present concluding comments as requiring the State party's priority attention until the submission of the next periodic report. Consequently, the Committee calls upon the State party to focus on those areas in its implementation activities and to report on action taken and results achieved in its next periodic report. It calls upon the State party to submit the present concluding comments to all relevant ministries and to Parliament so as to ensure their full implementation.**

9. The Committee remains concerned that Chinese domestic legislation still does not contain a definition of discrimination against women, in accordance with article 1 of the Convention, encompassing both direct and indirect discrimination, as already noted in its previous concluding comments (A/54/38/Rev.1), and that such a definition was not included in the Law on the Protection of Rights and Interests of Women, amended in 2005. While noting that the Convention is an integral part of

Chinese law, the Committee is concerned that the State party is still not aware of the importance of such a definition and that the lack of a specific legal provision may constrain the application of the full scope of the Convention's definition of discrimination in the State party.

**10. The Committee reiterates its recommendation that the State party develop capacity to understand the meaning of substantive equality and non-discrimination, as required by the Convention, and include a definition of discrimination against women in its domestic law, encompassing both direct and indirect discrimination, in line with article 1 of the Convention.**

11. While welcoming the establishment of special courts and tribunals for the protection of the rights of women and children, the Committee notes with concern that in the absence of provisions for effective legal remedies, women's access to justice in cases of discrimination may remain limited, in particular in rural areas. The Committee also notes that the Convention does not appear to have ever been invoked in a court of law.

**12. The Committee encourages the State party to ensure that the Convention, the Committee's general recommendations and related domestic legislation are made an integral part of the legal education and training of judicial officers, including judges, lawyers and prosecutors, and to ensure that, in particular, judges and officers of the special courts and tribunals are familiar with the Convention and the State party's obligations thereunder. It also calls upon the State party to enhance availability of effective legal remedies and implement further awareness-raising and sensitization measures about such legal remedies against discrimination so that women can avail themselves of them. It encourages the State party to monitor the results of such efforts and to include in its next periodic report detailed statistics on the use by women of the legal system to obtain redress for discrimination in all fields covered by the Convention, and trends over time.**

13. The Committee is concerned that the report did not include sufficient data disaggregated by sex, regions and ethnic groups, and information comparing the situation of women to that of men, to enable it to obtain a comprehensive understanding of the current situation of women in regard to all areas covered by the Convention, and trends over time. The Committee is further concerned that the lack or limited availability of such detailed data may also constitute an impediment to the State party itself in designing and implementing targeted policies and programmes, and in monitoring their effectiveness in regard to the implementation of the Convention in all parts of the vast country.

**14. The Committee calls upon the State party to study obstacles to data collection and to enhance the collection and the wide availability of sex-disaggregated statistical information, by region and by ethnic group, in regard to each of the provisions of the Convention, in order to enhance its capacity to design and implement targeted policies and programmes aimed at the promotion of gender equality and women's enjoyment of their human rights. It also recommends that the State party strengthen its monitoring and assessment of the impact of such policies and programmes and to take corrective measures, whenever necessary. It requests the State party to provide such statistical information and trends over time in its next periodic report so that an in-depth**

**assessment of the progress in the implementation of the Convention can be made.**

15. While commending the State party for the significant economic growth and related reduction in poverty rates achieved in recent years, the Committee is concerned that those benefits continue to be unevenly distributed between urban and rural areas and that women may not benefit to the same extent as men from overall economic growth and development. The Committee is also concerned at the gender-specific consequences of economic restructuring, decentralization of services, in particular as regards the employment of women, their health and education and the State party's focus on the development of infrastructure over social spending, and the impact of those policies on women and girls, in particular in rural areas.

**16. The Committee calls upon the State party to enhance its monitoring of the impact of economic development and changes on women and to take proactive and corrective measures, including increasing social spending, so that women can fully and equally benefit from growth and poverty reduction. To that end, it recommends that a gender impact analysis of all social and economic policies and poverty reduction measures be conducted regularly, including of the budget. It invites the State party to implement targeted measures to prevent and eliminate any adverse impact on women of economic restructuring, in particular, on those who live in rural and remote areas or who belong to an ethnic minority.**

17. The Committee expresses concern at the persistence of deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and society, reflected in concerns such as son-preference, which lead to high adverse sex-ratio and illegal sex-selective abortion. The Committee is concerned that these prevailing attitudes continue to devalue women and violate their human rights.

**18. The Committee calls upon the State party to put in place a comprehensive approach to overcoming traditional stereotypes regarding the role of women and men in society, in accordance with articles 2 (f) and 5 (a) of the Convention. Such an approach should include legal, policy and awareness-raising measures, involve public officials and civil society and target the entire population, in particular men and boys. It should include the use of different media, including radio, television and print, and encompass both specialized and general programmes. The Committee calls upon the State party to evaluate the gender sensitivity of the curriculum and textbook reform it has undertaken since 2000 and to further ensure that it explicitly addresses the principle of equality between women and men.**

19. While recognizing the efforts made by the State party to address trafficking in women and girls, including cross-border and international cooperation, the Committee is concerned that the definition of trafficking in the Penal Code is limited to the purpose of exploitation of prostitution and is therefore not in line with international standards. The Committee also expresses concern that the continued criminalization of prostitution has a disproportionate impact on prostitutes rather than on the prosecution and punishment of pimps and traffickers. It is also concerned that prostitutes may be kept in administrative detention without due process of law. Moreover, the Committee is concerned about the insufficient data and statistical information about the extent of trafficking, in particular internal trafficking.

20. **The Committee recommends that the State party increase its efforts to combat all forms of trafficking in women and girls. It urges the State party to bring its domestic legislation into line with international standards and to speedily complete, adopt and implement the draft national programme of action against human trafficking. It requests the State party to enhance enforcement of the law against trafficking to ensure that those who traffic and sexually exploit women and girls are prosecuted and punished, and to provide all necessary assistance to the victims of trafficking. The Committee also urges the State party to take measures aimed at the rehabilitation and reintegration of women in prostitution into society, to enhance other livelihood opportunities for women to leave prostitution, provide support for them to do so and to prevent any detention of women without due legal process. It calls upon the State party to systematically compile detailed data on cross-border and internal trafficking, reflecting the age and ethnic background of the victims. The Committee requests the State party to provide in its next report comprehensive information and data on the trafficking of women and girls as well as on the impact of measures taken and results achieved in this regard.**

21. While commending the State party for the explicit prohibition of domestic violence in the amended Marriage Law of 2001 and for other measures taken to address violence against women, the Committee remains concerned by the lack of comprehensive national legislation on violence against women that also provides access to justice and means of support for victims and punishment of perpetrators, and the lack of statistical data concerning all forms of violence against women. The Committee is also concerned about reported incidents of violence against women in detention centres, in particular in Tibet.

22. **The Committee urges the State party to adopt a comprehensive law on violence against women and to ensure that all forms of violence against women and girls, both in the public and private spheres, constitute a crime punishable under criminal law. It calls upon the State party to provide immediate means of redress and protection to women and girls victims of violence, in accordance with the Committee's general recommendation 19. It also encourages the State party to enhance victims' access to justice and redress, for example, through training aimed at judicial officers, including judges, lawyers and prosecutors, in order to enhance their capacity to deal with violence against women in a gender-sensitive manner and ensure that claims are investigated expeditiously, including incidents of violence against women in detention centres. It also calls upon the State party to strengthen its system of data collection in regard to all forms of violence against women and to include such information in its next report.**

23. The Committee is concerned that the State party has made insufficient use of temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25, to accelerate the realization of de facto equality for women in all areas of the Convention.

24. **The Committee recommends the utilization of temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25 to accelerate the practical realization of the goal of de facto or substantive equality of women with men in all areas of the Convention.**

25. While welcoming the provisions adopted by the State party to ensure the representation of women in all areas of political and public life, the Committee expresses concern at the continued low level of representation of women, including women from ethnic minority backgrounds, in public and political life and in decision-making positions, including in the foreign service. It notes with concern that the proposed revision of the Organic Law of the Villagers' Committees does not call for women's equal representation on villagers' committees.

**26. The Committee encourages the State party to take sustained measures, including temporary special measures, such as the establishment of adequate numerical goals and targets, and timetables, in order to progress more expeditiously towards women's full and equal representation in elected and appointed bodies in all areas of public life, from the local to the national levels, and in all branches of Government, including in the country's foreign service. The Committee recommends that the State party conduct training programmes on leadership and negotiation skills for current and future women leaders. It further urges the State party to undertake awareness-raising about the importance of women's participation in decision-making processes at all levels of society.**

27. The Committee remains concerned about the disadvantaged position of rural women, in particular with regard to access to education, health, employment, participation in leadership and land property. It is also concerned at the situation of rural minority women, including Tibetan women, who face multiple forms of discrimination based on sex, ethnic or cultural background and socio-economic status. While noting with satisfaction the efforts to strengthen rural women's and girls' access to education, the Committee remains concerned that rural girls have disproportionate illiteracy and school dropout rates. It also expresses concern at the lack of health-care facilities and medical personnel in rural areas, the high maternal mortality rates and the rising costs for health care, such as user fees, which limit rural women's access to health services. While acknowledging legal protection of the equal rights of rural women to own and use land, the Committee notes with concern that 70 per cent of the rural landless are women. While noting the decrease in the rate of female suicide, the Committee remains concerned at the persistence of the high rate of female suicide in rural areas.

**28. The Committee recommends that the State party take all necessary measures to strengthen the active participation of rural women in the design, development, implementation and monitoring of rural development policies and programmes so as to enhance implementation of article 14 of the Convention. The measures should include efforts to ensure that all rural girls complete the nine years of compulsory education, free of all miscellaneous fees and tuition. Urgent attention should also be given to improving rural women's free access to health care and services in all rural areas. The Committee urges the State party to further assess the reasons for the disproportionate representation of women among the rural landless and to take appropriate remedial action, including measures and steps to change customs that result in discrimination against women. The Committee recommends enhancing the availability of affordable and quality mental health and counselling services in rural areas to further reduce the female suicide rate. The Committee urges the State party to take a holistic approach to eliminating the multiple forms of discrimination that ethnic minority women face and to accelerate the**

achievement of their de facto equality. The Committee requests the State party to provide, in its next report, comprehensive information, including sex-disaggregated data, on the situation of rural women, including ethnic minority women, especially with regard to their educational, employment and health status and exposure to violence.

29. The Committee is concerned about the situation of women in the employment sector, including the lack of legal provisions guaranteeing equal pay for equal work and work of equal value, the persistent wage gap, the high concentration of women in the informal sector, the toxic and harmful environment certain women workers might be exposed to and income reduction in a competitive job market. While appreciating the various efforts to promote the re-employment of laid-off women workers, it is concerned that gender might be the primary reason for being laid off. It is also concerned about the limited monitoring of implementation of labour legislation and the very low number of women who report violations of such provisions. It is also concerned about sexual harassment at work.

30. **The Committee recommends that the State party take further measures to overcome vertical and horizontal occupational segregation and to enhance its monitoring and effective enforcement of the legislative framework, including the Law on the Rights and Interests of Women, and to ensure that women have effective means of redress against the violation of labour laws, including the discriminatory dismissal of women based on gender. The Committee calls for measures to ensure that women receive equal pay for equal work and work of equal value, and equal social benefits and services. It encourages the State party to ensure that women workers are protected from hazardous working environments and that adequate sanctions are in place for discrimination against women in the employment field in both the public and private sectors, including sexual harassment.**

31. While noting that legal measures prohibiting sex-selective abortions and female infanticide and other measures are in place, such as the nationwide campaign, "Operation Caring for Girls", launched in 2006 and a system of incentives, the Committee remains concerned at the persistence of illegal practices of sex-selective abortion, female infanticide and the non-registration and abandonment of female children, and about forced abortions. The Committee is concerned about the impact of the adverse sex ratio, which may contribute to the increase in trafficking in women and girls.

32. **The Committee urges the State party to strengthen its monitoring of the implementation of existing laws against selective abortion and female infanticide and to enforce them through fair legal procedures that sanction officials acting in excess of their authority. It also urges the State party to investigate and prosecute the reports of abuse and violence against ethnic minority women by local family planning officials, including forced sterilization and forced abortion. The Committee recommends that the State party introduce mandatory gender-sensitivity training for family planning officials. It encourages the State party to continue to strengthen efforts to ensure that all girls are registered at birth, in particular in rural areas. It further recommends that the State party vigorously address the causes of son-preference, which remain strong in rural areas, and of the negative consequences of the one-child**

**policy as regards the adverse sex ratio by expanding insurance systems and old-age pensions to the population at large, in particular in rural areas.**

33. While noting that the State party is also party to the 1951 Convention relating to the Status of Refugees, it is concerned at the lack of laws or regulations for the protection of women refugees and asylum-seekers. The Committee expresses particular concern at the situation of North Korean women, whose status remains precarious and who are particularly vulnerable to being or becoming victims of abuse, trafficking, forced marriage and virtual slavery.

**34. The Committee calls upon the State party to adopt laws and regulations relating to the status of refugees and asylum-seekers, in line with international standards, in order to ensure protection also for women. The Committee recommends that the State party fully integrate a gender-sensitive approach throughout the process of granting asylum/refugee status in close cooperation with the Office of the United Nations High Commissioner for Refugees. It specifically encourages the State party to review the situation of North Korean women refugees and asylum-seekers in the State party and to ensure that they do not become victims of trafficking and marriage enslavement because of their status as illegal aliens.**

#### **Principal areas of concern and recommendations pertaining to the Hong Kong Special Administrative Region**

35. While commending the efforts of the Government to protect women against violence, including the “zero tolerance on domestic violence” principle, the Committee expresses concern at the low prosecution rate of domestic violence in the Hong Kong Special Administrative Region.

**36. The Committee urges the Government of the Hong Kong Special Administrative Region to strengthen its efforts in combating all forms of violence against women, including domestic violence. It urges the Government to enhance women’s access to justice, including by ensuring an effective response to complaints and carrying out more proactive investigations of complaints, and to improve gender-sensitivity training for judicial and law enforcement officials and health and social workers on violence against women. The Committee encourages the Government to re-establish the Hong Kong rape crisis centres so as to ensure that victims of sexual violence receive specific attention and counselling in full anonymity. The Committee recommends that the Government allocate sufficient resources to combat all forms of violence against women, including domestic violence, and to provide details about budget allocation in its next periodic report.**

37. The Committee expresses concern at the Small House Policy, under which only indigenous men, but not indigenous women, are entitled to apply for a permit to build a residence in the New Territories.

**38. The Committee urges the Government of the Hong Kong Special Administrative Region to repeal all discriminatory provisions from the Small House Policy and ensure that indigenous women have the same rights and access to property as indigenous men.**

39. While acknowledging that the established target of 25 per cent of women in advisory and consultative bodies has been reached by the Government of the Hong



Kong Special Administrative Region, the Committee notes with concern the low level of political representation of women, including in the functional constituencies. The Committee is concerned that the electoral system of functional constituencies may constitute indirect discrimination against women, as it results in the unequal participation of women in political life.

**40. The Committee urges the Government of the Hong Kong Special Administrative Region to take temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25 so as to increase women's representation in politics, including in the functional constituencies.**

41. The Committee is concerned about the situation of female foreign domestic workers who may be subject to double discrimination on the basis of their sex and ethnic background. The Committee is also concerned about the "Two-Week Rule", which requires foreign domestic workers to leave Hong Kong no later than two weeks after the expiration or termination of their employment contract thus pushing foreign domestic workers to accept employment which may have unfair or abusive terms and conditions in order to stay in Hong Kong. It further raises concern at the reported abuse perpetrated by employment agencies against domestic workers, such as lower wages, fewer holidays and longer working hours than what is prescribed by law.

**42. The Committee recommends that the Government of the Hong Kong Special Administrative Region ensure that female foreign domestic workers are not discriminated against by their employers or subject to abuse and violence. It urges the Hong Kong Special Administrative Region to repeal the "Two-Week Rule" and to implement a more flexible policy regarding foreign domestic workers. It also calls upon the State party to strengthen its control of employment agencies and to provide migrant workers with easily accessible avenues of redress against abuse by employers and permit them to stay in the country while seeking redress. The Committee further urges the State party to make migrant workers aware of their rights so that they have access to justice and can claim their rights.**

43. The Committee expresses concern at the situation of women asylum-seekers and refugees in Hong Kong. It notes with concern the representative's statement that the Hong Kong Special Administrative Region has no intention of having the 1951 Convention Relating to the Status of Refugees extended to Hong Kong.

**44. The Committee calls on the State party to extend the 1951 Convention Relating to the Status of Refugees to Hong Kong so as to ensure that women asylum-seekers and refugees can fully benefit from its protection.**

#### **Principal areas of concern and recommendations pertaining to the Macao Special Administrative Region**

45. The Committee notes with concern the increase, in recent years, in the number of rape, procurement and domestic violence cases in the Macao Special Administrative Region. It also expresses concern at the absence of specific legislation to address sexual harassment in the workplace.

46. **The Committee urges the State party to give priority to putting in place preventive measures to address all forms of violence against women, in accordance with its general recommendation 19. It recommends that research be conducted on the prevalence, causes and consequences of all forms of violence against women, including domestic violence, to serve as the basis for comprehensive and targeted intervention and to include the results in its next periodic report. It recommends that the Government of the Macao Special Administrative Region ensure that women and girls who are victims of violence have access to immediate means of redress and protection and that perpetrators are prosecuted and punished. Moreover, it encourages the State party to see to the provision of shelters and counselling services for victims of violence. The Committee furthermore urges the Government of the Macao Special Administrative Region to specifically include sexual harassment in the workplace in its legislation and to report on the implementation of such provisions in its next periodic report.**

47. The Committee is concerned at the lack of information on women's representation in public and political life in the Macao Special Administrative Region.

48. **The Committee requests the Government of the Macao Special Administrative Region to provide sufficient data and information on women in public and political arenas, disaggregated by sex, including information on temporary special measures under article 4.1 of the Convention and the Committee's general recommendation 25, in its next periodic report.**

49. The Committee notes with concern that women's non-governmental organizations have not been fully involved in the process of elaborating the report. As a result, the impact of the reporting process as an aspect of the holistic approach to the ongoing implementation of the Convention may be limited.

50. **The Committee calls upon the State party to strengthen the coordination with women's non-governmental organizations as a means to enhance the implementation of the provisions of the Convention, the follow-up to the concluding comments of the Committee and the preparation of future periodic reports under article 18 of the Convention.**

51. **The Committee calls upon the State party to ratify the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.**

52. **The Committee urges the State party to utilize fully in its implementation of its obligations under the Convention, the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.**

53. **The Committee also emphasizes that the full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. It calls for the integration of a gender perspective and explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Millennium Development Goals and requests the State party to include information thereon in its next periodic report.**

54. The Committee notes that States' adherence to the seven major international human rights instruments<sup>1</sup> enhances the enjoyment by women of their human rights and fundamental freedoms in all aspects of life. Therefore, the Committee encourages the Government of China to consider ratifying the treaties to which it is not yet a party, namely, the International Covenant on Civil and Political Rights and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

55. The Committee requests the wide dissemination in China, the Hong Kong Special Administrative Region and the Macao Special Administrative Region of the present concluding comments in order to make the people, including government officials, politicians, parliamentarians and women's and human rights organizations, aware of the steps that have been taken to ensure the de jure and de facto equality of women, as well as the further steps that are required in that regard. The Committee requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Convention, its Optional Protocol, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".

56. The Committee requests the State party to respond to the concerns expressed in the present concluding comments in its next periodic report under article 18 of the Convention. It invites the State party to submit its seventh periodic report, due in September 2006, and its eighth periodic report, due in September 2010, in a combined report in 2010.

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<sup>1</sup> The International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.