



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### List of issues in relation to the third periodic report of China\*, \*\*

#### I. General information

1. Please provide information on any legislative or policy measures taken by the State party to guarantee the direct applicability of all rights under the Covenant in its domestic legal order. Please also specify any efforts made to provide specialized training on the provisions of the Covenant and their justiciability, including through the National Judges College and the Five-Year Court Training Plan Outline for 2019–2023. Furthermore, please provide information on cases in which provisions of the Covenant were applied by or invoked before domestic courts, including examples of such cases.
2. Please provide information on:
  - (a) The legislative and administrative measures taken to guarantee the full independence and impartiality of the judiciary;
  - (b) Any steps taken to consider establishing a national human rights institution, which would have a mandate to deal with complaints about violations of the rights guaranteed under the Covenant;
  - (c) The measures taken to enhance the provision of free legal aid to persons in need who allege a violation of their Covenant rights.
3. With reference to the Committee's previous recommendations (E/C.12/CHN/CO/2, paras. 17–18, 28 and 61), please specify the progress made in improving the data-collection system and processes with a view to effectively monitoring and evaluating realization of the Covenant rights. Please indicate whether official statistical data is accessible to the public and what measures are taken to enhance public access to information held by public authorities in order to allow enjoyment of Covenant rights. Please also provide statistical data, disaggregated by age, sex, ethnic origin, urban/rural population and disability, on the employment, unemployment and underemployment rates, incomes and the ratios of persons living in poverty.
4. Please comment on the allegations that some legislation relating to the administration of law firms and the practice of law by lawyers has been used to intimidate lawyers and law firms who have taken up cases of violations of economic, social and cultural rights. In this context, please provide information on cases in which lawyers have been disqualified or had their legal practising certificates suspended, including the number of such cases and the reasons for the decisions, and on any procedures put in place to appeal against such decisions, the number of appeals made and the outcomes thereof. Please also provide information on the measures taken to provide an enabling environment for human rights defenders to

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

\*\* The lists of issues in relation to the reports of Hong Kong, China (E/C.12/CHN-HKG/Q/4) and Macao, China (E/C.12/CHN-MAC/Q/3) form part of the present list of issues.



advocate and promote economic, social and cultural rights, particularly for ethnic minority groups, migrants and workers. Furthermore, please indicate any guidelines developed to interpret the Government's prohibition against "individual organizations or individuals" engaging "under the banner of 'safeguarding rights', in activities that incite division of the country, challenge the basic Chinese political system, or undermine social stability" (E/C.12/CHN/3, para. 30) and clarify how that prohibition has been applied in practice.

5. Please indicate any efforts made to incorporate human rights due diligence into the systems mentioned in the State party report (E/C.12/CHN/3, para. 24) and the various regulations and guidelines established by business and financial institutions for foreign investments and business entities domiciled in China and operating overseas. Please specify the mechanisms put in place to monitor and report compliance with those regulations and guidelines by business entities, including State-owned enterprises, and indicate any reports published by such mechanisms. Please also specify the measures taken to provide victims of human rights abuses committed by business entities with effective remedies and give examples of such cases.

6. In implementing projects under the Belt and Road Initiative, please indicate any measures taken to address concerns about the debt sustainability of participating countries and to address any negative impact of the projects on the environment and the enjoyment of Covenant rights by people in China and other participating countries. Please also indicate any efforts made by the State party, as a State member of international financial institutions such as the Asian Infrastructure Investment Bank and the New Development Bank, to exercise its leverage to ensure that the conditionalities that these institutions attach to a loan do not result in unjustified retrogression in the enjoyment of the rights guaranteed under the Covenant in borrowing States. Furthermore, please provide information on the procedures in place to assess the human rights impact in the context of development assistance by the State party and of its negotiation of trade agreements.

7. Please provide information on:

(a) The progress made towards achieving the national emission reduction targets adopted by the State party under the Paris Agreement and the 2060 carbon neutrality target;

(b) The measures taken within its national adaptation framework to address the adverse effects of climate change on the enjoyment of economic, social and cultural rights, particularly by disadvantaged and marginalized individuals and groups;

(c) The measures taken to ensure that the overseas extractive activities operated by business entities domiciled in China, including State-owned enterprises, and the transnational investment projects financed by investment banks of the State party do not hinder the efforts of host countries to mitigate the adverse impact of climate change.

8. Please specify the efforts made to control and prevent the spread of the coronavirus disease (COVID-19), both nationally and beyond the State party's borders when the initial outbreak occurred, including through cooperation with the World Health Organization and the international community. Please also indicate the efforts made to provide accurate and accessible information about the virus to the World Health Organization and the public and the steps taken to address the repeated reports of reprisals against medical professionals and scientists, as well as journalists, who share information on the COVID-19 pandemic or its genesis or criticize the Government's response to the pandemic. Furthermore, please provide information on the measures taken to address the disproportionately harsh socioeconomic impact of the pandemic on disadvantaged and marginalized individuals and groups, including persons belonging to ethnic minority groups, rural populations and those low-income families that are not eligible for social assistance transfers, and the increased socioeconomic inequalities.

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

### Right to freely dispose of natural wealth and resources (art. 1 (2))

9. Please provide information on the steps taken to ensure that the free, prior and informed consent of Tibetan herders is obtained when expropriating their lands and on the procedures through which they challenge the decisions on the expropriation of their lands. Please also specify the measures taken to ensure that they can continue their traditional way of life and livelihood. In addition, please indicate the measures taken to protect against environmental degradation on the Tibetan plateau as a result of heavy infrastructure construction and extractive activities.

### Maximum available resources (art. 2 (1))

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

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

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

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

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

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

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

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

11. Please specify the progress made in incorporating the United Nations Convention against Corruption into domestic legislation and in enhancing the effectiveness and independence of anti-corruption bodies of the State party. Please provide information on the specific steps taken to combat corruption in the public and private sectors and to enhance transparency and accountability in the conduct of public affairs, particularly in the judiciary and with regard to procurement, public services and tax administration. Please indicate what legislative or other measures have been put in place to protect whistle-blowers and to ensure the protection of and remedies for victims of corruption.

### Non-discrimination (art. 2 (2))

12. Please indicate any concrete steps taken to adopt comprehensive anti-discrimination legislation or to review the existing anti-discrimination laws. Please also provide information on the measures taken, and their effectiveness, to combat the widespread social stigma and discrimination against disadvantaged and marginalized individuals and groups, including ethnic and religious minority groups, rural migrants, persons affected by leprosy, and lesbian, gay, bisexual, transgender and intersex persons. Furthermore, please provide updated statistical data on the representation in public administration, including the police force and the military, of ethnic minority groups compared to that of Han Chinese in Tibet, Xinjiang and Inner Mongolia, and clarify the decline in the share of officials who belong to ethnic

minority groups in Xinjiang Uighur Autonomous Region from over 50 per cent in 2003 to 40 per cent in 2016.

13. Please provide updated information on the progress made in reforming the household registration system (Hukou) and on the implementation of the Guidance on the Cultivation and Development of Modern Metropolitan Areas (E/C.12/CHN/3, para. 27) in this regard. Please also provide information on the steps taken to address the reportedly persistent discrimination faced by persons with rural household registration in accessing employment, social security, housing, health care, education and other social services. In particular, please indicate any specific steps taken to ensure that the children of rural migrant workers have access to education and social services in the cities where their parents are working and to facilitate the transfer of the pensions of migrant workers to the place where they are registered.

#### **Equal rights of men and women (art. 3)**

14. With reference to the information provided in the State party report (E/C.12/CHN/3, para. 51), please specify the progress made, through the measures taken, in enhancing the equal right of women to access land. Please include relevant statistical data in this regard. Please also provide information on the concrete measures taken to narrow the widened gaps between men and women in terms of labour market participation and employment rates and indicate whether the State party has carried out any reviews of labour legislation that restricts the range of work that women can undertake. While noting the list of issues adopted by the Committee on the Elimination of Discrimination against Women (CEDAW/C/CHN/Q/9, para. 16), the Committee requests the State party to indicate any specific steps taken to address gender disparities in income, especially wages and pensions, and specify any plans to make the retirement age the same for women and men.

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

#### **Right to work (art. 6)**

15. Please provide information on the proportion of workers employed in the informal sector or in non-standard forms of employment, and indicate any specific measures taken to regularize their situation and to improve the quality of employment. Please also specify the progress made through the active employment policy and other measures taken by the State party in upgrading vocational skills and improving job opportunities of rural migrant workers, college graduates and workers in the heavy industries who have been made redundant. In addition, please provide information on the concrete measures taken to prevent and prohibit discrimination by public and private employers against persons belonging to ethnic minorities and on the implementation of articles 23 and 67 of the Law on Regional Ethnic Autonomy of 1984. Furthermore, please specify the effect of the social credit system on the free choice of jobs and access to employment.

16. With reference to the Committee's previous recommendations (E/C.12/CHN/CO/2, para. 22), please indicate any specific steps taken to ensure that no alternative or parallel system of forced labour is put in place, particularly at the local level. In this context, please provide information on the steps taken to address reports about forced labour and physical and mental abuse allegedly involved in vocational training programmes provided by the State party, including through vocational training centres, for surplus rural workforce, particularly Uighurs, Tibetans and other ethnic minority groups; and statistical data, disaggregated by region, ethnicity and sex, on the number and proportion of persons sent to the vocational training centres and the duration of training. In addition, please indicate what support is provided to families whose primary breadwinner is sent to such centres.

17. Please specify the measures taken to tackle cases of coerced labour involved in work-study programmes, particularly in the textile and garment sectors, and to protect the rights of the students participating in those programmes. Please also provide information on steps taken by the State party to ratify and implement the Forced Labour Convention, 1930 (No. 29) (and its 2014 Protocol) and the Abolition of Forced Labour Convention, 1957 (No. 105)

of the International Labour Organization, as agreed in the China-European Union Comprehensive Agreement on Investment, signed on 30 December 2020.

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

18. Please indicate the specific steps taken to strengthen the enforcement of labour legislation, particularly the Labour Contract Law. In particular, please provide information on:

(a) The measures taken to strengthen the mandate and functions of the Labour Dispute Arbitration Committees and the steps taken to enhance compliance by employers with the decisions of the Committee;

(b) The implementation of the 2004 Work-related Injury Insurance Regulations and the 2011 Social Insurance Law and the advance payment system provided thereunder, including the main achievements and remaining challenges, and the measures taken to expand the coverage of such measures to all workers;

(c) The measures taken to improve the reporting and data-collection system for occupational accidents and diseases, including non-fatal incidents.

19. Please specify the effectiveness of the measures taken to tackle the widespread problem of wage arrears, including the 2020 deadline for the eradication of wage arrears and the State Council's Opinions on the Comprehensive Regulation of Migrant Workers' Wage Arrears, particularly in the context of the COVID-19 pandemic. Please provide information on minimum wages – their amounts and their ratio compared to the average and the median wage, their coverage and the groups of workers not covered by minimum wages. Please also specify the measures, and their impact, taken to ensure that local governments fully implement the regulations on minimum wages and to enhance compliance by employers with minimum wages. Furthermore, please provide information on any legislative measures taken to fully incorporate into labour legislation the principle of equal pay for work of equal value.

#### **Trade union rights (art. 8)**

20. Please provide information on the measures taken to prohibit employers from retaliating against or intimidating workers seeking to form a trade union or claiming their rights guaranteed under articles 7 and 8 of the Covenant. Please also indicate the measures taken to enhance the effectiveness of the All China Federation of Trade Unions in fully representing the voices of its members and promoting their rights. With reference to the Committee's previous recommendations (E/C.12/CHN/CO/2, para. 23), please indicate any trade unions established outside the structure of the Federation, any legislative review carried out to provide legal recognition of the right to strike and any steps taken by the State party to consider the withdrawal of its declaration under article 8 (1) of the Covenant.

#### **Right to social security (art. 9)**

21. Please provide information on the trends in coverage of each social security scheme during the reporting period and the efforts made to expand the coverage of social security schemes, particularly among rural migrant workers and workers in the informal economy or with non-standard forms of employment. Please also specify the efforts made to enhance the financial sustainability of the social security system. In this context, please indicate any measures taken to ensure the payment by employers of their contributions to the social security system and to tackle reported attempts by employers to lower their contributions, with local authorities reportedly complicit in those attempts. With reference to the information provided by the State party (E/C.12/CHN/3, para. 84), please clarify the low take-up rates of the unified basic pension insurance system and indicate any measures taken to ensure that all eligible persons receive their pension and that the pension is sufficient to provide the recipient with a decent living.

#### **Protection of the family and children (art. 10)**

22. Please indicate any action taken to prevent and criminalize the use of coercive measures, particularly targeted at ethnic minority groups, in the implementation of the birth

control policy, as recommended by the Committee in its previous concluding observations (E/C.12/CHN/CO/2, para. 26), and provide statistical data, disaggregated by ethnicity and region, on the number of abortions and sterilizations carried out. Please also clarify the reasons for the reportedly marked decline in birth rates among religious minority groups and provide information on the trend in the demographic composition in the Xinjiang Uighur and Tibet Autonomous Regions over the past five years. Please indicate any progress made in revising the family planning policies in accordance with the Committee's previous recommendations (E/C.12/CHN/CO/2, para. 25) and in enhancing sexual and reproductive education and services. Furthermore, please provide statistical data on children of ethnic or religious minorities who have been separated from their families in order to be placed in State-run boarding schools.

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

23. Please provide information on the nationally defined poverty line and the measures taken to address the disproportionate incidence of poverty among certain population groups such as older persons, young persons and persons belonging to ethnic minority groups. Please indicate the effectiveness of the measures taken to address the increasing inequalities in income and wealth. Please also indicate the effectiveness of the measures taken to narrow the large disparities between rural and urban areas and between regions in enjoying an adequate standard of living, including adequate food, housing, water and sanitation, and in accessing social security, health care and education. In this context, please provide relevant statistical data, including the ratio of the public budget increase for rural and urban areas over the reporting period.

24. Please specify the efforts made by the State party to involve the affected individuals and communities in designing and implementing various poverty alleviation projects, especially those entailing relocation and resettlement of residents, and to carry out those projects in accordance with its obligations under the Covenant. In the case of expropriation of land in the public interest, please clarify the legal definition of the public interest and indicate any guidance provided for the implementing authorities to interpret the term. Please provide statistical data, disaggregated by region, on the number of land expropriations carried out in the public interest and the number of persons relocated accordingly. With reference to the report of the Special Rapporteur on extreme poverty and human rights (A/HRC/35/26/Add.2 and Corr.1, para. 52), please indicate any progress made with the reforms related to collective property rights and expropriation of rural land, as well as compensation and social security provided for dispossessed farmers.

#### **Right to physical and mental health (art. 12)**

25. Please indicate the measures taken to improve access to health-care services, particularly among migrant workers, persons living in rural areas and prisoners. Please also indicate the measures taken, and the outcomes thereof, to expand the scope of medical services covered by health insurance and to address the excessive proportion of out-of-pocket payments, particularly for the rural population and low-income households. Furthermore, please indicate any challenges faced within the current health insurance system and any efforts to reform the system.

26. Please indicate the measures taken to combat social stigma attached to persons with mental health conditions. Please specify the measures taken to tackle the use of confinement and restraints such as shackles on such persons. Please also specify the measures taken to increase community-based health-care services for persons with mental health conditions and social support for their families. In this context, please provide information on the outcome of the initial phase of the 686 Programme and indicate any steps taken to scale up the programme.

27. Please provide information on:

(a) The legislative and policy framework on abuse of illicit drugs and provision of harm reduction services for drug users;

(b) Any progress made in combating HIV and in revising laws and policies that perpetuate the stigmatization and rejection of persons living with HIV/AIDS;

(c) Measures taken to guarantee access to opioid analgesics for patients living with chronic or severe pain;

(d) The enforcement of the legislation adopted to regulate air, water and soil pollution, as indicated in the State party's report (E/C.12/CHN/3, para. 128) and the cases of public interest litigation in relation to environmental issues.

**Right to education (arts. 13–14)**

28. Please provide information on:

(a) The effectiveness of the measures taken to eliminate all tuition and additional fees during compulsory education;

(b) The steps taken to curb the disproportionately low completion rates of compulsory education in rural areas;

(c) The extent to which the measures taken have improved the availability, accessibility and quality of education in rural areas, including relevant statistical data;

(d) The measures taken to ensure academic freedom and its impact.

**Cultural rights (art. 15)**

29. Please provide information on the implementation of the bilingual language education policy, including the number of schools that provide education in both Mandarin and a minority language and the number of teachers who teach their subjects in a minority language. Please clarify how the replacement of ethnic minority languages, including Uighur, Tibetan and Mongolian, by Chinese (Putonghua) as the medium of instruction in compulsory education is justified under the policy. In this context, please indicate the measures taken to address situations in which parents refuse to send their children to school because of the newly implemented language policy.

30. Please provide information on the efforts undertaken to promote and protect the culture, religion and language of ethnic minority groups, particularly Uighurs and Tibetans, and indicate the measures taken to ensure that the cultural, religious and linguistic identity of ethnic minority groups is not undermined by the assimilation policy of the State party, known as "sinicization". Please also comment on reports that the State party has: (a) attempted to eradicate the culture, religion and language of Uighurs and Tibetans through massive destruction of sacred cultural and religious sites and bans on the practice of religious rituals and on the use of the Uighur and Tibetan languages in schools; and (b) suppressed individuals and institutions promoting education in minority languages in school.

31. Please indicate the measures taken to improve access to information and communication technology, including the Internet, especially for disadvantaged and marginalized individuals and groups, and to ensure the free exchange of ideas and information online without interference to further their enjoyment of Covenant rights. Please also provide information on the legislative and policy measures taken to respect the freedom indispensable for scientific research and creative activity and any restrictions on the exercise of this freedom.