

**THE PEOPLE'S REPUBLIC OF CHINA AND
THE INTERNATIONAL HUMAN RIGHTS SYSTEM
16 November 2005**

Explanatory note

This Country Profile of China and the international human rights system has been prepared by the Office of the United Nations High Commissioner for Human Rights (OHCHR), and is intended for use by the United Nations Country Team in the context of the preparation of analytical and programmatic frameworks, in particular the Common Country Assessment (CCA), the United Nations Development Assistance Framework (UNDAF), Country Programmes, MDG reporting as well as Consolidated Appeal Process (CAP) and Common Humanitarian Action Plan (CHAP).

The Country Profile forms part of the initiatives of the United Nations system to implement Action 2 of the Second Reform Programme of the Secretary-General, which focuses on strengthening United Nations human rights related action at the country level, and which has the ultimate goal of strengthening national capacities and institutions for the promotion and protection of human rights.

Emphasis has been put on the recommendations of the various international human rights mechanisms in an effort to facilitate the work of the Country Team in their planning and programming processes, in the hope that the activities of the United Nations on the ground will be a vehicle for assisting States to implement the recommendations.

The information contained in the Country Profile is drawn from publicly available documentation produced by the various human rights mechanisms of the United Nations (please follow **hyperlinks**). These bodies include:

- **The Treaty Bodies** - committees of independent experts nominated by States parties - monitor the seven main international human rights treaties, and are charged with overseeing the implementation of the legally binding treaties voluntarily adhered to by them. The Treaty Bodies monitor and encourage implementation through several procedures. Each treaty body reviews reports submitted by States parties on a periodic basis; five treaty bodies are mandated, on an optional basis, to review complaints submitted by individuals and two treaty bodies are empowered to carry out inquiries into systematic violations of the treaty concerned. During the report review, treaty bodies discuss steps taken to implement the treaties and adopt concluding observations and recommendations which identify specific human rights problems and provide recommendations for corrective action.
- **The Commission on Human Rights** has a membership of 53 States and is the principal body dealing with human rights in the United Nations system. It has a mandate to consider human rights issues as well as situations in specific member States, and supervises the work of its Special Procedures.
- **The Special Procedures** of the Commission on Human Rights consist of a number of independent experts or expert groups (e.g. Special Rapporteurs, Independent Experts, Working Groups, Special Representatives). They have been mandated by the member States to examine, monitor and publicly report either on human rights situations in specific countries or territories (known as country mechanisms or mandates) or on major phenomena of human rights worldwide (known as thematic mechanisms or mandates). These mechanisms issue publicly available reports both on thematic issues as well as country situations, often following a visit to the country at the invitation of the Government. The reports are intended to provide information on specific human rights issues but also contain recommendations for further action.
- **The Sub-Commission on the Promotion and Protection of Human Rights** consists of 26 independent experts in human rights drawn from around the world, and undertakes research on emerging or urgent human rights issues. Much of its work is carried out in working groups on thematic issues (such as on slavery, on indigenous populations etc). It reports to the Commission on Human Rights.

The Country Profile is divided into two main sections and a number of annexes.

The first section provides a brief **overview** of links and interaction with the above-mentioned international human rights mechanisms as well as national initiatives for the promotion and protection of human rights, including: (a) brief assessment of the position of the country before the human rights treaty bodies; (b) an overview of recent (last five years) action of the Commission on Human Rights and its Special Procedures, including resolutions, recent visits, press releases and requests for visits; (c) interaction between China and OHCHR, including technical assistance programmes, statements and other action by the High Commissioner for Human Rights.

The **second** section provides a **thematic summary** of the recommendations of the international human rights mechanisms. The list of themes may vary from country to country, but will generally include issues such as institutional framework, administration of justice and the rule of law, fundamental rights and freedoms, human rights related to the Millennium Development Goals and specific groups. The focus is on actionable or targeted recommendations (particularly to UN agencies).

Finally, the **annexes** include tables summarizing the ratification and reporting status of the country and interaction with the mechanisms of the Commission on Human Rights, followed by the full texts of (or hyperlinks to) the reports and recommendations of mechanisms on which this Country Profile is based.

Abbreviations

Some of the abbreviations used in this Profile are:

- [Human Rights Committee](#) (HRC)
(monitoring implementation of the [International Covenant on Civil and Political Rights](#) (ICCPR))
- [Committee on Economic, Social and Cultural Rights](#) (CESCR)
(monitoring implementation of the [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR))
- [Committee on the Elimination of Racial Discrimination](#) (CERD)
(monitoring implementation of the [International Convention on the Elimination of All Forms of Racial Discrimination](#) (ICERD)),
- [Committee on the Elimination of Discrimination Against Women](#) (CEDAW)
(monitoring implementation of the [Convention on the Elimination of All Forms of Discrimination Against Women](#) (CEDAW))
- [Committee Against Torture](#) (CAT)
(monitoring implementation of the [Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#) (CAT))
- [Committee on the Rights of the Child](#) (CRC)
(monitoring implementation of the [Convention on the Rights of the Child](#) (CRC))
- Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
(monitoring implementation of the [International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families](#) (MWC))
- [Commission on Human Rights](#) (CHR)

Additional information can be obtained from the web-site of the Office of the United Nations High Commissioner for Human Rights at either www.ohchr.org or by contacting Ms. Stephanie Kleine-Ahlbrandt, OHCHR China Programme Manager, at skleine-ahlbrandt@ohchr.org

Overview of interaction with the international human rights system

China is a party to five of the seven major international human rights instruments (it has not ratified the CCPR and not signed the MWC). It has also ratified the optional Protocol to the CRC on the sale of children, child prostitution and child pornography and signed the optional Protocol to the CRC on the involvement of children in armed conflict¹. China has not signed the Rome Statute of the International Criminal Court nor accepted any individual complaints mechanism.

China has submitted reports under CAT, CEDAW, CRC, CERD, ICCPR (Hong Kong), and ICESCR (Hong Kong initial report and China initial report). Overdue reports remain with regard to ICCPR Macau, ICCPR Hong Kong, CAT, CEDAW and CERD. It submitted basic information about the country required by all treaty bodies, the so-called core document (on 6 November 2001). The report submitted under CESCR was considered by the Committee at its 34th Session, on 27-29 April 2005 (Doc. E/C.12/1/Add.107 of 13 May). China's second periodic report to the Committee on the Rights of the Child was considered at the Committee's 40th Session (12 - 30 September 2005). A List of Issues was adopted by the Committee at its pre-sessional working group on 15 June 2005 (Doc. CRC/C/Q/CHN/2).

To date, three of the special procedures set up under the UN Commission on Human Rights have conducted missions to China: the Special Rapporteur on Freedom of Religion and Belief, the Working Group on Arbitrary Detention (two visits), and the Special Rapporteur on the Right to Education. In addition, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, will visit China in November 2005.

China has no national human rights institution or Ombudsperson for the protection and promotion of human rights.

Since the adoption of the Asia-Pacific regional framework for technical cooperation in the field of human rights in Teheran in 1998, China has actively participated in all annual, inter-sessional and sub-regional workshops under this framework. China hosted the 8th Annual Asia-Pacific Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in March 2000 (which adopted the Beijing Plan of Action), and the 12th Annual Asia Pacific Workshop in August 2005. At the global level, China participated constructively in the World Conference against Racism (WCR) and the regional preparatory meetings under the lead of the Vice Foreign Minister. As national contribution to the WCR, China convened the Seminar on the Internet and Spread of Racism in July 2001 in Beijing.

China has served as a member of the United Nations Commission on Human Rights since 1981. China has been actively involved in the standard setting process to develop a draft text of an international convention on the rights of persons with disabilities under the [Working Group](#) established by the [Ad Hoc Committee](#) of the General Assembly, as well as being a supporter of the elaboration of the proposed supplement to the [1993 Standard Rules on the Equalization of Opportunities for People with Disabilities](#). In November 2003, China organized an inter-government conference in Beijing for the United Nations Economic and Social Commission for Asia and the Pacific for drafting the Convention on the Rights of Persons with Disabilities. China also participates in the inter-sessional open-ended working group on a draft legally binding normative instrument for the protection of all persons from enforced disappearances.

Since 1998, the Office of the United Nations High Commissioner for Human Rights (OHCHR) has been engaged in a dialogue with the Government of the People's Republic of China. This dialogue resulted in the

¹On 16 September 2005, China ratified the 1993 Hague Convention [No. 33](#) on Protection of Children and Cooperation in Respect of Intercountry Adoption

signature of a Memorandum of Intent (MOI) between OHCHR and the Ministry of Foreign Affairs on 7 September 1998. A needs assessment mission (NAM) to China, which took place from 8 to 21 March 1999, established the willingness and potential of the Government of China to cooperate with OHCHR on a long-term technical cooperation programme on a wide range of human rights issues. Based on the mission findings, a draft Memorandum of Understanding (MOU) on mutual agreement to cooperate in the development and implementation of technical cooperation programmes was submitted to the Government at the end of the mission. The MOU text was finalized and agreed upon during an OHCHR mission to Beijing from 10 to 14 September 2000 and was signed by the High Commissioner for Human Rights and the Chinese Foreign Minister on 20 November 2000. The MOU covered the following areas: administration of justice, human rights education, "legal development" covering both legal and legislative reform, the right to development and economic, social and cultural rights. Joint activities have been carried out under the MOU in the following areas: human rights and the police, human rights education, human rights and prison administration, human rights for judges and lawyers, human rights and disability and human rights in the punishment of minor crimes.

The former High Commissioner (HC), Mary Robinson, engaged in a human rights dialogue with the key Chinese officials, both in Geneva and during her six (6) visits to the country. The following High Commissioner, Sergio Vieira de Mello, continued this dialogue but was unable to visit China during his short time as High Commissioner. The current High Commissioner, Louise Arbour, visited China from 29 August to 2 September 2005. During her visit to China, the High Commissioner signed a new MOU for 2006-2008.

Under the new MOU for 2006-2008, OHCHR will continue to assist the Government in the development and implementation of technical cooperation programs. The 2006-2008 programme aims to provide technical assistance on the ratification and implementation of the two international human rights covenants; and in particular to assist the Government in removing obstacles to ICCPR ratification and in implementing the Concluding Observations of the Committee on Economic, Social and Cultural Rights (of May 2005).

Thematic summary of the recommendations of the international human rights system

INSTITUTIONAL FRAMEWORK

➤ Status of human rights instruments

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) urged the State party to ensure that legal and judicial training takes full account of the justiciability of the rights contained in the Covenant and promotes the use of the Covenant as a source of law in domestic courts. The Committee drew the attention of the State party to General Comment No.9 ([E/C.12/1998/24](#)) on the domestic application of the Covenant and invited the State party to include information concerning case law on the application of the Covenant in its next periodic report.

The Committee also called upon the State party to undertake necessary measures to ensure that all persons under its jurisdiction enjoy economic, social and cultural rights enshrined in the Covenant without discrimination.

Concerning HKSAR

The Committee on Economic, Social and Cultural Rights in its concluding observations ([E/C.12/1/Add.58](#)) of May 2001 reminded the Hong Kong Special Administrative Region (HKSAR) that the provisions of the Covenant constitute a legal obligation on the part of the States parties. Thus, the Committee urged HKSAR not to argue in court proceedings that the Covenant is only "promotional" or "aspirational" in nature.

➤ **National institutions**

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 (E/C.12/1/Add.107) recommended that China consider establishing a National Commission for Human Rights on the basis of the Paris Principles ([1991, General Assembly resolution 48/134, annex](#)).

The Committee on the Rights of the Child in its concluding observations ([CRC/C/15/Add.56](#)) of June 1996 recommended that the State party consider the possibility of setting up an independent institution such as an Ombudsperson for children's rights.

The Committee on the Rights of the Child in its concluding observations (unedited version – CRC/C/15/Add.271) of September 2005 recommended that the State party establish, in the mainland, Hong Kong and Macau SARs respectively, a national human rights institution which includes a clear mandate for the monitoring of children's rights and the implementation of the Convention at national, regional and local levels and in accordance with the Principles relating to the Status of National Institutions (The Paris Principles) contained in General Assembly resolution 48/134 of 20 December 1993. While drawing the State party's attention to the Committee's General Comment No. 2 (2002) on the role of independent national human rights institutions, the Committee notes that such institutions should have a mandate to receive, investigate and address complaints from the public, including individual children, and be provided with adequate financial, human and material resources. In the case of Hong Kong SAR, such an institution could be a specialized branch of the existing Ombudsman's office.

Concerning HKSAR

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) reiterated its concern regarding the absence of a human rights institution with a broad mandate, while noting HKSAR's position that the Equal Opportunities Commission has comparable functions.

The Human Rights Committee in its concluding observations ([CCPR/C/79/Add.117](#)) of November 1999 expressed concern at the lack of an independent body established by law to investigate and monitor human rights violations in HKSAR and the implementation of Covenant rights.

The Committee against Torture in its concluding observations ([A/55/44, paras.106-145](#)) of May 2000 recommended that continued efforts be made to ensure that the Independent Police Complaints Council become a statutory body, with increased competence.

The Committee on the Elimination of Discrimination Against Women in its concluding observations ([A/54/38, paras. 251-336](#)) of February 1999 recommended that the Government of the Hong Kong Special Administrative Region establish a high-level central mechanism with appropriate powers and resources to develop and coordinate a women-focused policy and long-term strategy to ensure effective implementation of the Convention.

The Committee on Economic, Social and Cultural Rights in its concluding observations ([E/C.12/1/Add.58](#)) of May 2001 urged HKSAR to establish a national human rights institution consistent with the Paris principles (1991) and the Committee's General Comment No. 10 ([E/C.12/1998/25](#)). Until such an institution is established, the Committee urged HKSAR to enhance its measures for the promotion of economic, social and cultural rights.

Concerning Macau SAR

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) recommended that MSAR establish a state institution responsible for the promotion and protection of gender equality, and engage in sensitisation campaigns to raise awareness on gender equality, particularly in employment, and to report, in its next periodic report, on the results achieved in this regard.

➤ **Adequacy of legislation**

In the spirit of assisting China to improve the system of protection against arbitrary detention, the **Working Group on Arbitrary Detention (WGAD)** in its visit report ([E/CN.4/2005/6/Add.4](#)) of 29 December 2004 made the following recommendations:

- a) Laws governing criminal detention should be reconsidered. Either the procuratorates empowered to take decisions on arrest should be vested with the requisite independence in order to meet the criteria of a judicial officer authorized by law to exercise judicial power, or the power to order or approve arrest should be shifted from the procuratorate to courts;
- b) In all cases of administrative deprivation of liberty, an effective right to challenge before a court the lawfulness of the detention and the right to be represented by a legal counsel shall be granted;
- c) Noting with satisfaction that high-level political decisions have been taken to review the system of re-education through labour, the Working Group believes that the minimum requirements for complying with international standards are the following:
 - (i) All acts giving rise to re-education through labour should be clearly provided by law;
 - (ii) Due process requirements - e.g., the personal appearance before and hearing of the individual concerned by the competent body, the opportunity to put forward his/her arguments against being sent to a re-education through labour facility, the right to be represented by legal counsel, the right to appeal against unfavourable decisions and the like - should be provided by law and scrupulously implemented in each case;
 - (iii) If the person so wishes, a genuine review of his case should be made by a court;
 - (iv) The time one can spend in re-education through labour centres should be considerably reduced;
 - (v) The system of re-education through labour should never be used to punish the peaceful expression of one's opinion or belief.

d) Conditions of the admission against his/her will and the forcible holding of people who are allegedly mentally ill or for detoxification shall be meticulously provided by law. Bearing in mind the vulnerable situation of mental health patients, that law shall prescribe effective safeguards against arbitrariness. Courts shall be vested with competence to review, upon request, the legality as well as the necessity of keeping someone against his/her will in a mental health institution;

e) Persons charged often invoke their freedom of opinion, expression, religion or belief, freedom of association or assembly, or the right to take part in the conduct of public affairs of the country as a legal basis for their conduct and exempting them from criminal responsibility. The Working Group recommends that the question - to which of the conflicting interests shall priority be given - shall be decided after careful consideration of all the relevant circumstances, giving proper weight to the rights of the individuals. Definitions in criminal law legislation having such vague, imprecise or sweeping elements like "disrupting social order", "endangering national security", "violating the unity and integrity of the State", "subverting public order", "affecting national security" and the like shall not be used to punish the peaceful expression of the rights and freedoms that the Universal Declaration of Human Rights grants to everyone.

The Working Group on Arbitrary Detention in its visit report E/CN.4/2005/6/Add.4 of 29 December 2004 stated that none of the recommendations that the Working Group formulated in its earlier report ([E/CN.4/1998/44/Add.2](#)) of 22 December 1997 had been followed, and reiterated these recommendations, listed below.

- a) The PRC should incorporate expressly in the Criminal Procedure Law a provision stating that under the Law a person is presumed innocent until proved guilty by a court or tribunal at the end of a trial;
- b) Define the crime of "endangering national security" in precise terms, keeping in mind article 3 of the Criminal Procedure Law;
- c) Incorporate in the criminal law an exception to the effect that the law will not regard as criminal any peaceful activity in the exercise of the fundamental rights guaranteed by the Universal Declaration of Human Rights;
- d) Establish a permanent independent tribunal for or associate a judge with all proceedings under which the authorities may commit a person to re-education through labour, in order to obviate the possibility of any criticism that the present procedure is not entirely in conformity with international standards for a fair trial as reflected in international legal instruments, especially the Universal Declaration of Human Rights.

The WGAD also expressed concern, in light of the fact that no law provides a clear definition of "State secrets", about the restriction on the right to defense imposed by regulations issued by public security departments, prison administration or prosecutors when a case involves State security or State secrets.

With regard to the right of freedom to manifest one's religion, **the Special Rapporteur on freedom of religion or belief** in his visit report ([E/CN.4/1995/91](#)) of 22 December 1994 recommended that amendments be made to the pertinent legal texts, such as article 36 of the Constitution, so as to provide a constitutional guarantee of respect for freedom to manifest one's religion or belief in accordance with article 1, paragraph 1, of the 1981 Declaration on Freedom of Religion or Belief.

The Special Rapporteur further recommended the adoption of a text recognizing the right to freedom of belief and freedom to manifest one's belief for all, including members of the Communist Party and other socio-political organizations.

With regard to the right of persons under the age of 18 to freedom of belief, the **Special Rapporteur** recommended that steps be taken to adopt a provision explicitly mentioning this right, so as to ensure the requisite compliance with the Convention on the Rights of the Child, especially article 14, which was ratified by China on 2 March 1992.

Concerning HKSAR

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) regretted that HKSAR has not implemented a number of the recommendations contained in its concluding observations of 2001. The Committee wished to reiterate in particular its concern on the following issue:

- (a) The present anti-discrimination legislation does not cover discrimination on the basis of race, sexual orientation and age;
- (b) the absence of a human rights institution with a broad mandate, while noting HKSAR's position that the Equal Opportunities Commission has comparable functions;
- (c) the lack of effective protection from discrimination and abuse in practice, of foreign domestic helpers, affected by the "two-week rule", upon expiration of their contract;

The Committee was concerned that, in the proposed racial discrimination law, the protection afforded by this law will not cover migrants from the Mainland despite the widespread de jure and de facto discrimination against them on the basis of their origin. The Committee was also concerned that, according to the proposals made by the Hong Kong Home Affairs Bureau, the new law will not affect the existing immigration legislation in HKSAR.

The Committee strongly urged the HKSAR to extend the protection afforded by the proposed racial discrimination law to internal migrants from the Mainland, and to put a stop to the widespread discriminatory practices against them on the basis of their origin. The Committee further recommended that the relevant provisions of the existing immigration legislation governing entry into, period of stay, and departure from, HKSAR are amended to ensure full conformity and consistency with the new racial discrimination legislation.

The Committee on the Elimination of Discrimination Against Women in its concluding observations ([A/54/38, paras. 251-336](#)) of February 1999 urged the Government to amend all laws that are incompatible with the Convention, including those relating to immigration and to pension schemes, with a view to removing the relevant reservations. In particular, it encouraged the Government to eliminate discrimination against indigenous women following its review of the small house policy. The Committee also encouraged the Government to re-examine the reservation relating to the favourable treatment of women in respect of labour law protection of pregnancy and maternity.

The Committee on Economic, Social and Cultural Rights in its concluding observations ([E/C.12/1/Add.58](#)) of May 2001 reiterated its recommendation that HKSAR review its policy in relation to unfair dismissal, minimum wages, paid weekly rest time, rest breaks, maximum hours of work and overtime pay rates. It urged HKSAR to adopt a comprehensive pension system that provides adequate retirement protection for the entire population, in particular for housewives, self-employed persons, older persons and persons with disabilities. The Committee recommended that the Public Order Ordinance be reviewed with a view to amending its provisions to ensure freedom of trade union activities as provided for under article 8 (c) of the Covenant.

The Human Rights Committee in its concluding observations ([CCPR/C/79/Add.117](#)) of November 1999 was concerned that the Interception of Communications Ordinance, which was passed in June 1997 in order to restrict the power of the authorities to intercept communications, has not yet been brought into effect. Section 33 of the Telecommunication Ordinance and Section 13 of the Post Office Ordinance still continue to be in force, thus allowing the authorities to violate the right to privacy under article 17 of the Covenant. The HKSAR must ensure that its law and practice protect the rights guaranteed under article 17.

➤ **Awareness on human rights issues**

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) strongly recommended that the State party undertake effective public education measures, including awareness-raising programmes designed to eliminate gender-based prejudices and traditional practices that are harmful to women and girls. The Committee requests the State party to provide, in its next periodic report, detailed information on the progress made on gender discrimination issues. (paragraph 49).

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) also requested the State party in its next periodic report, to provide detailed information on the public consultation process in the preparation of the report, including a listing of all civic organisations or non-governmental organizations consulted. The Committee urges the State party to bear in mind that public consultation is a requirement in the reporting process, the objective of which is to inform the general public and to generate interest and debate on the steps the State party has undertaken in fulfilling its treaty obligations under the Covenant. (paragraph 43).

The Committee on the Rights of the Child in its concluding observations (unedited version – [CRC/C/15/Add.271](#)) of September 2005 recommended that the State party further strengthen the coordination between the bodies and institutions working on the implementation of the National Children’s Development Programme (2001-2010) at all levels in order to ensure uniform implementation in all regions and provinces.

The Committee also recommended that the State party facilitate and encourage the independence and expansion of activities by non-governmental organizations, in particular those working for the promotion and protection of child rights inter alia by ensuring their free and active involvement in the implementation of the CRC, including in the preparation of reports and the implementation of the Committee's concluding observations and recommendations.

The Committee also recommended that the State party, in all areas under its jurisdiction:

- a) further strengthen its efforts to disseminate the CRC in all languages, and also through the use of child-friendly materials and school curricula;
- b) expand its programmes to sensitize parents and children about the CRC; and
- c) increase its efforts to provide adequate and systematic training on children's rights for professional groups working with and for children.

The Committee on the Rights of the Child in its concluding observations ([CRC/C/15/Add.56](#)) of June 1996 recommended that measures be taken to incorporate education on the principles and provisions of the Convention into training programmes for different professionals working with or for children.

The Committee on the Elimination of Discrimination Against Women in its concluding observations ([A/54/38.paras. 251-336](#)) of February 1999 urged the Government to translate the Convention on the Elimination of All Forms of Discrimination against Women into local languages. It recommended a comprehensive public campaign to improve legal literacy of the Convention and to raise awareness of gender equality as a societal goal and of women's rights as human rights. It also recommended gender-sensitization training on the basis of the Convention for all government officials and cadres. The Committee urged the Government to initiate broad public discussions in the various provinces and autonomous regions in the preparation of its fifth periodic report under article 18 of the Convention.

The Committee Against Torture in its concluding observations ([A/55/44, paras.106-145](#)) of May 2000 encouraged the State party to continue and to intensify its efforts to provide training courses on international human rights standards for law enforcement officers.

Concerning HKSAR

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) encouraged HKSAR to ensure that human rights education is provided in schools at all levels and to raise awareness about human rights, in particular, economic, social and cultural rights among state officials and the judiciary. (paragraph 102).

Concerning Macau SAR

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) encouraged MSAR to ensure that human rights education is provided in schools at all levels and to raise awareness about human rights, in particular economic, social and cultural rights, among state officials and the judiciary. (paragraph 127).

ADMINISTRATION OF JUSTICE AND THE RULE OF LAW

➤ Age of criminal responsibility

The Committee on the Rights of the Child in its concluding observations (unedited version – CRC/C/15/Add.271) of September 2005 welcomed the State party's abolition of the death penalty in mainland China for persons who have committed an offence while under the age of 18. However, it was concerned that

life imprisonment continues to be possible for those under 18, even if such a sentence is not often applied. While noting efforts to reform laws related to juvenile justice, such as the Law on the Protection of Minors, the Committee noted its concern that existing legislation, regulations and administrative procedures do not adequately set out the detailed obligations of the authorities and the judiciary for the protection of children in conflict with the law at all stages. While noting that the State party has raised the minimum age of criminal responsibility in Hong Kong SAR, the Committee noted its concern that the age of 10 years is too low. The Committee was further concerned that children between the ages of 16 and 18 are not consistently accorded special protection when coming into conflict with the law. The Committee shared the concerns of the delegates from Macau SAR about the lack of restorative justice for children in conflict with the law and welcomes the information they provided about plans to reform the juvenile justice system.

In light of the recommendations adopted by the Committee on its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238), the Committee recommended that in all areas under its jurisdiction, the State party ensure the full implementation of juvenile justice standards in particular articles 37, 40 and 39 of the Convention, and other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty, and the Vienna Guidelines for Action on Children in the Criminal Justice System. It further recommended that in all jurisdictions the State party provide training on relevant international standards to those responsible for administering juvenile justice.

Within mainland China, the Committee further recommended that the State party:

- a) abolish life sentences for persons who have committed offences while under the age of 18;
- b) amend legislation so as to ensure that all children deprived of their liberty, including in Work Study Schools, have the right to prompt access to legal and other appropriate assistance, and the right to challenge the legality of their deprivation of liberty before a court or other competent, independent and impartial authority in a timely manner;
- c) ensure that deprivation of liberty is always used as a last resort, and strengthen and expand possibilities for alternative sentencing, such as mediation, probation, community service or suspended sentences;
- d) Ensure that both sentenced and released persons below 18 are provided with educational opportunities, including vocational and life-skills training, and recovery and social reintegration services, in order to support their full development;
- e) Seek technical cooperation and assistance from, inter alia, the Office of the UN High Commissioner for Human Rights (OHCHR), the United Nations Office on Drugs and Crime Prevention (UNODC), and the United Nations Children's Fund (UNICEF).

Within Hong Kong SAR, the Committee further recommended that the State party:

- a) Raise the minimum age of criminal responsibility to an internationally acceptable level;
- b) abolish life sentences for persons who have committed offences while under the age of 18;
- c) Ensure that all children under the age of 18 are consistently accorded special protection when coming into conflict with the law, and that their cases are heard in specialized juvenile courts by appropriately trained magistrates, and;
- d) ensure that deprivation of liberty is always used as a last resort, and strengthen and expand possibilities for alternative sentencing, such as such as mediation, probation, community service or suspended sentences.

In Macau SAR, the Committee recommended that the State party expedite its plans for reform of the juvenile justice system, and ensure that such reforms include:

- a) measures to ensure that detention is used only as a last resort and an expansion of the possibilities for alternative sentencing such as probation, community service or suspended sentences;
- b) possibilities for restorative justice, such as family group conferencing;
- c) an expansion of services to assist juvenile offenders with social reintegration in an environment which fosters the health, self-respect and dignity of the child.

Concerning HKSAR

The Human Rights Committee in its concluding observations ([CCPR/C/79/Add.117](#)) of November 1999 recommended that the age of criminal responsibility be raised so as to ensure the rights of children under article 24.

The Committee on Economic, Social and Cultural Rights in its concluding observations ([E/C.12/1/Add.58](#)) of May 2001 called upon HKSAR to amend its laws to raise the age of criminal responsibility so as to ensure the rights of the child under article 10 of the Covenant.

Concerning HKSAR

➤ **Right to effective remedy**

The Committee against Torture in its concluding observations ([A/55/44, paras.106-145](#)) of May 2000 recommended that the State party ensure the prompt, thorough, effective and impartial investigation of all allegations of torture.

In its visit report ([E/CN.4/2005/6/Add.4](#)) of 29 December 2004 , the Working Group on Arbitrary Detention stated that there exists no genuine right to challenge administrative detention, including detention for the purpose of re-education through labour and psychiatric confinement. The avenues to challenging placement in re-education institutions do not satisfy international law requirements.

THE RIGHT TO LIFE, THE RIGHT TO PHYSICAL AND MORAL INTEGRITY, SLAVERY, FORCED LABOUR AND TRAFFICKING IN PERSONS; RIGHT TO LIBERTY AND SECURITY OF PERSON

➤ **Torture**

The Committee against Torture in its concluding observations ([A/55/44, paras.106-145](#)) of May 2000 expressed concern about continuing allegations of serious incidents of torture, especially involving Tibetans and other national minorities.

The Committee also recommended that the state party incorporate in its domestic law a definition of torture that fully complies with the definition contained in the Convention. It recommended that the State party ensure the prompt, thorough, effective and impartial investigation of all allegations of torture.

Concerning HKSAR

Concerning HSKAR, the CAT recommended that the necessary steps be taken to ensure that torture, as defined in article 1 of the Convention, is effectively prosecuted and appropriately sanctioned and that efforts be made to prevent other acts of cruel, inhuman or degrading treatment or punishment, in accordance with the provisions of the Convention.

➤ Arbitrary Detention

In its visit report ([E/CN.4/2005/6/Add.4](#)) of 29 December 2004 and in the spirit of assisting China to improve the system of protection against arbitrary detention, the **Working Group on Arbitrary Detention** made the following recommendations:

(a) Laws governing criminal detention should be reconsidered. Either the procuratorates empowered to take decisions on arrest should be vested with the requisite independence in order to meet the criteria of a judicial officer authorized by law to exercise judicial power, or the power to order or approve arrest should be shifted from the procuratorate to courts;

(b) In all cases of administrative deprivation of liberty, an effective right to challenge before a court the lawfulness of the detention and the right to be represented by a legal counsel shall be granted;

(c) Noting with satisfaction that high-level political decisions have been taken to review the system of re-education through labour, the Working Group believed that the minimum requirements for complying with international standards are the following:

(vi) All acts giving rise to re-education through labour should be clearly provided by law;

(vii) Due process requirements - e.g., the personal appearance before and hearing of the individual concerned by the competent body, the opportunity to put forward his/her arguments against being sent to a re-education through labour facility, the right to be represented by legal counsel, the right to appeal against unfavourable decisions and the like - should be provided by law and scrupulously implemented in each case;

(viii) If the person so wishes, a genuine review of his case should be made by a court;

(ix) The time one can spend in re-education through labour centres should be considerably reduced;

(x) The system of re-education through labour should never be used to punish the peaceful expression of one's opinion or belief;

(d) Conditions of the admission against his/her will and the forcible holding of people who are allegedly mentally ill or for detoxification shall be meticulously provided by law. Bearing in mind the vulnerable situation of mental health patients, that law shall prescribe effective safeguards against arbitrariness. Courts shall be vested with competence to review, upon request, the legality as well as the necessity of keeping someone against his/her will in a mental health institution;

(e) Persons charged often invoke their freedom of opinion, expression, religion or belief, freedom of association or assembly, or the right to take part in the conduct of public affairs of the country as a legal basis for their conduct and exempting them from criminal responsibility. The Working Group recommends that the question - to which of the conflicting interests shall priority be given - shall be decided after careful consideration of all the relevant circumstances, giving proper weight to the rights of the individuals. Definitions in criminal law legislation having such vague, imprecise or sweeping elements like "disrupting social order", "endangering national security", "violating the unity and integrity of the State", "subverting public order", "affecting national security" and the like shall not be used to punish the peaceful expression of the rights and freedoms that the Declaration of Human Rights grants to everyone.

The Committee against Torture in its concluding observations ([A/55/44, paras.106-145](#)) of May 2000 recommended that the State party consider abolishing all forms of administrative detention, in accordance with

the relevant international standards and that the State party consider abolishing the requirement of applying for permission before a suspect can have access for any reason to a lawyer whilst in custody.

➤ **Right to Life**

The Committee on the Rights of the Child in its concluding observations (unedited version – CRC/C/15/Add.271) of September 2005 noted with satisfaction the legal measures enacted to prohibit selective abortions and infanticide in mainland China. Nevertheless it remained concerned that selective abortions and infanticide as well as the abandonment of children, in particular girls and children with disabilities, continue to be a negative consequence of existing family planning policies and societal attitudes.

The Committee urged the State party to continue and strengthen its efforts to guarantee the right to life, survival and development of all children in its territory. It recommended that the State party strengthen its implementation of existing laws against selective abortions and infanticide, and to take all necessary measures to eliminate any negative consequences arising from family planning policies, including abandonment and non-registration of children and imbalanced sex ratios at birth.

➤ **Violence against Women and Trafficking in Persons**

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) requested that the State party provide, in its next periodic report, detailed information on the problem of trafficking and commercial sexual exploitation of persons in the State party and on measures taken to effectively address these problems. The Committee urged the State party to ensure respect for the necessary procedural safeguards when deporting victims of trafficking in persons, particularly when such victims are minors, and to provide them with the necessary medical, psychological and legal support. The Committee requested HKSAR to report back to the Committee in its next periodic report on the result of the study by the Commission on Women on domestic violence. (paragraph 97).

The Committee on the Elimination of Discrimination Against Women in its concluding observations ([A/54/38, paras. 251-336](#)) of February 1999 recommended that the Government enhance services for survivors of domestic violence, including domestic workers, with a view to their empowerment and rehabilitation, including through psychological counseling, legal aid, temporary shelter and appropriate health services. The Committee also urged the amendment of existing legislation to include marital rape as a criminal offence. It recommended that adequate regulations to protect women sex workers be put in place and enforced. It also recommends that the Government monitor the links between the presence of migrant women, a regulatory approach to prostitution and trafficking in women.

The Committee also recommended that the Government examine and revise its laws and policies on violence against women. This should include adoption of a special law on domestic violence and provision of services for survivors, such as shelters and hotlines. The Committee urged the Government to regulate sexual harassment and to provide legal remedies for women victims of sexual harassment in the workplace. The Committee requested the Government to provide information in its next report on procedures for ensuring the rights of women in custody to protection from sexual abuse and for sanctioning prison officers responsible for such abuse. It recommended decriminalization of prostitution. Given the HIV/AIDS pandemic, the Committee also recommended that due attention be paid to health services for women in prostitution. The Government was also urged to take measures for the rehabilitation and reintegration of prostitutes into society. The Committee urged the Government to investigate reports of local officials' involvement in trafficking and the exploitation of prostitution, and to prosecute all persons engaged in such practices.

The Special Rapporteur on the violence against women, its causes and consequences in her report ([E/CN.4/2003/75/Add.1](#)) of February 2003 stated that violence against women remain a serious problem.

Domestic violence is present in all socioeconomic levels, and is reportedly more frequent in rural areas. Although awareness of this problem seems to be growing, there are reportedly no shelters for victims of domestic violence. The report expressed concern about abortion or sterilization. In addition, Genetic testing, banned since January 1995, has become a lucrative underground business in the country and has also led to pressure to abort female fetuses. Women in Tibet continue to undergo hardship and are also subjected to gender-specific crimes, including reproductive rights violations such as forced sterilization, forced abortion, coercive birth control policies and the monitoring of menstrual cycles. It has also been reported that China has intensified repression of the Falung Gong. According to statistics compiled by the World Bank, Harvard University, and the World Health Organization, over half of the world's female suicides occur in China.

Another problem that has flourished in the last few years is the trafficking of women for the purposes of sexual exploitation and prostitution. Even though the law prohibits trafficking in women and children, women are kidnapped and sold for the purpose of providing farmers with brides or sons, or are forced into prostitution in urban areas. There also reports that suggest that some victims, especially children, are trafficked for the purpose of forced labour.

The Committee on the Rights of the Child in its concluding observations (unedited version – CRC/C/15/Add.271) of September 2005, noted with appreciation the submission of the initial report under the Optional Protocol on the sale of children, child prostitution and child pornography, and referred the State party to the relevant recommendations contained in CRC/C/OPSA/CO/2.

Concerning HKSAR

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) requested that the State party provide, in its next periodic report, detailed information on the problem of trafficking and commercial sexual exploitation of persons in the State party and on measures taken to effectively address these problems. The Committee urged the State party to ensure respect for the necessary procedural safeguards when deporting victims of trafficking in persons, particularly when such victims are minors, and to provide them with the necessary medical, psychological and legal support. The Committee requested HKSAR to report back to the Committee in its next periodic report on the result of the study by the Commission on Women on domestic violence. (paragraph 97)

The Committee on the Rights of the Child in its concluding observations (unedited version – CRC/C/15/Add.271) of September 2005 noted its regret that the application of the Optional Protocol on the sale of children, child prostitution and child pornography had not yet been extended to Hong Kong SAR. While welcoming the amendments to the Crimes Ordinance aimed at strengthening the protection of children from pornography, it was concerned at the absence of any data or reported cases of child prostitution in Hong Kong SAR. In order to prevent and combat trafficking in children for sexual and other exploitative purposes, the Committee recommended that the State party in Hong Kong SAR:

- (a) Further develop and enhance systems of early-prevention of sexual exploitation and trafficking;
- (b) Further strengthen its efforts to identify and investigate trafficking cases, to improve understanding of the issues of trafficking and ensure that perpetrators are prosecuted;
- (c) Develop and adopt a comprehensive policy to prevent and combat sexual exploitation and trafficking in children, including the root causes and factors that place children at risk of such exploitation;
- (d) Provide adequate programmes of assistance and reintegration for sexually exploited and/or trafficked children in accordance with the Declaration and Agenda for Action and the Global Commitment adopted at the 1996 and 2001 World Congresses against Commercial Sexual Exploitation of Children;
- (e) Ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000).

Concerning Macau SAR

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) called upon MSAR to intensify its efforts to combat domestic violence. In particular, the Committee encourages MSAR to consider enacting specific legislation criminalizing domestic violence and affording effective protection to victims. The Committee also urged MSAR to take effective measures to provide training for law enforcement personnel and judges regarding the criminal nature of domestic violence. Moreover, the Committee urged MSAR to ensure the availability and accessibility of crisis centres where victims of domestic violence can find safe lodging and counseling. (paragraph 122).

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) recommended that MSAR make concerted efforts to combat the phenomenon of trafficking in persons. MSAR should also ensure that victims of trafficking have access to crisis centres where they can receive assistance. The Committee also recommended that MSAR provide in its next periodic report detailed information on the measures taken to combat trafficking and commercial sexual exploitation of women and children as well as comparative statistical data indicating the extent of the problem. (paragraph 123).

FUNDAMENTAL RIGHTS

➤ **Non-discrimination and equality before the law**

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) encouraged the State party to submit in its next periodic report, relevant updated and periodically collected statistical data that are disaggregated by sex, age and urban/rural region, paying particular attention to the disadvantaged and marginalised groups of society. Such comparative information will enable the Committee and the State party itself, to monitor and evaluate the progressive implementation of the rights enshrined in the Covenant. (paragraph 44).

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) strongly recommended that the State party undertake effective public education measures, including awareness-raising programmes designed to eliminate gender-based prejudices and traditional practices that are harmful to women and girls. The Committee requested the State party to provide, in its next periodic report, detailed information on the progress made on gender discrimination issues. (paragraph 49).

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) called upon the State party to undertake necessary measures to ensure that all persons under its jurisdiction enjoy economic, social and cultural rights enshrined in the Covenant without discrimination. In addition, the Committee urged the State party to ensure that its asylum procedures do not discriminate, in purpose or in effect, against asylum seekers on the basis of race, colour or ethnic or national origin, as provided for under Article 2.2 of the Covenant. The Committee recommended that the State party consider adopting subsidiary forms of protection to guarantee the right to remain for persons who are not formally recognised as refugees but are seeking asylum and nevertheless require protection during that period, and granting UNHCR and humanitarian organisations access to them. The Committee requested the State party in its next periodic report, to provide detailed information in this regard, including measurable progress achieved as well as difficulties encountered. (paragraph 45).

The Committee called upon the State party to implement its decision to dismantle the *hukou* system of national household registration and to ensure that in any system that replaces it, internal migrants will be able to enjoy the same work, social security, housing, health and education benefits enjoyed by those in the urban areas. (paragraph 46).

The Committee recommended that the State party adopt effective measures to ensure equal opportunities for persons with disabilities, especially in the fields of work, social security, education and health, to provide for more appropriate living conditions for persons with disabilities and to allocate adequate resources for improving the treatment of, and care for, persons with disabilities. The Committee requested the State party to provide detailed information in its second periodic report, on the measures undertaken with regard to persons with physical and mental disabilities. (paragraph 47).

The Committee called upon the State party to undertake effective measures to ensure the equal right of men and women to enjoy economic, social and cultural rights as provided for in Article 3 of the Covenant, including through implementing the principle of equal pay for work of equal value, the elimination of wage gaps between men and women, and providing equal opportunities for both men and women. (paragraph 48).

The Committee on the Elimination of Racial Discrimination in its concluding observations ([A/56/18, paras.231-255](#)) of August 2001 sought clarification with regard to existing guarantees against discrimination on all grounds referred to in article 1 of the Convention, i.e. race, colour, descent, or national or ethnic origin, and recommended that the State party review its legislation to ensure the adoption of a definition of discrimination in accordance with the Convention.

Regarding the prohibition of racial discrimination in general, the Committee recommended that the State party consider giving full effect to the provisions of the Convention in its domestic legal order and ensure the penalization of racial discrimination, as well as access to effective protection and remedies through the competent national tribunals or other State institutions against all acts of racial discrimination.

The Committee on the Elimination of Discrimination against Women in its concluding observations ([A/54/38, paras. 251-336](#)) of February 1999 recommended that the Government adopt legislation that expressly prohibits gender discrimination, including unintentional and indirect discrimination. It also recommended that the Government improve the availability of means of redress, including legal remedies, under the Women's Law. The Committee recommended further that the Government adopt measures and allocate resources at both the central and provincial levels to monitor implementation of the various laws on gender equality.

The Special Rapporteur on the right to education in her mission report ([E/CN.4/2004/45/Add.1](#)) of November 2003 recommended the adoption of a comprehensive strategy for attaining gender equality both in and through education at the highest level of the Government.

The Committee on the Rights of the Child in its concluding observations ([CRC/C/15/Add.56](#)) of June 1996 suggested that local and other leaders be invited to take a more active role in supporting the efforts to prevent and eliminate discrimination against the girl child and to provide guidance to communities in this regard. The CRC suggested that a review be undertaken of measures to ensure that children in the Tibet Autonomous Region and other minority areas are guaranteed full opportunities to develop knowledge about their own language and culture as well as to learn the Chinese language. Steps should be taken to protect these children from discrimination and to ensure their access to higher education on an equal footing.

The Committee on the Rights of the Child in its concluding observations (unedited version – [CRC/C/15/Add.271](#)) of September 2005, while noting efforts by the State party to address the Committee's previous concerns related to discrimination, remained concerned about discrimination against certain groups in the mainland, such as girls; children infected with or affected by HIV/AIDs; children with disabilities; ethnic and religious minorities, such as Tibetan, Uighur and Hui children; and internal migrant children.

The Committee recommended that the State party strengthen efforts to eliminate discrimination against girls, children infected with or affected by HIV/AIDs, children with disabilities, Tibetan, Uighur and Hui children and other ethnic and religious minority children, internal migrant children and other vulnerable groups by:

- a) ensuring equal access to basic services for these children, including health, education and other social services, and that services used by these children are allocated sufficient financial and human resources;
- b) enhance monitoring of programmes and services implemented by local authorities with a view to identifying and eliminating disparities.

The Committee requested that specific information be included in the next periodic report on the measures and programs relevant to the CRC undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and taking account of Committee's General Comment No. 1 on the aims of education (2001).

The Special Rapporteur on racism and racial discrimination in his report ([E/CN.4/2002/24](#)) of December 2002 referred to information indicating that Tibetans in the Tibetan Autonomous Region (TAR) suffer various forms of systematic and institutional discrimination in the fields of employment, health care, education, housing and public representation.

Concerning HKSAR

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) encouraged the State party to take urgent measures to stop the spread of HIV/AIDS and other sexually transmitted diseases, including through sex education in schools and awareness-raising campaigns to eliminate discrimination against HIV-positive persons. (paragraph 60).

The Committee strongly urged the HKSAR to extend the protection afforded by the proposed racial discrimination law to internal migrants from the Mainland, and to put a stop to the widespread discriminatory practices against them on the basis of their origin. The Committee further recommended that the relevant provisions of the existing immigration legislation governing entry into, period of stay, and departure from, HKSAR are amended to ensure full conformity and consistency with the new racial discrimination legislation. (paragraph 91).

The Committee recommended that HKSAR reconsider its position regarding the extension of the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol to its territorial jurisdiction, and that it strengthen its cooperation with UNHCR, in particular, in the formulation of a clear and coherent asylum policy based on the principle of non-discrimination. (paragraph 92).

The Committee urged the State party to review the existing "two-week rule", with a view to eliminating discriminatory practices and abuse arising from it, and to improving the legal protection and benefits for foreign domestic workers so that they are in line with those afforded to local workers, particularly with regard to wages and retirement benefits. The Committee recommended that HKSAR enable domestic helpers to acquire pension rights through their inclusion in the Mandatory Provident Fund. (paragraph 95).

The Committee urged the HKSAR to review the eligibility criteria for the CSSA so as to ensure that all those in need, including low-income persons and families, older persons and new migrants are adequately covered by the scheme to enable them to enjoy a decent standard of living. (paragraph 96).

The Committee on the Rights of the Child in its concluding observations (unedited version – CRC/C/15/Add.271) of September 2005 noted its concerns about the persistence of discrimination against refugee, asylum-seeking and undocumented migrant children in Hong Kong SAR, and the lack of legislation specifically prohibiting discrimination on the basis of race or sexual orientation. The Committee recommended that the State party expedite its efforts to draft and adopt legislation prohibiting discrimination on the basis of race or sexual orientation.

Concerning Macau SAR

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) recommended that MSAR establish a state institution responsible for the promotion and protection of gender equality, and engage in sensitization campaigns to raise awareness on gender equality, particularly in employment, and to report, in its next periodic report, on the results achieved in this regard. (paragraph 118).

The Committee on the Rights of the Child in its concluding observations (unedited version – CRC/C/15/Add.271) of September 2005 noted its regret about the lack of available information on the practical implementation of art. 2 of the Convention in Macau SAR. The Committee requested that in its next periodic report specific information be included on the practical implementation of art. 2 in Macau SAR.

➤ **Freedom of expression; freedom of assembly and association**

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) urged the State party to amend the Trade Union Act to allow workers to form independent trade unions outside the structure of All China Federation of Trade Unions. Further, the Committee strongly urged the State party to consider withdrawing its declaration on Article 8.1 of the Covenant. (paragraph 55).

The Committee urged the State party to remove restrictions on freedom of information and expression in the State party, to enable all persons under its jurisdiction to take part in cultural life, to enjoy the benefits of scientific progress and its applications, and to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author. (paragraph 68).

The Working Group on Arbitrary Detention in its visit report ([E/CN.4/2005/6/Add.4](#)) of 29 December 2004 noted that persons charged often invoke their freedom of opinion, expression, religion or belief, freedom of association or assembly, or the right to take part in the conduct of public affairs of the country as a legal basis for their conduct and exempting them from criminal responsibility. The Working Group recommends that the question - to which of the conflicting interests shall priority be given - shall be decided after careful consideration of all the relevant circumstances, giving proper weight to the rights of the individuals. Definitions in criminal law legislation having such vague, imprecise or sweeping elements like “disrupting social order”, “endangering national security”, “violating the unity and integrity of the State”, “subverting public order”, “affecting national security” and the like shall not be used to punish the peaceful expression of the rights and freedoms that the Declaration of Human Rights grants to everyone. (paragraph 78 e).

The Special Rapporteur (SR) on the right to education in her mission report ([E/CN.4/2004/45/Add.1](#)) of November 2003 recommended that the raising of teachers’ status include guarantees of their freedom of association.

Concerning HKSAR

The Human Rights Committee in its concluding observations ([CCPR/C/79/Add.117](#)) of November 1999 was concerned that the offences of treason and sedition under the Crimes Ordinance are defined in overly broad terms, thus endangering freedom of expression guaranteed under article 19 of the Covenant. All laws enacted under article 23 of the Basic Law must be in conformity with the Covenant.

With regard to freedom of assembly, the HRC was aware that there are very frequent public demonstrations in HKSAR and took note of the delegation's statement that permission to hold demonstrations is never denied. Nevertheless, the Committee was concerned that the Public Order Ordinance could be applied to restrict unduly

enjoyment of the rights guaranteed in article 21 of the Covenant. The HKSAR should review this Ordinance and bring its terms into compliance with article 21 of the Covenant. With regard to freedom of association, the HRC was concerned that the Societies Ordinance may be applied in a way to restrict unduly the enjoyment of Article 22 rights. The HKSAR should review this Ordinance so as to ensure full protection of the right to freedom of association, including trade union rights, under article 22 of the Covenant.

➤ **Freedom of religion**

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) noted with concern the reports from sources other than the State party relating to the right to the free exercise of religion as a right to take part in cultural life, and the use and teaching of minority languages, history and culture and the Xinjiang Uighur Autonomous Region (XUAR) and the Tibet Autonomous Region (TAR). (paragraph 38).

In its visit report ([E/CN.4/2005/6/Add.4](#)) of 29 December 2004, the **Working Group on Arbitrary Detention** noted that persons charged often invoke their freedom of opinion, expression, religion or belief, freedom of association or assembly, or the right to take part in the conduct of public affairs of the country as a legal basis for their conduct and exempting them from criminal responsibility. The Working Group recommends that the question - to which of the conflicting interests shall priority be given - shall be decided after careful consideration of all the relevant circumstances, giving proper weight to the rights of the individuals. Definitions in criminal law legislation having such vague, imprecise or sweeping elements like “disrupting social order”, “endangering national security”, “violating the unity and integrity of the State”, “subverting public order”, “affecting national security” and the like shall not be used to punish the peaceful expression of the rights and freedoms that the Declaration of Human Rights grants to everyone. (Para 78 (e)).

The Committee on the Elimination of Racial Discrimination in its concluding observations ([A/56/18, paras.231-255](#)) urged the State party to review legislation and practices that may restrict the right of persons belonging to minorities to freedom of religion.

With regard to the right of freedom to manifest one's religion, **the Special Rapporteur on freedom of religion or belief** in his visit report ([E/CN.4/1995/91](#)) of 22 December 1994 recommended a more precise definition of the criteria for the registration of places of worship, especially the number of believers and the qualifications of members of religious orders. With regard to religious freedom in general, **the Special Rapporteur** recommended the introduction of a law on religious freedom, so as to harmonize all the pertinent legal texts, remedy legal ambiguities and, in keeping with established international standards, overcome the particular fears and sensitivities prompted by the distinction between nationals and foreigners.

The Special Rapporteur noted during his talks that the distinction between normal and abnormal religious activities was not drawn very clearly and was applied fairly flexibly. In some cases, for example, it had been found that people had been prosecuted for engaging in abnormal activities, whereas, in others no action had been taken on activities which might be regarded as abnormal. The Rapporteur was of the opinion that this flexible approach should be extended so that ultimately the distinction effectively disappears.

The Special Rapporteur considered that there must be no interference with religious activity falling within the scope of the 1981 Declaration. At all events, there must not be any surveillance of a kind to infringe the right to freedom of belief and to manifest one's belief. With regard to sects, **the Special Rapporteur** particularly wished to point out that the 1981 Declaration protects not only religion, but also theist beliefs and that article 1, paragraph 3, of that Declaration states that freedom to manifest one's religion or belief may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others.

With regard to the alleged arrest or detention of members of religious orders and believers belonging to unofficial religious organizations (including members of sects and Tibetan monks) and restrictions affecting them, **the Special Rapporteur** reiterated his request that these persons be freed.

The Committee on the Rights of the Child in its concluding observations (unedited version – CRC/C/15/Add.271) of September 2005, while noting the adoption of the Regional Ethnic Autonomy Act in 2001 which guarantees freedom of religion for ethnic minorities in mainland China, was concerned about reports that children, in particular Tibetan Buddhist, Uighur and Hui children have had restrictions placed on their ability to study and practice their religion and some cases have been detained for participating in religious activities. The Committee was also concerned at reports that children of families practicing their religion, notably the Falun Gong, are subject to harassment, threats and other negative actions including re-education through labour. The Committee noted the information provided about the Gedhun Choekyi Nyima, but remains concerned that it has not yet been possible to have this information confirmed by an independent expert.

The Committee recommended that the State party take all necessary measures to ensure the full implementation of the Regional Ethnic Autonomy Act. In particular, the Committee recommended that the State party:

- a) Enact explicit legislation guaranteeing freedom of religion for those under 18, that is not tied to a limited number of recognized faiths, and which respects the rights and duties of parents to give guidance to the child in the exercise of his or her rights in this regard in a manner consistent with the evolving capacities of the child;
- b) Repeal any ban instituted by local authorities on children of any age from participating in Tibetan religious festival or receiving religious education;
- c) Repeal any ban instituted by local authorities on children of any age from attending mosques or receiving religious education throughout the mainland;
- d) Take all necessary measures to ensure that children may choose whether to participate in classes on religion or atheism;
- e) Allow an independent expert to visit and confirm the well-being of Gedhun Choekyi Nyima while respecting his right to privacy, and that of his parents.

Concerning HKSAR

The Committee on the Elimination of Discrimination Against Women in its concluding observations ([A/54/38.paras. 251-336](#)) of February 1999 recommended the adoption of a constitutional definition of discrimination, both direct and indirect and that the Government make use of affirmative action and temporary special measures to realize women's right to participation in all areas of public life and particularly at high levels of decision-making. It also recommended that the Government study the experience of other countries in using quotas, timetables for achieving specified goals and databases on women candidates, with a view to applying them in Hong Kong.

The Human Rights Committee in its concluding observations ([CCPR/C/79/Add.117](#)) of November 1999 remained concerned that no legislative remedies are available to individuals in respect of discrimination on the grounds of race or sexual orientation. Necessary legislation should be enacted in order to ensure full compliance with article 26 of the Covenant. The HKSAR should adopt positive measures to overcome discrimination against women and should ensure equal pay for work of equal value.

- Right to a nationality / birth registration

The Committee on the Rights of the Child in its concluding observations (unedited version – CRC/C/15/Add.271) of September 2005 noted with appreciation the significant efforts taken by the State party to address the Committee's previous concerns regarding the non-registration of children. However, it continued to be concerned that, in part because of existing family planning policies, all children are not systematically

registered immediately after birth in mainland China, and that this disproportionately affects girls, children with disabilities and children born in some rural areas. The Committee recommended that the State party continue to strengthen its efforts to ensure that all children, in particular girls and children with disabilities, are registered immediately after birth and to continue to provide flexible measures to allow older children, who have not been registered to do so throughout mainland China with a particular emphasis on rural areas. It further suggests that the State party consider revising the Hukou system of registration in order to reinforce such initiatives.

IV. MILLENNIUM DEVELOPMENT GOALS (MDG) RELATED ISSUES

➤ *MDG 1 (Eradicate extreme poverty and hunger)*

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) expressed deep concern that, despite the rapid economic development in recent years, poverty persists in the country, disproportionately affecting the rural population. The Committee was concerned that, in spite of the efforts made by the State party to improve the economic and social conditions of rural populations, the disparity in income and in the enjoyment of an adequate standard of living continues to widen between the rich and the poor, in particular those in urban/rural areas, as well as those in coastal provinces/inland provinces. The Committee also regretted the absence of an official poverty line that would enable the State party to define the extent of poverty and to monitor and evaluate progress in alleviating poverty. (paragraph 30).

The Committee urged the State party to continue to take necessary measures to ensure that the minimum wage enables workers and their families to enjoy an adequate standard of living and that the minimum wage standard is effectively enforced, particularly in rural and Western areas. The Committee further encouraged the State party to establish a wage enforcement mechanism that periodically adjusts minimum wages to the cost of living, facilitate the redress of wage claims, and take sanctions against employers who owe wages and overtime pay as well as impose fines and penalties on their workers. (paragraph 54).

The Committee recommended that the State party strengthen the redistributive mechanisms between regions and levels of government, so as to ensure that local authorities receive additional funds necessary for adequate provision of welfare and social services to their populations. The Committee urged the State party to extend non-contributory social assistance to the rural areas that are presently not covered as a means to combat poverty among the rural populations. (paragraph 56).

The Committee strongly recommended that the State party take immediate measures through, inter alia, allocation of increased resources for the protection of economic, social and cultural rights of persons living in disadvantaged areas, in particular with regard to adequate housing, food and water, health services and sanitation. The Committee called upon the State party to develop a mechanism for measuring the poverty level and to monitor it closely, and refers the State party to the Committee's statement on poverty adopted in May 2001. (paragraph 59).

The Committee encouraged the State party to submit in its next periodic report, relevant updated and periodically collected statistical data that are disaggregated by sex, age and urban/rural region, paying particular attention to the disadvantaged and marginalised groups of society. Such comparative information will enable the Committee and the State party itself, to monitor and evaluate the progressive implementation of the rights enshrined in the Covenant. (paragraph 44).

Regarding HKSAR

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) urged HKSAR to strengthen its efforts to combat poverty and social exclusion, in particular

with regard to the disadvantaged and marginalised groups, and older persons. The Committee also recommended the State party to adopt an official poverty line, which would enable the State party to define the extent of poverty and to monitor and evaluate progress in alleviating poverty. The Committee requested that the State party provide, in its next periodic report, disaggregated and comparative annually-collected data on the number of people living in poverty and on progress made in reducing the incidence of poverty, and the impact, if any, that the newly-established Commission on Poverty has had on the issue of poverty in HKSAR. (paragraph 98).

The Committee urged the HKSAR to review the eligibility criteria for the Comprehensive Social Security Assistance so as to ensure that all those in need, including low-income persons and families, older persons and new migrants are adequately covered by the scheme to enable them to enjoy a decent standard of living. (paragraph 96).

➤ *MDG 2 (Achieve universal primary education)*

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) called upon the State party to take effective measures to ensure that all children, including migrant children and ethnic minority children, have access to free compulsory primary education (in line with its General Comments no. 11 and 13 on the right to education). The Committee also called upon the State party to undertake effective reforms in the current education financing policies to allocate sufficient funds to support the provision of free and compulsory nine-year education to all children on national, state and local levels; and to eliminate all school-related fees to make compulsory primary education truly free for all children. The Committee further urged the State party to increase public expenditure on education in general, and to take deliberate and targeted measures towards the progressive realization of the right to education for the disadvantaged and marginalised groups throughout the country (para 28).

The Committee also urged the State party, as a matter of priority, to strengthen its efforts to effectively enforce its legislation prohibiting unlawful employment of children. The Committee also urged the State party to make every effort, including adopting preventive measures, to ensure that those children who engage in labour do not work under conditions that are harmful to them. The Committee further encouraged the State party to consider withdrawing the programme of “Diligent Work and Economical Study (qingong jianxue)” from its school curriculum. (paragraph 52).

The Committee also expressed its deep concern regarding children in the State party working in hazardous occupations such as mining, often in precarious conditions that fall short of labour safety standards. The Committee was also of the view that the “Diligent Work and Economical Study (qingong jianxue)” programme for school children constitutes exploitative child labour, in contradiction of the provisions of Articles 6 and 7 of the Covenant, and ILO Convention No. 182 on child labour to which China is a party. (paragraph 23).

The Committee on the Elimination of Discrimination Against Women in its concluding observations ([A/54/38.paras. 251-336](#)) of February 1999 stated that notwithstanding the Government's positive efforts and achievements in reducing illiteracy, it was concerned about the disproportionate persistence of illiteracy among women, especially women in rural and remote areas, and among ethnic and religious minority women.

The Committee also recommended that the Government adopt a specific time-frame, with budgetary and resource allocation, for the achievement of universal literacy and primary education. It also recommended abolishing official and unofficial school fees and introducing special measures and incentives to ensure that girls are able to fully utilize access to primary education, and are given opportunities for secondary and higher education and vocational training. Likewise, the Committee urged the Government to revise school textbooks and curricula to eliminate gender stereotypes and to include the achievement of gender equality as a societal goal in its education policy. It urged the Government to promote information, education and counseling, in order to underscore the principle of reproductive choice, and to increase male responsibility in this regard. The

Government should make clear that coercive and violent measures are prohibited and enforce such prohibition through fair legal procedures that sanction officials acting in excess of their authority. The Committee urged the Government to introduce gender-sensitivity training for family planning officials.

The Special Rapporteur (SR) on the right to education in the report of her November 2003 visit ([E/CN.4/2004/45/Add.1](#)) recommended an immediate affirmation of China's international obligation to ensure free education for all children by eliminating all financial obstacles and the monitoring of school attendance. She also recommended that sample studies to determine the real costs of education be carried out as soon as possible, as the basis for a strategy to eliminate financial obstacles to the realization of the right to education of every child. The budgetary allocations for education should be increased to cover completely the costs of compulsory education for all school-age children. Both the costs and the disbursements should be made transparent as this will also facilitate eliminating corruption. The SR recommended assessing the human rights impact of trade in education and measures to alleviate its most detrimental effects on the right to education. She recommended the adaptation of education to the best interests of the principal subjects of the right to education and a full integration of human and minority rights in education policy, law and practice.

Concerning HKSAR

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) urged HKSAR to amend its legislation to provide for the right to education of all school-aged children in its jurisdiction, including children of migrants without the legal right to remain in HKSAR. (paragraph 101).

Concerning Macau SAR

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) recommended that MSAR strengthen its efforts to provide free compulsory education to all school-aged children, including children of migrant workers. (paragraph 126).

The Committee on the Rights of the Child in its concluding observations (unedited version – CRC/C/15/Add.271) of September 2005, while noting efforts made by the State party in mainland China, noted its concern about remaining disparities in access and availability of education which negatively affects girls, children with learning difficulties, ethnic minority children, children living in rural areas and Western provinces and migrant children. The Committee was also specifically concerned about the existence of miscellaneous fees for compulsory education, high student-teacher ratios, high drop-out rates in middle and secondary school and the quality of education throughout the mainland. In Hong Kong SAR, the Committee was also concerned about drop out rates in secondary schools, the competitive nature of the school system and bullying in schools. The Committee noted its regrets regarding the limited amount of information available on these issues in Macau SAR.

The Committee recommended that in mainland China, the State party:

- a) Eliminate all miscellaneous and other 'hidden' fees for primary education to ensure that it is truly free;
- b) increase its allocation of resources to education in step with increases in GDP as directed by the Education Law, target those resources to ensuring that all children, in particular girls, children with learning difficulties, ethnic minority and migrant children complete nine years of compulsory education and have equal access to early childhood education and development programmes;
- c) promote the development of flexible learning systems so that children who have dropped out of school, in particular due to poverty or migration, are able to complete compulsory education

- and earn appropriate accreditation through non-formal channels, and also ensure the availability and accessibility of suitable technical and vocational education and training;
- d) ensure that all teaching and learning materials are also available in ethnic minority languages and with culturally-sensitive content for the primary and secondary level;
 - e) further strengthen efforts to improve the quality of education, including through teacher training and the improvement of teacher-student ratios;
 - f) strengthen the implementation of its policy on “all-round development” in particular through the development of a curriculum promoting children’s active learning capacities which also includes a focus on a child’s right to play and leisure;
 - g) seek technical assistance in this regard from inter alia UNICEF and relevant national agencies.

In Hong Kong SAR, the Committee recommended that the State party:

- a) develop programmes aimed at addressing the drop out rates in secondary education;
- b) further strengthen existing programmes aimed at addressing violence in schools, including with the participation of students themselves;
- c) enhance the quality of education in a manner that seeks to reduce the competitiveness of the education system and promotes active learning capacities and the right of a child to play and leisure.

In Macau SAR, the Committee encouraged the State party to expedite its plans to expand free compulsory education to 12 years in duration. The Committee requested further information on the quality of education and programmes aimed at reducing violence in schools in the next periodic report.

➤ *MDG 3 (Promote gender equality and empower women)*

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) strongly recommended that the State party undertake effective public education measures, including awareness-raising programmes designed to eliminate gender-based prejudices and traditional practices that are harmful to women and girls. The Committee requested the State party to provide, in its next periodic report, detailed information on the progress made on gender discrimination issues. (paragraph 49).

The Committee also called upon the State party to undertake effective measures to ensure the equal right of men and women to enjoy economic, social and cultural rights as provided for in Article 3 of the Covenant, including through implementing the principle of equal pay for work of equal value, the elimination of wage gaps between men and women, and providing equal opportunities for both men and women. (paragraph 48).

The Committee on the Elimination of Discrimination against Women in its concluding observations ([A/54/38.paras. 251-336](#)) of February 1999 urged the Government to adopt temporary special measures within the meaning of article 4, paragraph 1 of the Convention to increase the number of women at the higher echelons of Government. The Government should also encourage gender-balance in the composition of village committees. The Committee urged the Government to analyse, from a gender perspective, the effects of its economic policies, and to take steps to mitigate and counteract their negative effects on women. In addition to enforcing existing labour laws, the Committee invited the Government to increase women's means of redress against discrimination and inequality at work, including by promoting the recognition of women's right to participate in workers' organizations and their right to strike. It recommended that all government policy and planning for rural areas, including micro-credit, small enterprise development and other income-generating projects, be developed with the full and active participation of rural women. Urgent attention should be given to addressing women's suicide rates through measures such as the provision of mental health services and a better understanding of the causes of these suicides. Women's studies centres could be encouraged to undertake the necessary research. The Government was urged to ensure that women have equal enjoyment of land rights independent of their marital status.

The Special Rapporteur on the right to education in her mission report ([E/CN.4/2004/45/Add.1](#)) of November 2003 recommended that specific government institutions be made responsible and accountable for the implementation and enforcement of laws dealing with women.

Concerning HKSAR

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) expressed concern about reports of the high incidence of trafficking in persons, especially women and children into HKSAR, mainly for the purpose of sexual exploitation. The Committee regrets that it did not receive sufficient information regarding this problem and the measures taken in this respect by HKSAR. (paragraph 85).

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) requested that China provide, in its next periodic report, detailed information on the problem of trafficking and commercial sexual exploitation of persons in the State party and on measures taken to effectively address these problems. The Committee urges the State party to ensure respect for the necessary procedural safeguards when deporting victims of trafficking in persons, particularly when such victims are minors, and to provide them with the necessary medical, psychological and legal support. The Committee requests HKSAR to report back to the Committee in its next periodic report on the result of the study by the Commission on Women on domestic violence. (paragraph 97).

The Committee on the Elimination of Discrimination Against Women in its concluding observations ([A/54/38.paras. 251-336](#)) of February 1999 recommended the adoption of temporary special measures aimed at increasing de facto equality between women and men within the meaning of article 4, paragraph 1 of the Convention, to increase the number of women in non-traditional areas of education, especially in science, technology and engineering, and to promote women from junior and auxiliary positions in teaching and academia to senior positions. It urged the Government to address the perpetuation of gender stereotypes and to allocate adequate resources for gender studies programmes. The Committee also urged the Government of the HKSAR to take all measures necessary to ensure the equal representation of women in all constituencies, including rural committees, on the basis of the principle of universal and equal suffrage.

Concerning Macau SAR

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) recommended that MSAR establish a state institution responsible for the promotion and protection of gender equality, and engage in sensitization campaigns to raise awareness on gender equality, particularly in employment, and to report, in its next periodic report, on the results achieved in this regard. (paragraph 118).

The Committee recommended that MSAR take effective measures to increase public awareness, especially in the private sector, about the importance of maternity and paternity leaves which reconcile professional and family life for men and women. The Committee further recommended that MSAR take immediate measures to enable workers in the private sector their right to maternity leave, without placing limitations on the number of births, and ensure that male workers in the private sector are granted the right to five days of paternity leave, as in the public sector. (paragraph 119).

The Committee urged MSAR to consider enacting legislation to criminalise sexual harassment in the workplace. (paragraph 120).

The Committee called upon MSAR to intensify its efforts to combat domestic violence. In particular, the Committee encouraged MSAR to consider enacting specific legislation criminalizing domestic violence and affording effective protection to victims. The Committee also urged MSAR to take effective measures to provide training for law enforcement personnel and judges regarding the criminal nature of domestic violence. Moreover, the Committee urged MSAR to ensure the availability and accessibility of crisis centres where victims of domestic violence can find safe lodging and counselling. (paragraph 122).

The Committee recommended that MSAR make concerted efforts to combat the phenomenon of trafficking in persons. MSAR should also ensure that victims of trafficking have access to crisis centres where they can receive assistance. The Committee also recommended that MSAR provide in its next periodic report detailed information on the measures taken to combat trafficking and commercial sexual exploitation of women and children as well as comparative statistical data indicating the extent of the problem. (paragraph 123).

➤ *MDG 6 (Combat HIV/AIDS, malaria and other diseases)*

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) in line with its General Comment No. 14 ([E/C.12/2000/4](#)) on the right to the highest attainable standard of health, urged the State party to undertake effective measures to improve delivery of health services in rural areas and ethnic minority regions, inter alia, through allocation of adequate and increased resources. The Committee encouraged the State party to take urgent measures to stop the spread of HIV/AIDS and other sexually transmitted diseases, including through sex education in schools and awareness-raising campaigns to eliminate discrimination against HIV-positive persons. (paragraph 60).

The Committee requested the State party in its next periodic report to include comparative annual data disaggregated by rural/urban regions, the percentage of GDP allotted for education, health and housing programmes, and, in particular, in the ethnic minority regions. (paragraph 40).

The Special Rapporteur on the right to education in her mission report ([E/CN.4/2004/45/Add.1](#)) of November 2003 recommended Clarification of the rights of young unmarried people to sex education and family-planning services relating to their right to found a family and to self-protection against STDs and HIV/AIDS.

The Committee on the Rights of the Child in its concluding observations (unedited version – CRC/C/15/Add.271) of September 2005 welcomed the development of policies and programmes for children infected with, and affected by, HIV/AIDs in mainland China. Yet, the Committee also expressed its concern that implementation of these policies and programmes is insufficient.

The Committee recommended that the State party strengthen its implementation of policies and programmes for children infected with, and affected by, HIV/AIDs in the mainland by:

- a) increasing the financial resources allocated to these programmes;
- b) strengthening cooperation with local authorities to ensure that they are adequately trained and equipped to implement programmes and policies in conformity with the best interest principle of the Convention (art. 3);
- c) strengthening public information campaigns to raise awareness about the disease and to eliminate discrimination against children with HIV/AIDs, as mentioned in para. 32 of these concluding observations.

In the light of the Committee's General Comment No. 3 on HIV/AIDS and the rights of the child (CRC/GC/2003/3) and the International Guidelines on HIV/AIDS and Human Rights (E/CN.4/1997/37), the Committee recommended that the State party strengthen its efforts to prevent

the spread of HIV/AIDS both in the mainland and Special Administrative Regions and continue to raise awareness about HIV/AIDS among adolescents, particularly among those belonging to vulnerable groups.

Concerning HKSAR

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) urged the State party to continue its efforts to improve its health services, *inter alia*, through the allocation of adequate and increased resources. The Committee recommended HKSAR to consider revising the current subsidized drug list, to meet the needs of the chronically-ill and the mentally-ill. The Committee encouraged the State party to submit in its next periodic report annually collected comparative statistical data, disaggregated by sex, age and urban/rural residence, paying particular attention to the disadvantaged and marginalised groups. (*paragraph 99*).

The Committee recommended that the HKSAR develop a comprehensive sexual and reproductive health programme, including a public awareness-raising campaign about safe contraceptive methods. The Committee also called upon HKSAR to introduce education on sexual and reproductive health in the school curriculum. (*paragraph 100*).

➤ *MDG 7 (Ensure environmental sustainability)*

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) requested the State party to include detailed information in its next periodic report on environmental policies formulated by the State party, in particular, policies to reduce atmospheric contamination, and to evaluate the impact of large infrastructural development projects on the environment. (*paragraph 63*).

The Committee on Economic, Social and Cultural Rights in its concluding observations ([E/C.12/1/Add.58](#)) of May 2001 called on HKSAR to give urgent attention to the housing rights of all Hong Kong residents, including squatters and those living in roof-top structures and bed-space apartments or cage homes.

In May 2002, following a large number of appeals received from civil society groups and individuals through urgent action campaigns, the **Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination** in his report ([E/CN.4/2003/5](#)) of March 2003 wrote to the Government of China concerning the demolition of historic buildings and housing complexes in Lhasa, Tibet, and allegations of forced eviction of residents, mostly indigenous Tibetans. In October 2002, he received a reply from the Government of China that detailed government efforts to amend laws and set policies to renovate unsafe buildings while conserving their historical and cultural value. While appreciating the Government's constructive reply, he noted the need to continue the dialogue on this case and to study the impact of planning legislation and policies on the realization of the human right to adequate housing. This is particularly relevant in the context of the State obligations under ICESCR, which China ratified in 2002.

SPECIFIC GROUPS

➤ **Children**

NOTE: The List of Issues taken up in connection with the consideration of the second periodic report of China to the Committee on the Rights of the Child (12-30 September) were adopted on 15 June 2005 in [Doc. CRC/C/Q/CHN/2](#). (Contained in Annex). China's two periodic reports to the Committee on the Rights of the Child are available at: <http://www.ohchr.org/english/bodies/crc/crcs40.htm>. The concluding observations

(unedited version only) of the Committee on the Rights of the Child's second examination are also contained in the Annex or available at <http://www.ohchr.org/english/bodies/crc/crcs40.htm>. In addition to these September 2005 concluding observations of the CRC:

The Committee on the Elimination of Racial Discrimination in its concluding observations ([A/56/18, paras.231-255](#)) recommended that the State party urgently ensure that children in all minority areas have the right to develop knowledge about their own language and culture as well as the Chinese, and that they are guaranteed equal opportunities, particularly with regard to access to higher education.

The Committee on the Elimination of Discrimination Against Women in its concluding observations ([A/54/38, paras. 251-336](#)) of February 1999 recommended the Government to take all appropriate measures to modify and eliminate son preference, *inter alia*, by expanding educational and employment opportunities for women in rural areas. The Government should enforce laws against sex-selective abortion, female infanticide and abandonment of children and remove all legal disabilities from "out-of-plan" and unregistered children.

The Special Rapporteur on the right to education in her mission report ([E/CN.4/2004/45/Add.1](#)) of November 2003 recommended a comprehensive review of schoolchildren's work at school so as to develop a strategy for its urgent elimination and for the immediate protection of children's lives, health and safety where they are still obliged to work and recommended an explicit and authoritative affirmation that all children have the right to education, and an invitation to all school-age children to enroll.

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) urged the State party, as a matter of priority, to strengthen its efforts to effectively enforce its legislation prohibiting unlawful employment of children. The Committee also urged the State party to make every effort, including adopting preventive measures, to ensure that those children who engage in labour do not work under conditions that are harmful to them. The Committee further encouraged the State party to consider withdrawing the programme of "Diligent Work and Economical Study (qingong jianxue)" from its school curriculum. (paragraph 52).

The Committee also expressed its deep concern regarding children in the State party working in hazardous occupations such as mining, often in precarious conditions that fall short of labour safety standards. The Committee was also of the view that the "Diligent Work and Economical Study (qingong jianxue)" programme for school children constitutes exploitative child labour, in contradiction of the provisions of Articles 6 and 7 of the Covenant, and ILO Convention No. 182 on child labour to which China is a party. (paragraph 23).

Concerning HKSAR

The Committee on Economic, Social and Cultural Rights in its concluding observations ([E/C.12/1/Add.58](#)) of May 2001 called upon HKSAR to adopt urgent measures to address the problems leading to youth suicide and all forms of child abuse.

➤ **Migrants**

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) called upon the State party to implement its decision to dismantle the hukou system of national household registration and to ensure that in any system that replaces it, internal migrants will be able to enjoy the same work, social security, housing, health and education benefits enjoyed by those in the urban areas. (paragraph 46).

The Committee on the Elimination of Racial Discrimination in its concluding observations ([A/56/18, paras.231-255](#)) recommended that the State party take the necessary measures to ensure that all refugees and

asylum-seekers receive equal treatment. To this end, the Committee recommended that the State party consider pursuing the adoption of formal legislative or administrative provisions in order to implement objective criteria for the determination of refugee status.

The Committee on the Rights of the Child in its concluding observations (unedited version – CRC/C/15/Add.271) of September 2005 noted the efforts made by the State party to allow the approximately 300,000 Indochinese refugees to settle permanently in mainland China. However, it was concerned that the children born in China of these former refugees are not granted Chinese citizenship. It was further concerned that children entering mainland China from the Democratic People’s Republic of Korea (DPRK) are categorically considered as economic migrants and returned to the DPRK without consideration as to whether there are risks of irreparable harm to the child upon return.

The Committee recommended that the State party extend all human rights guarantees in its Constitution and in the Convention to all children within its jurisdiction, including refugees and asylum-seekers and other undocumented migrants. In particular, the Committee recommends that the State party:

- a) Amend legislation to allow children born in China of former Indochinese refugees in mainland China to obtain Chinese citizenship;
- b) Ensure that no unaccompanied child, including from DPRK, is returned to a country where there are substantial grounds for believing that there is a real risk of irreparable harm to the child for instance through disproportionate punishment for violating immigration laws, in accordance with the Committee’s General Comment on Unaccompanied Minors (no. 6);

Concerning HKSAR

The Committee on the Elimination of Discrimination Against Women in its concluding observations ([A/54/38.paras. 251-336](#)) of February 1999 recommends efforts to develop a standard labour contract for migrant workers with provision for minimum wages, but it is concerned that these workers can be exposed to abuse and custodial violence and recommends that the Government monitor and take action to protect women migrant workers from abuse and violence, as well as to prevent such violence.

The Human Rights Committee in its concluding observations ([CCPR/C/79/Add.117](#)) of November 1999 recommended that the HKSAR should ensure that the deportation procedures provide effective protection against the risk of imposition of the death penalty or of torture or inhuman, cruel or degrading treatment.

The Committee on the Rights of the Child in its concluding observations (unedited version – CRC/C/15/Add.271) of September 2005 noted, with regard to the Special Administrative Region of Hong Kong, that refugee children and undocumented migrant children are not guaranteed access to education. The Committee recommended that the State party amend legislation and regulations to ensure that all refugee, asylum-seeking or undocumented migrant children in the Hong Kong Special Administrative Region are able to attend school without undue delays.

Concerning Macau SAR

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) was seriously concerned that migrant workers, who account for a significant proportion of the working population of MSAR, are excluded from the social welfare system of MSAR. (paragraph 114).

The Committee recommended that MSAR strengthen its efforts to provide free compulsory education to all school-aged children, including children of migrant workers. (paragraph 126).

➤ Persons with disability

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) recommended that the State party adopt effective measures to ensure equal opportunities for persons with disabilities, especially in the fields of work, social security, education and health, to provide for more appropriate living conditions for persons with disabilities and to allocate adequate resources for improving the treatment of, and care for, persons with disabilities. The Committee requested the State party to provide detailed information in its second periodic report, on the measures undertaken with regard to persons with physical and mental disabilities. (paragraph 47).

The Committee was concerned about the reported persistence of discrimination against persons with physical and mental disabilities, especially in the fields of work, social security, education and health. (paragraph 16).

In its visit report ([E/CN.4/2005/6/Add.4](#)) of 29 December 2004, the **Working Group on Arbitrary Detention** noted that the adoption of the new mental health law would be a positive step forward. Judicial review of the lawfulness of a patient's deprivation of liberty should, however, be made possible, if the patient so requests. (paragraph 66).

The Working Group also recommended that conditions of the admission against his/her will and the forcible holding of people who are allegedly mentally ill or for detoxification shall be meticulously provided by law. Bearing in mind the vulnerable situation of mental health patients, that law shall prescribe effective safeguards against arbitrariness. Courts shall be vested with competence to review, upon request, the legality as well as the necessity of keeping someone against his/her will in a mental health institution. (paragraph 78).

The Special Rapporteur (SR) on the right to education in her mission report ([E/CN.4/2004/45/Add.1](#)) of November 2003 recommended an urgent and clear affirmation of China's human rights obligations, which pertain to all parts of the Government and encompass all rights of all people with disabilities, and the assignment of institutional and personal accountability for ensuring that these are translated into reality. The SR recommended revising the definition of disability, and initiating comprehensive and sustained public education aimed at eliminating the underlying prejudices and stereotypes.

The Committee on the Rights of the Child in its concluding observations ([CRC/C/15/Add.56](#)) of June 1996 recommended that the State party undertake further research on the measures required to prevent and combat discrimination on the ground of disability.

HKSAR

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) noted with concern the exclusion of many individuals, including women who are homemakers, persons with disabilities, and older persons, from the Mandatory Provident Fund Scheme, due to their inability to make sufficient voluntary contributions. (paragraph 78)

MACAU

The Committee on Economic, Social and Cultural Rights in its concluding observations of 13 May 2005 ([E/C.12/1/Add.107](#)) recommended that MSAR take effective measures to promote the integration of people with disabilities into the labour market, including through providing incentives to employers and strengthening the system of job quotas for persons with disabilities. (paragraph 121).

The Committee expressed its concern that persons with disabilities are not sufficiently integrated in the labour market.

INDEX OF APPENDICES

ANNEX I	Status of ratifications and reporting
ANNEX II	The Commission of Human Rights and its mechanisms
ANNEX III	Concluding observations of the Committee on the Elimination of Racial Discrimination, 09/08/2001. Doc. A/56/18, paras. 231-255.
ANNEX IV	Concluding observations of the Committee on the Elimination of Discrimination Against Women, 03/02/1999. Doc. A/54/38.paras. 251-336
ANNEX V	Concluding observations of the Committee on Economic, Social and Cultural Rights, 21/05/2001. Doc. E/C.12/1/Add.58.
ANNEX VI	List of Issues (Doc. CRC/C/Q/CHN/2 of 15 June 2005), and Concluding observations of the Committee on the Rights of the Child, 30/09/05 Doc. CRC/C/15/Add.271, (12-30 September 2005),
ANNEX VII	Conclusions and recommendations of the Committee against Torture, 09/05/2000. Doc. A/55/44, paras.106-145.
ANNEX VIII	Concluding observations of the Human Rights Committee (HKSAR), 12/11/99. Doc. CCPR/C/79/Add.117.
ANNEX IX	Report of the Special Rapporteur on violence against women, its causes and consequences: 27/02/2003. Doc. E/CN.4/2003/75/Add.1.
ANNEX X	Report of the Special Rapporteur on the right to education, 21/11/2003. Doc. E/CN.4/2004/45/Add.1.
ANNEX XI	Note Verbale of the Government of China regarding the Report of the Special Rapporteur on the Right to Education, Doc. E/CN.4/2004/G/16
ANNEX XII	Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, 13/02/2002. Doc. E/CN.4/2002/24.
ANNEX XIII	Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination: 3/03/2003, Doc. E/CN.4/2003/5
ANNEX XIV	Report of the Special Rapporteur on freedom of religion or belief, 22/12/1994. Doc. E/CN.4/1995/91
ANNEX XV	Report of the Working Group on Arbitrary Detention, 22/12/1997. Doc.E/CN.4/1998/44/Add.2
ANNEX XVI	Report of the Working Group on Arbitrary Detention on its Visit to China, 18-30 September, Doc. E/CN.4/2005/6/Add.4.

ANNEX XVII

Concluding observations of the Committee on Economic, Social and Cultural Rights: China (including Hong Kong and Macau) 13/05/2005, Doc. E/C.12/1/Add.107 of 13 May 2005

ANNEX I

Status of ratification of the major human rights instruments

Instrument	In force As of	Status of reporting and examination	Reservations, declarations
<p>ICESCR (economic, social and cultural rights)</p>	<p>27-06-01</p>	<p>The initial report submitted by China on articles 1 to 15 of the Covenant as applied in the Hong Kong Special Administrative Region was considered on 20, 27 April 2001 and 11 May 2001</p> <p>China's initial report (including the Hong Kong SAR and Macau SAR) was submitted on 27 June 2003 (due June 2002) and was considered at the 34th Session, on 27-29 April 2005 (Doc. E/C.12/1/Add.107 of 13 May).</p>	<p>Statement made upon signature and confirmed upon ratification:</p> <p>The signature that the Taiwan authorities affixed, by usurping the name of "China", to the [said Covenant] on 5 October 1967, is illegal and null and void.</p> <p>Statement made upon ratification:</p> <p>In accordance with the Decision made by the Standing Committee of the Ninth National People's Congress of the People's Republic of China at its Twentieth Session, the President of the People's Republic of China hereby ratifies <i>The International Covenant on Economic, Social and Cultural Rights</i>, which was signed by Mr. Qin Huasun on behalf of the People's Republic of China on 27 October 1997, and declares the following:</p> <p>The application of Article 8.1 (a) of the Covenant to the People's Republic of China shall be consistent with the relevant provisions of the <i>Constitution of the People's Republic of China, Trade Union Law of the People's Republic of China and Labor Law of the People's Republic of China</i>;</p> <p>In accordance with the official notes addressed to the Secretary-General of the United Nations by the Permanent Representative of the People's Republic of China to the United Nations on 20 June 1997 and 2 December 1999 respectively, the <i>International Covenant on Economic, Social and Cultural Rights</i> shall be applicable to the Hong Kong Special Administrative Region of the People's Republic of China and</p>

			the Macao Special Administrative Region of the People's Republic of China and shall, pursuant to the provisions of the <i>Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China</i> and the <i>Basic Law of the Macao Special Administrative Region of the People's Republic of China</i> , be implemented through the respective laws of the two special administrative regions.
ICCPR (civil and political rights)	Signed 05-10-99	The initial report on Hong Kong was examined on 1, 2, 4 November 1999. The initial report on Macau was due on 31 October 2001 The 2 nd periodic report on Hong Kong was due on 31 October 2003	
ICERD (racism and discrimination)	28-01-82	China's initial report was examined on 20 August 1983. The 2 nd report was examined on 14, 17 March 1986. The 3 rd and 4 th periodic reports were examined on 9 and 10 August 1980. The 5 th , 6 th and 7 th periodic reports were examined on 8 and 9 August 1996. The 8 th and 9 th periodic reports were examined on 31 July, 1, 8, and 9 August 2001. The 10 th and 11 th periodic reports were due on 28 January 2003.	Reservation: The People's Republic of China has reservations on the provisions of article 22 of the Convention and will not be bound by it. (<i>The reservation was circulated by the Secretary-General on 13 January 1982.</i>) Declaration: The signing and ratification of the said Convention by the Taiwan authorities in the name of China are illegal and null and void.
CAT (torture)	03-11-88	China's initial report was examined on 27 April 1990. The 2 nd periodic report was examined on 6 May 1996. The 3 rd report was examined on 4, 5, 9 May 2000. The 4 th report was due on 2 November 2001.	Reservations made upon signature and confirmed upon ratification: "(1) The Chinese Government does not recognize the competence of the Committee against Torture as provided for in article 20 of the Convention. "(2) The Chinese Government does not consider itself bound by paragraph 1 of article 30 of the Convention."
CEDAW (women)	03-09-81	The 2 nd periodic report was examined on 23	Declaration made upon signature and confirmed upon

		<p>January 1992.</p> <p>The 3rd and 4th periodic reports were examined on 1 and 2 February 1999.</p> <p>The 5th and 6th combined reports (due respectively in September 1998 and September 2002) were submitted on 4 February 2004 and have not yet been scheduled for consideration.</p>	<p>ratification:</p> <p>The People's Republic of China does not consider itself bound by paragraph 1 of article 29 of the Convention.</p>
CRC (children)	01-04-92	<p>The Committee considered the initial report of China (CRC/C/11/Add.7) at its 298th to 300th meetings (CRC/C/SR.298-300), held on 28 and 29 May 1996.</p> <p>China's 2nd periodic report (due on 31 March 1999) was submitted 27 June 2003, along with the initial report of Hong Kong SAR and the initial report of Macau SAR. These reports are scheduled for consideration at the Committee's 40th Session (12 - 30 September 2005). A List of Issues was adopted by the Committee at its pre-sessional working group on 15 June (Doc. CRC/C/Q/CHN/2).</p>	<p>Reservation:</p> <p>[T]he People's Republic of China shall fulfill its obligations provided by article 6 of the Convention under the prerequisite that the Convention accords with the provisions of article 25 concerning family planning of the Constitution of the People's Republic of China and in conformity with the provisions of article 2 of the Law of Minor Children of the People's Republic of China.</p>
CRC-OP1 (child soldiers)	Signed 15-03-01		
CRC-OP2 (sale of children)	03-01-03	China's initial report was due on 3 January 2005.	<p>In its instrument of ratification, the Government of China informed the Secretary-General of the following:</p> <p>1. In accordance with the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China and as suggested by the Government of the Hong Kong Special Administrative Region, the application of the Protocol to the Hong Kong Special Administrative Region of the People's Republic of China requires prior enactment of domestic legislation by the Hong Kong Special Administrative Region, and the Protocol shall not apply to the Hong Kong Special Administrative Region of the People's Republic of China until the Government of China notifies otherwise;</p>

			<p>2. In accordance with the Basic Law of the Macao Special Administrative Region of the People's Republic of China and as suggested by the Government of the Macao Special Administrative Region, the Protocol shall apply to the Macao Special Administrative Region of the People's Republic of China.</p>
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STATUS OF RATIFICATION AND SUBMISSION OF REPORTS UNDER MAIN INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

Due to the resumption of sovereignty over Hong Kong and Macau by the PRC, there are some inconsistencies with regard to treaty obligations between the mainland and the two Special Administrative Regions. Prior treaty obligations undertaken by one of the three entities were not necessarily extended to all of them when the mainland resumed sovereignty. The chart below clarifies where reporting obligations may be limited to one or two of the entities only. The texts of notifications issued by the Government of China informing the Secretary-General of the status of Hong Kong and Macau in relation to treaties deposited with the Secretary-General are available from the Secretariat upon request.

Core document: HRI/CORE/1/Add.21/Rev.2

International Covenant on Economic, Social and Cultural Rights

Entry into force:	27/06/2001
Reservations and declarations:	Yes ²
Objections:	No
Report: initial (China, HK & Macau)	E/1990/5/Add.59
Concluding observations:	E/C.12/1/Add.107
Report: initial (HK)	E/1990/5/Add.43
Summary Record:	E/C.12/2001/SR.9-11
Concluding observations:	E/C.12/1/Add.58

Note: Hong Kong's initial report, submitted in July 1999, was examined by CESCR in April 2001. Macau has also been examined by CESCR as part of the Portugal's second periodic report, in November 1996. China submitted its initial report, including parts on Hong Kong and Macau, in June 2003, which is being examined at the current 34th Session.

International Covenant on Civil and Political Rights

Entry into force:	
Reservations and declarations:	No
Objections:	
Article 41:	No
Optional Protocol:	No
Second Optional Protocol:	No
Report: initial	CCPR/C/HKSAR/99/1/Add.1
	CCPR/C/79/Add.117
Summary Record:	CCPR/C/SR.1803-5
Concluding Observations:	CCPR/C/79/Add.117

²The application of Article 8.1 (a) of the Covenant to the People's Republic of China shall be consistent with the relevant provisions of the *Constitution of the People's Republic of China*, *Trade Union Law of the People's Republic of China* and *Labor Law of the People's Republic of China*. 2 Reservation: The People's Republic of China has reservations on the provisions of article 22 of the Convention and will not be bound by it. 3 Declaration: The signing and ratification of the said Convention by the Taiwan authorities in the name of China are illegal and null and void.

Note: China has signed but not yet ratified ICCPR. On the transfer by the United Kingdom of Hong Kong to China on 1 July 1997, China assumed reporting obligations under the ICCPR for Hong Kong. Hong Kong's second periodic report was submitted in January 2005. On the transfer by Portugal of Macau to China at the end of December 1999, China assumed reporting obligations under the ICCPR for Macau; the next periodic report on Macau was due 31 October 2001.

Convention on the Elimination of All Forms of Racial Discrimination

Entry into force:	28/01/1982
Reservations:	Yes ³
Declarations:	Yes ⁴
Article 14:	No
Objections:	No
Report: eight and ninth periodic	
Summary Record:	CERD/C/SR.1468
Concluding observations:	A/56/18,paras.231-255

Note: China has been reporting regularly to CERD, and its tenth periodic report was due in January 2003.

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Entry into force:	03/11/1988
Optional Protocol:	No
Reservations and declarations:	Yes ⁵
Objections:	No
Articles 21 and 22:	No
Report: third periodic	CAT/C/39/Add.2
Summary Record:	CAT/C/SR.416, CAT/C/SR.419, CAT/C/SR.423/Add.1
Concluding Observations:	A/55/44,paras.106-145.

⁵ Reservations: "(1) The Chinese Government does not recognize the competence of the Committee against Torture as provided for in article 20 of the Convention. The Chinese Government does not consider itself bound by paragraph 1 of article 30 of the Convention . 5 Declaration: The People's Republic of China does not consider itself bound by paragraph 1 of article 29 of the Convention⁵ Declaration: 6 1) The Government of the People's Republic of China, on behalf of the Hong Kong Special Administrative Region, interprets the Convention as applicable only following a live birth. 2) The Government of the People's Republic of China reserves, for the Hong Kong Special Administrative Region, the right to apply such legislation, in so far as it relates to the entry into, stay in and departure from the Hong Kong Special Administrative Region of those who do not have the right under the laws of the Hong Kong Special Administrative Region to enter and remain in the Hong Kong Special Administrative Region, and to the acquisition and possession of residentship as it may deem necessary from time to time. 3) The Government of the People's Republic of China interprets, on behalf of the Hong Kong Special Administrative Region, the references in the Convention to "parents" to mean only those persons who, under the laws of the Hong Kong Special Administrative Region, are treated as parents. This includes cases where the laws regard a child as having only one parent, for example where a child has been adopted by one person only and in certain cases where a child is conceived other than as a result of sexual intercourse by the woman who gives birth to it and she is treated as the only parent. 4) The Government of the People's Republic of China reserves, for the Hong Kong Special Administrative Region, the right not to apply article 32 (2) (b) of the Convention in so far as it might require regulation of the hours of employment of young persons who have attained the age of fifteen years in respect of work in non-industrial establishments. 5) The Government of the People's Republic of China, on behalf of the Hong Kong Special Administrative Region, seeks to apply the Convention to the fullest extent to children seeking asylum in the Hong Kong Special Administrative Region except in so far as conditions and resources make full implementation impracticable. In particular, in relation to article 22 of the Convention the Government of the People's Republic of China reserves the right to continue to apply legislation in the Hong Kong Special Administrative Region governing the detention of children seeking refugee status, the determination of their status and their entry into, stay in and departure from the Hong Kong Special Administrative Region. 6) Where at any time there is a lack of suitable detention facilities, or where the mixing of adults and children is deemed to be mutually beneficial, the Government of the People's Republic of China reserves, for the Hong Kong Special Administrative Region, the right not to apply article 37 (c) of the Convention in so far as those provisions require children who are detained to be accommodated separately from adults.

Note: China has been reporting regularly to CAT and its fourth periodic report was due in November 2001.

Convention on the Elimination of All Forms of Discrimination against Women

Entry into force:	03/09/1981
Optional Protocol to CEDAW:	No
Reservations and Declarations:	Yes ⁶
Objections:	No
Report: third and fourth periodic	CEDAW/C/CHN/3-4
Summary Record:	CEDAW/C/SR.436-437.
Concluding Observations:	A/54/38/Rev.1 paras.236-277

Note: China has been reporting to CEDAW regularly and the combined fifth and sixth periodic reports were submitted in February 2004.

Convention on the Rights of the Child

Entry into force:	02/03/1992
Reservations and declarations:	Yes ⁷
Objections:	No
Optional Protocol (sale of children)	Yes (03/12/2002)
Optional Protocol (armed conflicts):	No
Report: initial	CRC/C/11/Add.7
Summary Record:	CRC/C/SR.298-300
Concluding Observations:	CRC/C/15/Add.56

Note: Mainland China's initial report was considered by CRC in 1996 and Hong Kong's initial report was considered as part of the UK in 1996.

Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

Ratification:	No
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ANNEX II

The Commission on Human Rights and its mechanisms

China has never been the subject of a country-specific resolution in the CHR. A standing invitation to all the Special Procedures has not been issued.

The Special Rapporteur on freedom of opinion and expression requested to undertake a visit to the country on 17 June 1999. On 5 July 1999, the Government replied that the request was under careful consideration. On 26 September 2001, a reminder was sent to the Government.

The CEDAW Committee recommended in February 1999 that the Special Rapporteur on violence against women be invited to visit China.

The Special Rapporteur on the Right to Education received an invitation to visit the country on 10 March 2003 and visited from 10-19 September 2003.⁸

The Special Rapporteur on Religious Freedom received an invitation to visit China dated 13 January 2003 (but which was not received in the Office of the High Commissioner for Human Rights until 10 November 2003).

The Special Rapporteur on Torture received a renewed invitation to visit China dated 13 January 2003. His visit to China has been scheduled for November 2005.

Mr. Joinet in his capacity as Chairperson of the Working Group on Arbitrary Detention received an invitation to visit China dated 13 January 2003. A subsequent invitation was sent to the new Chairperson of the Working Group, Ms. Leila Zerrougui, dated 16 February 2004, pursuant to which the Working Group visited from 18 to 30 September 2004.

So far three special procedures of the CHR have undertaken missions to China (one twice, the WGAD). These are set out below.

Mandate	Date of mission	Report
Special Rapporteur on freedom of religion and belief	19 to 30 November 1994	E/CN.4/1995/91
Working Group on Arbitrary Detention	18 to 30 September 2004	E/CN.4/2005/6/Add.4
	Preparatory visit from 14 to 21 July 1996	E/CN.4/1997/4
	Main visit from 6 to 16 October 1997	E/CN.4/1998/44/Add.2
Special Rapporteur on the right to education	10-19 September 2003	E/CN.4/2004/45/Add.1

A number of special procedures of the CHR have dealt with China in their reports, including the below.

Special Procedures of the Commission on Human Rights	Date	Document
Special Rapporteur on the right to education	2004	E/CN.4/2004/45/Add.1

⁸ Her report is contained in E/CN.4/2004/45/Add.1, and the Chinese government's comments thereon are contained in a Note Verbale in E/CN.4/2004/g/16.

		Government reply: E/CN.4/2004/g/16.
Special Rapporteur on violence against women	2003	E/CN.4/2003/75/Add.1
Special Rapporteur on racism and racial discrimination	2002	E/CN.4/2002/24
Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination	2003	E/CN.4/2003/5
Working Group on Enforced or Involuntary Disappearances	2003	E/CN.4/2003/70