

United Nations

**CEDAW**/C/CHN/CO/7-8



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

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**(Note: This document only contains extracts of paragraphs concerning the HKSAR)**

**Committee on the Elimination of Discrimination  
against Women**

**Concluding observations on the combined seventh and  
eighth periodic reports of China\***

1. The Committee considered the combined seventh and eighth periodic reports of China (CEDAW/C/CHN/7-8, CEDAW/C/CHN-HKG/7-8 and CEDAW/C/CHN-MAC/7-8) at its 1251st and 1252nd meetings, on 23 October 2014 (see CEDAW/C/SR.1251 and 1252). The Committee's list of issues and questions is contained in CEDAW/C/CHN/Q/7-8 and the responses of China are contained in CEDAW/C/CHN/Q/7-8/Add.1.

**A. Introduction**

2. The Committee appreciates that the State party submitted its combined seventh and eighth periodic reports. It also appreciates the State party's written replies to the list of issues and questions raised by its pre-sessional working group and welcomes the oral presentation by the delegation and the further clarifications provided in response to the questions posed orally by the Committee during the dialogue.

3. The Committee commends the State party for its delegation, which was headed by the Vice Chairperson of the National Working Committee on Children and Women under the State Council, Song Xiuyan, and included representatives of the Central Government, Hong Kong, China, Macao, China, and representatives of various ministries and government agencies.

**B. Positive aspects**

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\* Adopted by the Committee at its fifty-ninth session, meeting from 20 October to 7 November 2014.



4. The Committee welcomes the progress achieved since the consideration in 2006 of the State party's combined fifth and sixth periodic reports (CEDAW/C/CHN/5-6) in undertaking legislative reforms, in particular the adoption of the following:

- (a) Law on Social Insurance on maternity insurance, in 2010;
- (b) Labour Contract Law, which prohibits the termination of employment of a female employee on the grounds of pregnancy, childbirth or nursing needs, in 2007;
- (c) Law on Promotion of Employment in 2007, which prohibits discrimination in employment on, inter alia, grounds of ethnicity and gender;
- (d) Amendment of the Organic Law of the Villagers' Committees in 2010, which stipulates that there shall be women members in the villagers' committees and that more than one third of the representatives to the villagers' representatives' conference shall be women.

5. The Committee welcomes the State party's efforts to improve its policy framework aimed at accelerating the elimination of discrimination against women and advancing women's rights, such as the adoption of the following:

- (a) National Human Rights Action Plan (2012-2015);
- (b) Programme for the Development of Chinese Women (2011-2020).

6. The Committee welcomes the fact that, in the period since the consideration of the previous report, the State party has ratified or acceded to the following international instruments:

- (a) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in 2010;
- (b) Convention on the Rights of Persons with Disabilities, in 2008;
- (c) Occupational Safety and Health Convention, 1981 (No. 155) of the International Labour Organization, in 2007;
- (d) Discrimination (Employment and Occupation) Convention, 1958 (No. 111) of the International Labour Organization, in 2006.

## **C. Principal areas of concern and recommendations: all parts of China**

### **National People's Congress**

7. The Committee stresses the crucial role of the legislative power in ensuring the full implementation of the Convention (see the statement by the Committee on its relationship with parliamentarians, adopted at the forty-fifth session, in 2010). It invites the National People's Congress, in line with its mandate, to take the necessary steps regarding the implementation of the present concluding observations until the next reporting period under the Convention.

### **Reservations**

8. The Committee is concerned that the State party continues to maintain reservations to article 11 (2) of the Convention, in respect of Hong Kong, China, and several interpretative declarations to the Convention.

9. **The Committee urges the State party to consider withdrawing its reservations to article 11 (2) applicable to Hong Kong, China. It further urges the State party to review its interpretive declarations to the Convention with a view to ensuring that they are compatible with its object and purpose.**

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

##### **Legal status of the Convention and ratification of the Optional Protocol**

10. The Committee is concerned that the Convention is not directly applicable in national courts of the State party and, as a result, its provisions have not been directly invoked or applied in national courts. It is also concerned about the lack of information on the number of cases brought to court or raised through other dispute resolution mechanisms in which the Convention has been invoked by women. The Committee is further concerned that, notwithstanding the State party's significant role in the negotiations that led to the adoption of the Optional Protocol, it has not ratified it.

11. **The Committee calls upon the State party:**

(a) **To fully incorporate into domestic laws the provisions of the Convention;**

(b) **To intensify existing programmes to ensure the adequate dissemination of the Convention and the Committee's general recommendations among relevant stakeholders, including government officials, parliamentarians, legal professionals, law enforcement officers and community leaders, in order to raise awareness of women's human rights in the State party;**

(c) **To consider ratifying the Optional Protocol and to train legal professionals and law enforcement officers on the Committee's jurisprudence under the Optional Protocol.**

#### **F. Principal areas of concern and recommendations: Hong Kong, China**

##### **Machinery for the advancement of women**

50. The Committee is concerned that the Women's Commission, which is mandated to promote the advancement of women in Hong Kong, China, has a weak mandate and lacks the resources necessary to undertake gender mainstreaming and other activities.

51. **The Committee recommends that Hong Kong, China, should strengthen the mandate of the Women's Commission by, inter alia, providing adequate financial and human resources so that it can effectively undertake its activities as the machinery for the advancement of women.**

**Temporary special measures**

52. The Committee is concerned that temporary special measures are not used in the relevant areas covered by the Convention, such as the participation of women in public life, education and employment, in order to accelerate the achievement of substantive or de facto equality of women and men.

**53. The Committee recommends that Hong Kong, China, consider using temporary special measures in accordance with article 4 (1) of the Convention and the Committee's general recommendation No. 25, with numerical goals and timetables, to accelerate the representation of women in decision-making positions at all levels.**

**Violence against women**

54. The Committee notes that the Law Reform Commission in Hong Kong, China, has made proposals for the reform of legislation that governs sexual offences, including the definition of rape, which is currently restricted to penile penetration. The Committee is, however, concerned that Hong Kong, China, has not yet produced any proposals concerning sexual offences against children and persons with intellectual disabilities to adopt the reform proposals made by the Commission.

**55. The Committee urges the State party to expedite the consideration of the reform proposals made by the Law Reform Commission and to adopt a clear and specific time frame within which to revise the legislation on sexual offences, including those against children and persons with intellectual disabilities, and the definition of rape so that it is in line with international standards. In this context, Hong Kong, China, should allocate adequate resources to ensure the effective combat of all forms of violence against women, including domestic violence by, inter alia, providing adequate shelters and enforcing protection orders.**

**Trafficking and exploitation of prostitution**

56. The Committee is concerned that the State party has not extended the applicability of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime to Hong Kong, China. The Committee is also concerned about the lack of comprehensive anti-trafficking legislation. The Committee is further concerned that Hong Kong, China, has not repealed the legislative provisions on "vice establishment", which compel women in prostitution to work alone in isolated settings, where they are exposed to a higher risk of abuse, exploitation and violence by clients.

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

**(a) Intensify efforts to address the root causes of trafficking in women and girls and ensure the rehabilitation and social integration of victims, including by providing them with access to shelters, legal, medical and psychosocial assistance and alternative income-generating opportunities;**

(b) Undertake a comprehensive study with a view to collecting data on the extent and forms of trafficking in women and girls, which should be disaggregated by age and region or country of origin;

(c) Intensify efforts aimed at bilateral, regional and international cooperation to prevent trafficking, including by exchanging information and harmonizing legal procedures to prosecute traffickers, particularly with regard to source countries such as Indonesia and the Philippines;

(d) Consider extending the applicability of the Palermo Protocol to Hong Kong, China, and adopt comprehensive anti-trafficking legislation;

(e) Repeal legislative provisions on “vice establishment” and afford enhanced protection to women in prostitution, including exit programmes for those who wish to leave prostitution.

#### **Participation in political and public life**

58. The Committee recalls its previous concluding observations (CEDAW/C/CHN/CO/6, para. 39) and remains concerned about the low level of representation of women in politics, including in functional constituencies. The Committee is also concerned that no efforts have been made to conduct a study in order to understand the impact that the electoral system of functional constituencies has on the equal participation of women in political life.

59. **The Committee reiterates its previous recommendation (CEDAW/C/CHN/CO/6, para. 40) and recommends that Hong Kong, China, undertake:**

(a) **Concrete measures, including the introduction of temporary special measures, in accordance with article 4 (1) of the Convention and the Committee’s general recommendation No. 25 and general recommendation No. 23, to expedite the representation of women in politics;**

(b) **A study on the impact that the electoral system of functional constituencies has on the equal participation of women in political life.**

#### **Education**

60. The Committee is concerned about reports that women and girls with disabilities, particularly those with intellectual disabilities, have limited access to education.

61. **The Committee urges Hong Kong, China, to remove all obstacles to access to education for women and girls with disabilities, particularly those with intellectual disabilities, and to ensure the effective participation of women and girls with disabilities in education.**

#### **Employment**

62. The Committee notes the introduction of paternity leave in Hong Kong, China, but remains concerned that maternity leave is limited to 10 weeks, which does not comply with the international standards established by the International Labour Organization.

63. **The Committee recommends that Hong Kong, China, increase the maternity leave period in line with international standards and increase its**

**efforts to promote the use of flexible working arrangements and paternity leave to encourage men to participate equally in child-care responsibilities.**

#### **Women domestic workers**

64. The Committee recalls its previous concluding observations (CEDAW/C/CHN/CO/6, para. 41) and notes the response by the State party's delegation that foreign domestic workers in Hong Kong, China, are by and large treated fairly by their employers. However, the Committee remains concerned about consistent reports that foreign women domestic workers continue to experience discrimination on the basis of sex and/or gender and ethnic background. The Committee is further concerned that foreign women domestic workers continue to be subjected to:

- (a) Abuse and unfavourable working conditions, such as lower wages, fewer holidays and longer working hours than what is prescribed by law;
- (b) Abuse by recruitment and placement agencies, which charge exorbitant fees and sometimes confiscate travel documents;
- (c) The two-week rule, which requires them to leave Hong Kong, China, within two weeks upon termination of their contract;
- (d) The live-in rule, which requires them to live with their employers.

**65. The Committee reiterates its previous recommendation (CEDAW/C/CHN/CO/6, para. 42) and urges Hong Kong, China:**

- (a) To strengthen its mechanisms to protect foreign women domestic workers from discrimination and abuse by employers and recruitment and placement agencies;**
- (b) To consider extending the two-week rule to ensure that foreign women domestic workers whose contracts have been terminated have sufficient time to search for other employment or file suit against their former employers;**
- (c) To revise the live-in rule so that it is available on an optional basis;**
- (d) To adopt legislation that fulfils the requirements under the Domestic Workers Convention, 2011 (No. 189) of the International Labour Organization.**

#### **Marriage and family relations**

66. The Committee is concerned that the minimum marriage age in Hong Kong, China, remains at 16, which is in violation of international norms including the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women, read in conjunction with the Committee's general recommendation No. 21 on equality in marriage and family relations, and notes the response of Hong Kong, China, that an amendment is under review to reduce the minimum age of marriage without parental consent from 21 to 18 years in accordance with the recommendation of the Law Reform Commission.

**67. The Committee calls upon Hong Kong, China, to expedite the adoption of a law to raise the minimum marriage age to 18 years.**

#### **Multiple forms of discrimination**

68. The Committee is concerned about reports that lesbian, transsexual and transgender women and girls in Hong Kong, China, are subjected to discrimination and abuse, particularly in the context of employment, education and access to health-care services.

69. **The Committee urges Hong Kong, China, to intensify its efforts to combat discrimination against lesbian, transsexual and transgender women in employment, education and in their access to health-care services.**

## **H. Applicable to all parts of China**

### **Beijing Declaration and Platform for Action**

74. **The Committee calls upon the State party to use the Beijing Declaration and Platform for Action in its efforts to implement the provisions of the Convention.**

### **Millennium Development Goals and the post-2015 development framework**

75. **The Committee calls for the integration of a gender perspective, in accordance with the provisions of the Convention, into all efforts aimed at the achievement of the Millennium Development Goals and into the post-2015 development framework.**

### **Dissemination**

76. **The Committee recalls the obligation of the State party to systematically and continuously implement the provisions of the Convention. It urges the State party to give priority attention to the implementation of the present concluding observations and recommendations between now and the submission of the next periodic report. The Committee therefore requests that the present concluding observations be disseminated in a timely manner, in the official language of the State party, to the relevant State institutions at all levels (local, provincial and national), in particular to the Government, the ministries, the National People's Congress and the judiciary, to enable their full implementation. It encourages the State party to collaborate with all stakeholders concerned, such as employers' associations, trade unions, human rights and women's organizations, universities, research institutions and the media. It recommends that the present concluding observations be disseminated in an appropriate form at the local community level to enable their implementation. In addition, the Committee requests the State party to continue to disseminate the Convention, the Optional Protocol thereto and relevant jurisprudence, in addition to the Committee's general recommendations, to all stakeholders.**

### **Ratification of other treaties**

77. **The Committee notes that the adherence of the State party to the nine major international human rights instruments<sup>1</sup> would enhance the enjoyment**

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

by women of their human rights and fundamental freedoms in all aspects of life. The Committee therefore encourages the State party to consider acceding to the International Covenant on Civil and Political Rights, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Convention for the Protection of All Persons from Enforced Disappearance, to which it is not yet a party.

**Follow-up to concluding observations**

78. The Committee requests the State party to provide, within two years, written information on the steps taken to implement the recommendations contained in paragraphs 15 (a) and (b) and 31 (b), (d) and (e) above.

**Preparation of the next report**

79. The Committee invites the State party to submit its ninth periodic report in November 2018.

80. The Committee requests the State party to follow the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents (HRI/GEN/2/Rev.6, chap. I).

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International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the International Convention for the Protection of All Persons from Enforced Disappearance; and the Convention on the Rights of Persons with Disabilities.