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**Human Rights Council**  
**Working Group on the Universal Periodic Review**  
**Thirty-first session**  
5–16 November 2018

## **Compilation on China**

### **Report of the Office of the United Nations High Commissioner for Human Rights**

#### **I. Background**

1. The present report was prepared pursuant to Human Rights Council resolutions 5/1 and 16/21, taking into consideration the periodicity of the universal periodic review. It is a compilation of information contained in reports of treaty bodies and special procedures and other relevant United Nations documents, presented in a summarized manner owing to word-limit constraints.

#### **II. Scope of international obligations and cooperation with international human rights mechanisms and bodies<sup>1, 2</sup>**

2. In 2015, the Committee against torture encouraged China to accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty. The Committee also called upon China to consider the possibility of ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and making declaration under articles 21 and 22 of the Convention.<sup>3</sup>

3. In 2014, the Committee on Economic, Social and Cultural Rights encouraged China to consider signing and ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. The Committee urged China to consider withdrawing its declaration on article 8, paragraph 1, of the Covenant.<sup>4</sup>

4. In 2014, the Committee on the Elimination of Discrimination against Women urged China to review its interpretive declarations to the Convention with a view to ensuring that they were compatible with its object and purpose. The Committee called upon China to consider ratifying the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and to train legal professionals and law enforcement officers on the Committee's jurisprudence under the Optional Protocol.<sup>5</sup>

5. The Committee on the Elimination of Discrimination against Women encouraged China to consider acceding to 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.<sup>6</sup>



6. In 2013, the Committee on the Rights of the Child recommended that China immediately withdraw its reservation to article 6 of the Convention in order to promote and safeguard the inherent right to life of every child. The Committee recommended that China ratify the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. It also urged China to consider ratifying the International Labour Organization Domestic Workers Convention, 2011 (No. 189).<sup>7</sup>

7. The United Nations Educational, Scientific and Cultural Organization (UNESCO) recommended that China ratify the Convention against Discrimination in Education.<sup>8</sup>

8. In his opening statement to the thirty-eighth session of the Human Rights Council, the High Commissioner for Human Rights expressed his dismay at the continuing efforts made by China to prevent independent members of civil society from engaging with human rights mechanisms. He encouraged the authorities to enable all actors to contribute to all the international human rights mechanisms and to cooperate with them in a spirit of open and mutual partnership in order to improve respect for the rights and freedoms of the people of China.

9. The Special Rapporteur on extreme poverty and human rights urged China to consider issuing a standing invitation to and engaging with special procedure mandate holders dealing with the full range of human rights. He drew attention to the fact that both during and after his mission to China, certain individuals with whom he had met or had been supposed to meet had been subjected to what appeared to be acts of intimidation and reprisal.<sup>9</sup> The Committee against Torture encouraged China to invite the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment for a follow-up visit to the one he had conducted in November and December 2005.<sup>10</sup>

10. China contributed financially to the Office of the United Nations High Commissioner for Human Rights in 2017.<sup>11</sup>

### **III. National human rights framework<sup>12</sup>**

11. The Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child expressed concern that China had not yet established an independent national human rights institution with a wide mandate to protect and promote women's rights, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).<sup>13</sup> The Committee on Economic, Social and Cultural Rights recommended that China establish an independent national human rights institution with a broad mandate to promote and protect human rights, including economic, social and cultural rights, and provide it with adequate financial and human resources.<sup>14</sup>

## **IV. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

### **A. Cross-cutting issues**

#### **1. Equality and non-discrimination<sup>15</sup>**

12. The Committee on Economic, Social and Cultural Rights regretted that China did not have a comprehensive anti-discrimination law that protected all marginalized and disadvantaged individuals and groups in their enjoyment of economic, social and cultural rights.<sup>16</sup> While noting that government anti-poverty or human rights policy documents or the national human rights action plan made no reference to lesbian, gay, bisexual, transgender and intersex persons, the Special Rapporteur on extreme poverty urged the Government to create a government department or ministry responsible for their rights, which should immediately undertake a study on poverty in this group.<sup>17</sup>

13. The Committee on the Elimination of Discrimination against Women remained concerned about the persistence of deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and in society, which had been reflected in the tradition of son preference. Sex-selective abortion and other illegal practices such as forced abortion and sterilization and the infanticide of girls had resulted in an adverse sex ratio. The Committee urged China to intensify the implementation of existing legal measures to address sex-selective abortions, forced abortions and sterilizations and the infanticide of girls.<sup>18</sup> The Committee on the Rights of the Child raised similar concerns.<sup>19</sup>

## **2. Development, the environment, and business and human rights<sup>20</sup>**

14. The Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights noted that although development projects supported by Chinese financial institutions had brought benefits, some had nonetheless had adverse environmental, social and human rights impact on certain individuals and communities. While there had been significant progress in addressing environmental and social impact, a comprehensive framework for ensuring explicitly respect and protection for human rights in international lending and outbound investment was still lacking.<sup>21</sup>

15. The Special Rapporteur on extreme poverty emphasized that the Chinese top-down focus on urbanization through relocation had been successful in some respects. The Government had developed infrastructure, industrial parks and commercial and residential buildings on a massive scale in a short span of time. However, millions of rural farmers had been rendered landless in the urbanization process. The urbanization drive had been underpinned by the expropriation of rural land and its conversion into urban construction land.<sup>22</sup>

16. The Committee on Economic, Social and Cultural Rights remained concerned about the adverse environmental effects of industrial pollution and food contamination, and their negative impact on the enjoyment of the right to an adequate standard of living and health. It expressed concern that the implementation and monitoring of those measures remained inadequate and administrative authorities and private companies were not held accountable for contravening environmental legislation.<sup>23</sup>

17. The Committee on the Rights of the Child was deeply concerned about the incidence and prevalence of lead poisoning of children in mainland China, which had resulted in permanent mental and physical disabilities among hundreds of thousands of children, especially in poor and rural areas. It was particularly concerned about the lack of remedial solutions for the affected children and their families, reports of threats against individuals seeking treatment and information and of refusals to provide appropriate treatment for the affected children.<sup>24</sup>

18. The Committee on Economic, Social and Cultural Rights recommended that China establish a clear regulatory framework for companies operating in China to ensure that their activities promoted and did not negatively affect the enjoyment of economic, social and cultural human rights.<sup>25</sup>

## **3. Human rights and counter-terrorism<sup>26</sup>**

19. The Committee against Torture recommended that China take the necessary legislative or other measures to adopt a more precise definition of terrorist acts and acts endangering national security, and ensure that all counter-terrorism and national security legislation, policies and practices were in full compliance with the Convention.<sup>27</sup> On 6 June 2018, six special procedure mandate holders condemned a five-year jail sentence handed to Tashi Wangchuk by a Chinese court, while stressing that Governments should, under no circumstances, undermine or repress legitimate human rights advocacy and action, using national security, public order or anti-terrorism discourses.<sup>28</sup>

## **B. Civil and political rights**

### **1. Right to life, liberty and security of person<sup>29</sup>**

20. The Committee against Torture encouraged China to establish a moratorium on executions and commute all existing death sentences. China should adopt the necessary measures to ensure that the death row regime did not amount to cruel, inhuman or degrading treatment or punishment by abstaining from automatically imposing restraints on death row prisoners based on their penalty.<sup>30</sup>

21. The Committee reiterated its previous recommendations calling upon China to consider including a comprehensive definition of torture in its legislation that is in full conformity with the Convention and covers all the elements contained in article 1, including the purpose of discrimination.<sup>31</sup>

22. The Committee called on China to reduce the 37-day maximum period of police custody and ensure, in law and in practice, that detained persons are promptly brought before a judge within a time limit in accordance with international standards.<sup>32</sup>

23. The Committee remained concerned over allegations of death in custody as a result of torture or resulting from lack of prompt medical care and treatment during detention, as was reportedly the case of Cao Shunli and Tenzin Delek Rinpoche.<sup>33</sup>

24. The Committee recommended that China repeal, as a matter of urgency, the provisions of the Criminal Procedure Law that allowed suspects to be held *de facto* incommunicado, at a designated location, while under residential surveillance.<sup>34</sup>

25. On 6 September 2017, a group of United Nations human rights experts called on the Government to immediately release the prominent lawyer and human rights defender Jiang Tianyong, who was on trial for inciting subversion of the power of the State. They expressed concern that Mr. Jiang's "crime" apparently included communications with foreign entities, which potentially included the United Nations human rights mechanisms.<sup>35</sup> On 10 July 2018, the High Commissioner for Human Rights welcomed the release of Liu Xia, the wife of the late Nobel Prize Winner, Liu Xiaobo, expressing his hope that Chinese human rights defenders, their families and lawyers, who had been deprived of their liberty for expressing critical views would be released.<sup>36</sup>

26. The Committee against Torture recommended that China prohibit the use of solitary confinement in prison for an indefinite period of persons with intellectual or psychosocial disabilities, juveniles, pregnant women, women with infants and breastfeeding mothers.<sup>37</sup>

### **2. Administration of justice, including impunity, and the rule of law<sup>38</sup>**

27. The Committee on Economic, Social and Cultural Rights expressed concern about reports of basic gaps in the independence of the judiciary in China, such as the lack of adequate training on human rights, including economic, social and cultural rights, for judges, lawyers and law enforcement officers.<sup>39</sup> The Committee against Torture raised similar concerns.<sup>40</sup>

28. The Committee on the Elimination of Discrimination against Women expressed concern about reports of political interference in the judiciary, which affected the consideration and outcomes of cases, particularly those concerning land disputes involving women in China.<sup>41</sup>

29. The Committee against Torture expressed concern about the failure of China to inform families of the whereabouts of their relatives who had taken part in protests and were still in detention, and of persons who had allegedly been detained for organizing activities or expressing views to memorialize the 1989 Tiananmen Square protests on the occasion of its twenty-fifth anniversary in 2014.<sup>42</sup>

### **3. Fundamental freedoms and the right to participate in public and political life<sup>43</sup>**

30. The Committee on Economic, Social and Cultural Rights urged China to take effective measures to remove restrictions on freedom of expression and information and to

enable all persons under its jurisdiction to take part in cultural life, enjoy the benefits of scientific progress and its applications, and benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which they were the authors.<sup>44</sup>

31. The Committee on the Rights of the Child recommended that China take immediate action to allow journalists, human rights defenders and all non-governmental organizations to monitor, investigate and report human rights violations and exercise their right to freedom of expression and opinion without any kind of threats, harassment or repercussions.<sup>45</sup>

32. UNESCO stated that freedom of expression was impacted by the national monopoly of the telecommunications industry and of Internet companies, including search engines and social media. It also noted that a journalist had been killed on 28 December 2010. The Government had responded to UNESCO requests and the case had been resolved on 6 March 2014. UNESCO recommended that the Government continue its efforts to ensure the safety of journalists and to investigate the cases of journalists who had been killed, and voluntarily report on the status of judicial follow-up.<sup>46</sup>

#### **4. Prohibition of all forms of slavery<sup>47</sup>**

33. The Committee on the Elimination of Discrimination against Women expressed concern about the absence of comprehensive anti-trafficking legislation and the lack of clarity as to whether domestic law criminalized all forms of trafficking, including trafficking for the purpose of sexual exploitation, forced labour, forced marriage and illegal adoption.<sup>48</sup>

34. The Committee on Economic, Social and Cultural Rights urged China to take all necessary measures to ensure implementation of the decision of the National People's Congress on the abolishment of the Re-education through Labour system throughout China and ensure that no alternative or parallel system of forced labour was put in place, particularly at the local level.<sup>49</sup>

#### **5. Right to privacy and family life<sup>50</sup>**

35. The Committee against Torture expressed concern about reports that private and publicly run clinics offered so-called "gay conversion therapy" to change the sexual orientation of lesbian and gay persons, and that such practices included the administration of electric shocks and, sometimes, involuntary confinement in psychiatric and other facilities, which could result in physical and psychological harm.<sup>51</sup>

36. The Committee on the Rights of the Child expressed concern that family household registration (*hukou*), to which birth registration was attached impeded the birth registration of children of migrant workers, recommending that China abandon the *hukou* system in order to ensure birth registration for all children, especially for children of migrant workers.<sup>52</sup>

### **C. Economic, social and cultural rights**

37. While noting China's efforts to combat corruption, the Committee on Economic, Social and Cultural Rights remained concerned about the prevalent and widespread corruption in China, which had a negative impact on the realization of economic, social and cultural rights, particularly at the provincial and municipal levels.<sup>53</sup>

38. In 2017, the Special Rapporteur on extreme poverty highlighted the extent of the crackdown on corruption undertaken by President Xi Jinping, which illustrated the extent, to which Party and government officials had engaged in corrupt conduct that was very often prejudicial to the rights of individuals. He recommended that China establish effective accountability mechanisms.<sup>54</sup>

**1. Right to work and to just and favourable conditions of work**

39. The Committee on the Elimination of Discrimination against Women remained concerned about the persisting and widening gender pay gap, which is attributable in part to the lack of legislation on the principle of equal pay for work of equal value; the continued horizontal and vertical occupational segregation between women and men in the labour market and the concentration of women in low-paid sectors of employment; and the different ages of retirement for men and women, at 60 and 50 years of age respectively.<sup>55</sup>

40. The Committee on Economic, Social and Cultural Rights expressed concern about inadequate and unsafe working conditions, including instances of injury and death, the non-signature of labour contracts and insufficient medical and accident insurance, particularly in the private and informal sectors.<sup>56</sup>

**2. Right to social security<sup>57</sup>**

41. While welcoming the efforts of China to grant universal access to social security, including basic old-age pensions, basic medical care and the minimum living standard scheme (*di bao*), the Committee on Economic, Social and Cultural Rights expressed concern about the significant persistence of disparities between the urban and rural populations and among rural-to-urban migrant workers, in relation to access to and the quality and amount of benefits.<sup>58</sup>

**3. Right to an adequate standard of living<sup>59</sup>**

42. The Committee on Economic, Social and Cultural Rights was deeply concerned that, reportedly owing to the *hukou* system, an estimated number of 55 to 60 million children had been left behind by their parents in rural areas. It called upon China to strengthen its efforts to abolish the *hukou* system and ensure that all rural-to-urban migrants were able to enjoy the work opportunities and social security, housing, health and education benefits enjoyed by residents in urban areas.<sup>60</sup> The Special Rapporteur on extreme poverty also noted the report that under the *hukou* system, the 200 million migrant workers from the countryside who constituted up to 30 per cent of the population of some large cities had been described as a “subordinate caste”, who were treated unequally in their access to services, such as education, health care and social security.<sup>61</sup>

43. The Committee on Economic, Social and Cultural Rights expressed concern about the situation of food insecurity in some of the poor rural areas, particularly in the western mountainous areas, and about the persistence of child malnutrition, mainly in rural areas and in the Tibet Autonomous Region.<sup>62</sup>

44. The Committee on the Elimination of Discrimination against Women welcomed the remarkable improvement in the maternal mortality rate in China and its efforts to curb the problems of fetal sex identification for non-medical purposes, sex-selective abortion and forced abortions and sterilizations, which had resulted in the unbalanced sex ratio. The Committee remained concerned that those illegal practices persisted in China and that female infanticide, particularly of girls with disabilities, had not been completely eradicated.<sup>63</sup> The Committee on the Rights of the Child also welcomed the significant reduction in maternal and child mortality.<sup>64</sup>

45. The Committee on the Rights of the Child was deeply concerned about the unsafe vaccinations and blood transfusions that had affected thousands of children across mainland China, causing HIV infection, serious illness or disability and deaths.<sup>65</sup>

**4. Right to education<sup>66</sup>**

46. UNESCO stated that access to quality education remained a challenge for disadvantaged children in poor and remote rural areas and among ethnic minority groups and children of migrants.<sup>67</sup>

47. While the Committee on the Rights of the Child was concerned about the increasing disparities in access to and availability of education for children living in rural areas, especially for children from ethnic minorities, asylum-seeking and refugee children,

children whose mothers were from a neighbouring country and children of migrant workers.<sup>68</sup>

48. The Committee on the Elimination of Discrimination against Women was also concerned about the limited access to education for women and girls with intellectual disabilities and ethnic and religious minority women and girls, such as Tibetans and Uighurs, as well as about the limited access to education and the high school dropout rate of girls whose parents had migrated to urban areas.<sup>69</sup>

## **D. Rights of specific persons or groups**

### **1. Women<sup>70</sup>**

49. The Committee on the Elimination of Discrimination against Women expressed concern about the continued increase in the number of women in detention facilities, urging China to take measures to reduce the number of women in detention, including through targeted prevention programmes aimed at addressing the causes of women's criminality.<sup>71</sup>

50. The Committee on the Elimination of Discrimination against Women urged China to ensure that the draft law against domestic violence provided for the use of protection orders and the availability of sufficient and adequately equipped shelters for women who were victims of violence and to effectively investigate complaints, prosecute acts of violence against women and adequately punish the perpetrators.<sup>72</sup>

### **2. Children<sup>73</sup>**

51. The Committee on the Rights of the Child was deeply disturbed by an alarming escalation of incidents of self-immolation by Tibetan children and the failure to prevent such loss of life by addressing the deep underlying causes and long-standing grievances of Tibetans. It was further concerned about reports of detention and imprisonment of Tibetan children accused of "inciting" self-immolation, and of harassment and intimidation of families of victims, which could exacerbate the situation and lead to more self-immolation.<sup>74</sup>

52. The Committee expressed concern that thousands of children were estimated to be abducted, trafficked and sold every year, including for illegal adoption purposes. It was particularly concerned about reports that some family planning officials had coerced parents to give up children born in excess of the parents' birth quota and sell them or transfer them into the care of local orphanages for domestic or international adoption or forced labour.<sup>75</sup> It was also concerned about the high prevalence of sexual exploitation and abuse of children, including rape, in all areas of Chinese jurisdiction.<sup>76</sup>

53. The Committee was concerned about the widespread involvement of children in hazardous work and the worst forms of child labour, especially in the mining, manufacturing and brick industries, and the inadequate protection of children aged 16–18 from hazardous work.<sup>77</sup>

54. The Committee recommended that China explicitly prohibit by law corporal punishment in the family, schools, institutions and all other settings, including penal institutions.<sup>78</sup>

55. The Committee regretted that the Law on National Defence did not explicitly criminalize the recruitment into the armed forces of children up to 18 years, recommending that China consider amending the Law to criminalize the recruitment and involvement of children under the age of 18 in the armed forces. It recommended that China explicitly prohibit the deployment of children under 18 years to areas where they might be at risk of indirect or direct participation in hostilities.<sup>79</sup>

56. The Committee was deeply disturbed by frequent reports indicating that Tibetan and Uighur children and children of Falun Gong practitioners seeking to exercise their right to freedom of religion and conscience had been arrested, detained and subjected to ill-treatment and torture and that Tibetan children's ability and freedom to study and practice

their religion was restricted by measures such as those imposed on Tibetan monasteries and nunneries placing them under close control and surveillance.<sup>80</sup>

### **3. Persons with disabilities<sup>81</sup>**

57. The Committee on Economic, Social and Cultural Rights urged China to enhance its efforts to promote the integration of persons with disabilities, especially into the labour market, including by strengthening the effectiveness of the system of job quotas and establishing an efficient enforcement procedure and remedies.<sup>82</sup>

58. The Committee on the Rights of the Child noted with concern that China continued to adopt a medical approach to disability and that the services for children with disabilities were centred mostly on institutions for physical “rehabilitation”.<sup>83</sup>

### **4. Minorities and indigenous peoples<sup>84</sup>**

59. The Committee against Torture stated that it had received numerous reports from credible sources that documented in detail cases of torture, deaths in custody, arbitrary detention and disappearances of Tibetans. Allegations had also been received about acts directed against Uighurs and Mongolians.<sup>85</sup>

60. The Committee on the Elimination of Discrimination against Women expressed concern about reports that ethnic and religious minority women, such as Tibetans and Uighurs, and women with disabilities continued to experience multiple and intersecting forms of discrimination. It was particularly concerned that ethnic and religious minority women continued to have limited access to health care, education and employment.<sup>86</sup>

61. The Committee on Economic, Social and Cultural Rights remained concerned about reports of the high rate of unemployment among persons belonging to ethnic minorities, especially Tibetans, Uighurs and Inner Mongolians, in part due to Han Chinese migration into minority areas.<sup>87</sup>

62. The Committee was also concerned about the resettlement of nomadic herdsmen in the “new socialist villages” carried out in China without proper consultation and in most cases without free, prior and informed consent, particularly in the western provinces and autonomous regions.<sup>88</sup>

63. The Committee expressed concern that ethnic minorities continued to face severe restrictions in the realization of their right to take part in cultural life, including the right to use and teach minority languages, history and culture, and to practise their religion freely.<sup>89</sup>

### **5. Migrants, refugees, asylum seekers and internally displaced persons<sup>90</sup>**

64. The Committee on the Rights of the Child urged China to strengthen efforts to protect the children of migrant workers from sexual exploitation and abuse, ensure that legislation relating to sexual abuse and exploitation was effectively enforced and that perpetrators of such crimes were brought to justice with sanctions proportionate to their crimes.<sup>91</sup>

65. The Office of the United Nations High Commissioner for Refugees (UNHCR) noted that in 2016, there were 668 asylum seekers and 162 recognized refugees awaiting a durable solution. Despite possession of certificates confirming their registration and status with UNHCR, urban asylum seekers and refugees continued to face the risk of arrest and detention in China for violation of immigration offences if they entered the country unlawfully or overstayed their visas.<sup>92</sup>

66. The Committee on the Rights of the Child expressed concern that children entering mainland China from a neighbouring country were still considered as economic migrants and returned to their country of origin without consideration of whether there were risks of irreparable harm to the children upon return. It also expressed concern that China had failed to recognize the Kachin asylum seekers, including children, as refugees, despite their circumstances, and had forcibly returned them.<sup>93</sup> The Committee against Torture raised similar concerns.<sup>94</sup> UNHCR recommended that China take all measures to ensure viable and effective humanitarian space for those asylum seekers from a neighbouring country



who might be in need of international protection, including issuing them with identification and documentation to allow them to legally reside in China.<sup>95</sup>

## 6. Stateless persons<sup>96</sup>

67. The Committee on the Rights of the Child recommended that China simplify, streamline and facilitate the process of birth registration by removing all financial and administrative barriers associated with the process and improving services, including availability and access to birth registry services for parents and guardians, and intensify community sensitization and public awareness of the importance of birth registration, including among government agencies and in rural areas.<sup>97</sup>

## E. Specific regions or territories<sup>98</sup>

68. In 2014, the Committee on the Elimination of Discrimination against Women urged China to consider withdrawing its reservations to article 11 (2) applicable to Hong Kong, China.<sup>99</sup> The Committee on the Rights of the Child and the Committee against Torture recommended that Hong Kong, China, accede to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol.<sup>100</sup>

69. The Committee on Economic, Social and Cultural Rights noted with concern the absence of comprehensive anti-discrimination legislation and regretted that the Race Discrimination Ordinance did not include discrimination on the grounds of nationality, citizenship, resident status or the length of residence in Hong Kong, China.<sup>101</sup>

70. The Committee against Torture noted with concern that, according to the data provided by Hong Kong, China, from December 2009 to May 2015, only 32 non-refoulement claims out of 6,628 were considered substantiated, which was indicative of a distinctly high threshold for granting protection. It called on Hong Kong, China, to review the screening procedure for non-refoulement claims in order to ensure that persons in need of international protection, including those fleeing indiscriminate violence, were fully protected against refoulement.<sup>102</sup>

71. The Committee reiterated its previous recommendations that Hong Kong, China, amend its legislation to include a definition of torture in full conformity with the Convention against Torture covering all the elements contained in article 1. Hong Kong, China, should consider adopting a more inclusive definition of the term “public official” in order to ensure that all public officials or any other person acting in an official capacity could be prosecuted for acts of torture.<sup>103</sup>

72. The Committee remained concerned at the lack of an independent and effective mechanism for lodging complaints without fear of reprisals within the detention facilities under the police department, the immigration department or the correctional services department.<sup>104</sup>

73. The Committee was concerned at consistent reports of excessive use of tear gas, batons and sprays against protesters during the 79-day protest of the so-called “umbrella” or “occupy” movement in 2014, reports that the police had resorted to violence against more than 1,300 people and that around 500 individuals had subsequently been admitted to hospital. It recommended Hong Kong, China, to conduct an independent investigation into the allegations of excessive use of force by the police and anti-demonstrators during the protest in 2014.<sup>105</sup>

74. The Committee recommended that Hong Kong, China, prohibit the use of solitary confinement in prison for persons with intellectual or psychosocial disabilities, juveniles, pregnant women, women with infants and breast feeding mothers.<sup>106</sup>

75. The Committee on the Rights of the Child recommended that Hong Kong, China, raise the minimum age of criminal responsibility to an internationally acceptable level.<sup>107</sup>

76. The Committee on the Elimination of Discrimination against Women called upon Hong Kong, China, to expedite the adoption of a law to raise the minimum age for marriage to 18 years.<sup>108</sup>

77. The Committee noted the introduction of paternity leave in Hong Kong, China, but remained concerned that maternity leave was limited to 10 weeks, which did not comply with the international standards established by the International Labour Organization.<sup>109</sup>

78. The Committee expressed concern that the Women's Commission mandated to promote the advancement of women in Hong Kong, China, had a weak mandate and lacked the resources necessary to undertake gender mainstreaming and other activities.<sup>110</sup>

79. The Committee urged Hong Kong, China, 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.<sup>111</sup>

80. The Committee was concerned that foreign women domestic workers continued to be subjected to abuse and unfavourable working conditions, such as lower wages, fewer holidays and longer working hours than prescribed by law, and that they were abused by recruitment and placement agencies, which charged exorbitant fees and sometimes confiscated travel documents. It was also concerned about the two-week rule, which required them to leave Hong Kong, China, within two weeks of their contracts being terminated, and the live-in rule, which required them to live with their employers.<sup>112</sup>

81. UNHCR noted that the Convention relating to the Status of Refugees did not apply to Hong Kong, China, which did not have a legal framework governing the granting of asylum nor admitted any legal obligations towards the protection of refugees on its territories. As such, persons under the UNHCR mandate were subject to domestic immigration laws, and were generally not entitled to legal residency or the right to work. UNHCR recommended that the Government of Hong Kong, China, consider amending immigration laws and/or existing policies to enable mandated refugees access to gainful employment and tertiary/vocational education opportunities while awaiting durable solutions to their situation.<sup>113</sup>

82. The Committee on the Rights of the Child was deeply concerned that asylum-seeking and refugee children, especially those who might have been recruited or used in hostilities abroad, continued to be routinely arrested and detained in detention facilities, especially in Hong Kong, China.<sup>114</sup>

83. The Committee on Economic, Social and Cultural Rights recommended that Hong Kong, China, adopt legislation on asylum seekers and refugees in order to improve their enjoyment of economic, social and cultural rights, granting them access to legal employment, including vocational training and adequate housing.<sup>115</sup>

84. The Committee on the Elimination of Discrimination against Women was concerned that Macao, China, had not established a human rights institution in accordance with the Paris Principles and urged it to consider the establishment of an independent human rights institution with a broad mandate to promote and protect human rights, including women's rights, in accordance with the Paris Principles.<sup>116</sup> The Committee on Economic, Social and Cultural Rights and the Committee against Torture raised similar concerns.<sup>117</sup>

85. The Committee on Economic, Social and Cultural Rights noted with concern that Macao, China, had not yet adopted comprehensive anti-discrimination legislation and that widespread discrimination against migrants and lesbian, gay, bisexual and transgender persons persisted in Macao, China, particularly in employment, health care, education and housing. It also noted with concern that de facto discrimination against persons with disabilities persisted, particularly in the field of employment.<sup>118</sup>

86. The Committee against Torture recommended that Macao, China, include a definition of torture in the Criminal Code that was in full conformity with the Convention and covered all the elements contained in article 1. Those amendments should ensure that all public officials or any other person acting in an official capacity could be prosecuted for acts of torture. The Committee also recommended that the crime of torture constitute a single offence subject to the relevant aggravating circumstances.<sup>119</sup>

87. The Committee against Torture was concerned at the very low number of prosecutions and convictions of offenders of trafficking and at the few cases of forced labour registered, in spite of the large number of complaints. It also regretted the lack of a specific programme to address the problem of child sex tourism, despite the fact that more than half the victims identified during the period under review were under 18 years of age.<sup>120</sup>

88. The Committee on Economic, Social and Cultural Rights urged Macao, China, to introduce into its legislation an offence of sexual harassment in the workplace, which would carry sanctions proportionate to the severity of the offence.<sup>121</sup> The Committee on the Rights of the Child was concerned that child sex tourism remained a serious problem in Macao, China, and that the alleged complicity of government officials in offences related to trafficking and sexual exploitation had led to impunity for such crimes.<sup>122</sup>

89. The Committee on Economic, Social and Cultural Rights was concerned about the prevalence of domestic violence in Macao, China, and regretted that domestic violence had not yet been recognized as a public offence.<sup>123</sup> The Committee against Torture recommended that Macao, China, ensure that victims of domestic violence benefited from effective protection and had access to sufficient and adequately funded shelters, medical and legal aid, psychosocial counselling and social support schemes.<sup>124</sup>

90. The Committee on the Rights of the Child urged Macao, China, to prohibit and abolish the use of solitary confinement to punish children and immediately remove all children from solitary confinement.<sup>125</sup> The Committee against Torture also recommended that Macao, China, prohibit the use of solitary confinement for persons with intellectual or psychosocial disabilities, pregnant women, women with infants and breastfeeding mothers.<sup>126</sup>

91. The Committee on Economic, Social and Cultural Rights was concerned that free primary education was not provided to children of migrants in Macao, China. It also expressed concern that children with disabilities experienced de facto discrimination and had limited access to inclusive education and to teachers trained specially to educate children with disabilities.<sup>127</sup>

92. UNHCR noted that the Convention relating to the Status of Refugees and its 1967 Protocol were formally extended to Macao, China, in 2001. The legal framework on the recognition and loss of refugee status came into force in January 2004, transposing into domestic law the procedures governing the assessment of asylum claims in cooperation with UNHCR, which had access to all asylum seekers and to the determination process at all stages. The number of asylum claims was relatively small, with five persons in three cases pending determination as of 30 November 2017.<sup>128</sup>

## Notes

<sup>1</sup> Tables containing information on the scope of international obligations and cooperation with international human rights mechanisms and bodies for China will be available at [www.ohchr.org/EN/Countries/AsiaRegion/Pages/CNIndex.aspx](http://www.ohchr.org/EN/Countries/AsiaRegion/Pages/CNIndex.aspx).

<sup>2</sup> For the relevant recommendations, see A/HRC/25/5, paras. 186.1–186.32, 186.60–186.61 and 186.63–186.73.

<sup>3</sup> See CAT/C/CHN/CO/5, paras. 29, 50 and 62.

<sup>4</sup> See E/C.12/CHN/CO/2, paras. 23 and 62.

<sup>5</sup> See CEDAW/C/CHN/CO/7-8, paras. 9 and 11.

<sup>6</sup> *Ibid.*, para. 77.

<sup>7</sup> See CRC/C/CHN/CO/3-4, paras. 7, 86 and 98.

<sup>8</sup> UNESCO submission for the universal periodic review of China, p. 6.

<sup>9</sup> See A/HRC/35/26/Add.2, paras. 5 and 6 (g).

<sup>10</sup> See CAT/C/CHN/CO/5, para. 63.

<sup>11</sup> OHCHR, “Funding” in *OHCHR Report 2017*, p. 125.

<sup>12</sup> For the relevant recommendations, see A/HRC/25/5, paras. 186.45–186.146, 186.50, 186.52–186.54 and 186.198.

<sup>13</sup> See CEDAW/C/CHN/CO/7-8, para. 16, CRC/C/OPAC/CHN/CO/1, para. 8.

<sup>14</sup> See E/C.12/CHN/CO/2, para. 8.

- <sup>15</sup> For the relevant recommendations, see A/HRC/25/5, paras. 186.74–186.76, 186.84–186.85 and 186.89–186.90.
- <sup>16</sup> See E/C.12/CHN/CO/2, para. 14.
- <sup>17</sup> See A/HRC/35/26/Add.2, para. 39.
- <sup>18</sup> See CEDAW/C/CHN/CO/7-8, paras. 24–25.
- <sup>19</sup> See CRC/C/CHN/CO/3-4, para. 27.
- <sup>20</sup> For the relevant recommendations, see A/HRC/25/5, paras. 186.148–186.149 and 186.248–186.252.
- <sup>21</sup> See A/HRC/31/60/Add.1, para. 87.
- <sup>22</sup> See A/HRC/35/26/Add.2, para. 47.
- <sup>23</sup> See E/C.12/CHN/CO/2, para. 32.
- <sup>24</sup> See CRC/C/CHN/CO/3-4, para. 23.
- <sup>25</sup> See E/C.12/CHN/CO/2, para. 13.
- <sup>26</sup> For relevant recommendations, see A/HRC/25/5, paras. 186.239–186.240.
- <sup>27</sup> See CAT/C/CHN/CO/5, para. 37.
- <sup>28</sup> See [www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23176&LangID=E](http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=23176&LangID=E)
- <sup>29</sup> For relevant recommendations see A/HRC/25/5, paras. 186.49, 186.51, 186.55–186.56, 186.62, 186.107–186.123, 186.128, 186.146 and 186.149.
- <sup>30</sup> See CAT/C/CHN/CO/5, para. 50.
- <sup>31</sup> See CAT/C/CHN/CO/5, paras. 9, 32 and 33. See also A/55/44, para. 123.
- <sup>32</sup> See CAT/C/CHN/CO/5, para. 11.
- <sup>33</sup> See CAT/C/CHN/CO/5, para. 24.
- <sup>34</sup> See CAT/C/CHN/CO/5, para. 15.
- <sup>35</sup> See [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22028](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22028).
- <sup>36</sup> See [www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23353&LangID=E](http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23353&LangID=E).
- <sup>37</sup> See CAT/C/CHN/CO/5, para. 27.
- <sup>38</sup> For relevant recommendations, see A/HRC/25/5, paras. 186.124–186.126 and 186.129–186.133.
- <sup>39</sup> See E/C.12/CHN/CO/2, para. 10.
- <sup>40</sup> See CAT/C/CHN/CO/5, para. 22.
- <sup>41</sup> See CEDAW/C/CHN/CO/7-8, para. 14.
- <sup>42</sup> See CAT/C/CHN/CO/5, para. 53.
- <sup>43</sup> For relevant recommendations, see A/HRC/25/5/Add. 1, paras. 186.136–186.147, 186.150–186.167, 186.169–186.170 and 186.172–186.173.
- <sup>44</sup> See E/C.12/CHN/CO/2, para. 37.
- <sup>45</sup> See CRC/C/CHN/CO/3-4, para. 22.
- <sup>46</sup> See UNESCO submission, paras. 9–10 and 18.
- <sup>47</sup> For relevant recommendations, see A/HRC/25/5, paras. 186.96–186.98.
- <sup>48</sup> See CEDAW/C/CHN/CO/7-8, para. 28.
- <sup>49</sup> See E/C.12/CHN/CO/2, para. 22.
- <sup>50</sup> For relevant recommendations, see A/HRC/25/5, paras. 186.135.
- <sup>51</sup> See CAT/C/CHN/CO/5, para. 55.
- <sup>52</sup> See CRC/C/CHN/CO/3-4, paras. 39–40.
- <sup>53</sup> See E/C.12/CHN/CO/2, para. 11.
- <sup>54</sup> See A/HRC/35/26/Add.2, para. 67.
- <sup>55</sup> See CEDAW/C/CHN/CO/7-8, para. 36.
- <sup>56</sup> See E/C.12/CHN/CO/2, para. 20.
- <sup>57</sup> For relevant recommendations, see A/HRC/25/5, paras. 186.180, 186.181, 186.182, 186.186, 186.187.
- <sup>58</sup> See E/C.12/CHN/CO/2, para. 24.
- <sup>59</sup> For relevant recommendations see A/HRC/25/5, paras. 186.188, 186.189, 186.190, 186.191, 186.192, 186.195.
- <sup>60</sup> See E/C.12/CHN/CO/2, para. 15.
- <sup>61</sup> See A/HRC/35/26/Add.2, para. 27.
- <sup>62</sup> See E/C.12/CHN/CO/2, para. 29.
- <sup>63</sup> See CEDAW/C/CHN/CO/7-8, para. 38.
- <sup>64</sup> See CRC/C/CHN/CO/3-4, para. 62.
- <sup>65</sup> *Ibid.*, para. 64.
- <sup>66</sup> For relevant recommendations see A/HRC/25/5, paras. 186.39–186.46, 186.48, 186.205 and 186.206–186.218.
- <sup>67</sup> See UNESCO submission, para. 15.
- <sup>68</sup> See CRC/C/CHN/CO/3-4, para. 75.
- <sup>69</sup> CEDAW/C/CHN/CO/7-8, para. 34.
- <sup>70</sup> For relevant recommendations see A/HRC/25/5/, paras. 186.91–186.95, 186.99 and 186.171.
- <sup>71</sup> CEDAW/C/CHN/CO/7-8, paras. 48–49.

- <sup>72</sup> CEDAW/C/CHN/CO/7-8, para. 27.
- <sup>73</sup> For relevant recommendations see A/HRC/25/5, paras. 186.77–186.83, 186.87, 186.101, 186.104 and 186.134.
- <sup>74</sup> CRC/C/CHN/CO/3-4, para. 35.
- <sup>75</sup> *Ibid.*, para. 56.
- <sup>76</sup> *Ibid.*, para. 45.
- <sup>77</sup> *Ibid.*, para. 85.
- <sup>78</sup> *Ibid.*, para. 7.
- <sup>79</sup> See CRC/C/OPAC/CHN/CO/1, paras. 6–7 and 17.
- <sup>80</sup> See CRC/C/CHN/CO/3-4, paras. 41–42.
- <sup>81</sup> For relevant recommendations, see A/HRC/25/5 paras. 186.100, 186.102–186.103 and 186.105–186.106.
- <sup>82</sup> See E/C.12/CHN/CO/2, para. 18.
- <sup>83</sup> CRC/C/CHN/CO/3-4, para. 58.
- <sup>84</sup> For relevant recommendations, see A/HRC/25/5, paras. 186.196–186.197, 186.219–186.226 and 186.228–186.238.
- <sup>85</sup> See CAT/C/CHN/CO/5, para. 40.
- <sup>86</sup> See CEDAW/C/CHN/CO/7-8, para. 46.
- <sup>87</sup> See E/C.12/CHN/CO/2, para. 17.
- <sup>88</sup> See E/C.12/CHN/CO/2, para. 31.
- <sup>89</sup> See E/C.12/CHN/CO/2, para. 36.
- <sup>90</sup> For relevant recommendations, see A/HRC/25/5, paras. 186.241–186.243.
- <sup>91</sup> See CRC/C/CHN/CO/3-4, para. 46.
- <sup>92</sup> UNHCR submission for the universal periodic review of China, pp. 1 and 3.
- <sup>93</sup> See CRC/C/CHN/CO/3-4, para. 81.
- <sup>94</sup> See CAT/C/CHN/CO/5, para. 46.
- <sup>95</sup> UNHCR submission, p. 4.
- <sup>96</sup> For the relevant recommendation, see A/HRC/25/5, para. 186.86.
- <sup>97</sup> See CRC/C/CHN/CO/3-4, para. 40.
- <sup>98</sup> For relevant recommendations, see A/HRC/25/5, paras. 186.33–186.38, 186.58–186.59, 186.200 and 186.202–186.204.
- <sup>99</sup> See CEDAW/C/CHN/CO/7-8, para. 9.
- <sup>100</sup> See CRC/C/CHN/CO/3-4, para. 84, and CAT/C/CHN-HKG/CO/5, para. 7.
- <sup>101</sup> See E/C.12/CHN/CO/2, para. 41.
- <sup>102</sup> See CAT/C/CHN-HKG/CO/5, paras. 6–7.
- <sup>103</sup> *Ibid.*, para. 11.
- <sup>104</sup> *Ibid.*, para. 8.
- <sup>105</sup> *Ibid.*, paras. 14–15.
- <sup>106</sup> *Ibid.*, para. 19.
- <sup>107</sup> See CRC/C/CHN/CO/3-4, para. 94 (a).
- <sup>108</sup> See CEDAW/C/CHN/CO/7-8, para. 67.
- <sup>109</sup> *Ibid.*, paras. 62.
- <sup>110</sup> *Ibid.*, para. 50.
- <sup>111</sup> *Ibid.*, para. 55.
- <sup>112</sup> *Ibid.*, para. 64.
- <sup>113</sup> UNHCR submission, pp. 2 and 5.
- <sup>114</sup> See CRC/C/OPAC/CHN/CO/1, para. 31.
- <sup>115</sup> See E/C.12/CHN/CO/2, para. 42.
- <sup>116</sup> See CEDAW/C/CHN/CO/7-8, paras. 70–71.
- <sup>117</sup> See E/C.12/CHN/CO/2, para. 53, and CAT/C/CHN-MAC/CO/5, para. 19.
- <sup>118</sup> See E/C.12/CHN/CO/2, para. 54.
- <sup>119</sup> See CAT/C/CHN-MAC/CO/5, para. 15.
- <sup>120</sup> See CAT/C/CHN-MAC/CO/5, para. 12.
- <sup>121</sup> See E/C.12/CHN/CO/2, para. 55.
- <sup>122</sup> See CRC/C/CHN/CO/3-4, para. 87.
- <sup>123</sup> See E/C.12/CHN/CO/2, para. 58.
- <sup>124</sup> See CAT/C/CHN-MAC/CO/5, para. 25.
- <sup>125</sup> See CRC/C/CHN/CO/3-4, para. 95.
- <sup>126</sup> See CAT/C/CHN-MAC/CO/5, para. 11.
- <sup>127</sup> See E/C.12/CHN/CO/2, para. 60.
- <sup>128</sup> UNHCR submission, p. 2.