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COMMITTEE ON ECONOMIC, SOCIAL
AND CULTURAL RIGHTS
Thirty-fourth session
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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLES 16 AND 17 OF THE COVENANT

Concluding Observations of the Committee on
Economic, Social and Cultural Rights
People's Republic of China (including Hong Kong and Macao)

1. The Committee on Economic, Social and Cultural Rights considered the initial report of the People's Republic of China (including Hong Kong and Macao) on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/5/Add.59) at its 6th to 10th meetings, held on 27, 28 and 29 April 2005 (E/C.12/2005/SR.6-10), and adopted, at its 27th meeting held on 13 May 2005, the following concluding observations.

A. INTRODUCTION

2. The Committee welcomes the submission of the initial report of the State party, which was submitted on time and prepared in general conformity with the Committee's guidelines. The Committee also notes with appreciation the comprehensive written replies to its List of Issues.

3. The Committee welcomes the constructive dialogue with the delegation of the State party, which included representatives of Hong Kong Special Administrative Region (HKSAR) and Macao Special Administrative Region (MSAR). The Committee appreciates that the delegation was composed of experts in the different areas covered by the Covenant.

Part One: CHINA

B. Positive Aspects

4. The Committee welcomes the promulgation by the State Council of Rules on Supervision of Labour Security and its amended Regulations on Collective Contracts and Regulations on Minimum Wages.
5. The Committee welcomes the increase in 2004 of basic retirement benefits for retirees of state-owned enterprises throughout the country.
6. The Committee welcomes the establishment of a new social security system based on contributions from employers and employees and of a new pension system in which employers and employees contribute to a communal pension fund and to individual pension accounts.
7. The Committee welcomes the adoption of the China Rural Communities Poverty Relief Programme (2001-2010).
8. The Committee welcomes the State Council's Directive No. 1/2004 to safeguard farmers' rights and interests and Directive No. 1/2005 waiving taxes on animal husbandry for all regions and agricultural tax for 592 counties listed as priority counties for poverty alleviation.
9. The Committee notes with appreciation the measures adopted by the State party for the prevention and treatment of HIV/AIDS, including the establishment of the National Committee on HIV/AIDS as part of the Directive on Effective Strengthening of the Prevention and Treatment of AIDS.
10. The Committee welcomes the adoption of the Framework for Education Development into 2020, a strategic plan for the reform and development of the education sector in the State party.

C. Factors and Difficulties Impeding the Implementation of the Covenant

11. The Committee, while recognising the sizeable population in the vast expanse of the territory of the State party, notes that there are no significant factors and difficulties impeding its capacity to effectively implement the Covenant.

D. Principal Subjects of Concern

12. The Committee regrets that the State party's report was not disseminated prior to submission and therefore did not go through a public consultation process.
13. The Committee regrets that the lack of comparative statistical data in the field of economic, social and cultural rights within the State party has not allowed a clear evaluation of the degree of the actual implementation of many of the rights enshrined in the Covenant.
14. The Committee is concerned that non-citizens including asylum seekers, refugees and stateless persons, are excluded from the constitutional guarantees to the enjoyment of rights and freedoms enshrined in the Covenant that are extended to all citizens in the State party. The Committee notes that some asylum-seekers are excluded by the refugee determination procedure of

the State party, in particular those coming from North Korea who are regarded by the State party as economic migrants, and are thus compelled to return to their countries.

15. The Committee notes with deep concern, the *de facto* discrimination against internal migrants in the fields of employment, social security, health service, housing and education that indirectly result, inter alia, from the restrictive national household registration system (*hukou*) which continues to be in place despite official announcements regarding reforms.

16. The Committee is 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.

17. The Committee notes with concern, the persistence of gender inequalities in practice in the State party, particularly with regard to employment and participation in decision-making. The Committee regrets that it has not received sufficient information from the State party regarding affirmative action to promote gender equality and measures to prevent sexual harassment in the workplace.

18. The Committee is deeply concerned about the high rate of abortion of the girl-foetus.

19. The Committee is concerned about the problem of the sale of women and girl children and of the abandonment of elderly women.

20. The Committee notes with concern the increasing rate of unemployment in the State party, particularly in the rural areas.

21. The Committee is concerned about the large-scale redundancies made in recent years, that have disproportionately affected women.

22. The Committee is gravely concerned about the use of forced labour as a corrective measure, without charge, trial or review, under the “Re-education through Labour (*laodong jiaoyang*)” programme.

23. The Committee expresses 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 is 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.

24. The Committee is deeply concerned about the insufficient implementation of existing labour legislation in the State party that has resulted in generally poor conditions of work, including excessive working hours, lack of sufficient rest breaks and hazardous working conditions. The Committee notes with concern that the problem is especially acute for migrant workers. The Committee is also alarmed by the high incidence of serious occupational accidents in the State party, particularly in the mining sector.

25. The Committee is concerned that the low level of wages, particularly in rural and Western areas, is insufficient to provide a decent standard of living for workers and their families. The Committee notes that the situation is aggravated by the persistent problem of wage arrears, especially in the construction sector.

26. The Committee regrets the State party's prohibition placed on the right to organise and join independent trade unions in the State party.

27. The Committee is concerned that many of the reforms in the formal welfare system have not been extended to the countryside where the local authorities of poor regions have a limited capacity to generate the funds necessary to provide welfare and social services. The Committee notes with concern that the means-tested non-contributory social assistance extended to all urban areas starting in 1996, was similarly extended to some, but not all rural areas.

28. The Committee regrets that, in the absence of reliable data, it could not assess the nature and extent of the reportedly high incidence of domestic violence in the State party and the degree of enforcement of existing legislation for the protection of victims of domestic violence.

29. The Committee is also concerned by the lack of reliable information, including statistics, on the extent of the problem of sexual exploitation of women and children in the State party, including prostitution, sale and trafficking in persons.

30. The Committee is deeply concerned that, despite the rapid economic development in recent years, poverty persists in the country, disproportionately affecting the rural population. The Committee is 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 regrets 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.

31. The Committee is concerned about the reports of forced evictions and insufficient measures to provide compensation or alternative housing to those who have been removed from their homes in the context of urban development projects as well as rural development projects such as the Three Gorges Project. The Committee is concerned about the number of forced evictions and demolitions that have occurred in anticipation of the 2008 Olympics to be hosted by the State party. The Committee further expresses concern about the lack of effective consultations and legal redress for persons affected by forced evictions and demolitions, including those of historic structures, buildings and homes in Lhasa, Tibet. The Committee also regrets that insufficient information was provided on the extent and causes of homelessness in the State party.

32. The Committee notes with concern that funds allocated to public health has shrunk despite the increase of total healthcare expenditure over the past decade in the State party. Furthermore, the Committee notes with concern that the healthcare system that had in the past delivered basic healthcare to the majority of rural residents has been considerably reduced.

33. The Committee is concerned about the insufficient preventive care programmes that have resulted in the spread of infectious diseases, including sexually transmitted diseases and HIV/AIDS.

34. The Committee notes with concern about the shortage of access to safe drinking water in highly industrialised areas.

35. The Committee is concerned about the significant number of persons, especially women, who suffer from mental illnesses and about the inadequacy of measures to ensure a decent life for persons with persons suffering from mental illnesses. The Committee is also concerned that, in addition to suffering social stigmatization, persons with mental illnesses often spend a long time in psychiatric facilities where they live in sub-standard conditions and receive sub-standard treatment and care. The Committee also notes that suicide among women is alarmingly high in the State party.

36. The Committee is deeply concerned about reports of forced abortions and forced sterilisations imposed on women, including those belonging to ethnic minority groups, by local officials in the context of the one-child policy, and of the high maternal mortality rate as a result of unsafe abortions.

37. The Committee is concerned about the continued irregularities in the State party's provision of universal access to free compulsory primary education, in particular with regard to rural communities, minority regions, disadvantaged families, and the internal migrant population. The Committee is also concerned about the high junior middle school drop-out rate in some rural areas.

38. The Committee notes with concern the reports regarding the discrimination of ethnic minorities in the State party, in particular in the field of employment, adequate standard of living, health, education and culture. In this regard, the Committee regrets the insufficient information provided by the State party regarding the enjoyment of economic, social and cultural rights enshrined in the Covenant, by the populations in the ethnic minority areas. The Committee notes 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).

39. The Committee notes with deep concern, the restrictions placed on access to information with regard to academic research, foreign and domestic publications, and the Internet.

E. Suggestions and Recommendations

40. The Committee requests the State party in its next periodic report to submit updated, annually collected comparative data disaggregated by sex, age and rural/urban regions in the fields of all the provisions in the Covenant, paying particular attention to the disadvantaged and marginalised groups. The Committee also requests 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.

41. The Committee recommends that the State party adopt a National Human Rights Plan of Action, and to report back in its next periodic report how the plan promotes and protects economic, social and cultural rights in the State party. In this connection, the Committee recommends that the State party consider establishing a National Commission for Human Rights on the basis of the Paris Principles (1991, General Assembly resolution 48/134, annex).

42. The Committee urges 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 draws the attention of the State party to General Comment No.9 on the domestic application of the Covenant and invites the State party to include information concerning case law on the application of the Covenant in its next periodic report.

43. The Committee requests 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.

44. The Committee encourages 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.

45. The Committee calls 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 urges 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 recommends 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 requests the State party in its next periodic report, to provide detailed information in this regard, including measurable progress achieved as well as difficulties encountered.

46. The Committee calls 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.

47. The Committee recommends 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 requests 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.

48. The Committee calls 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.

49. The Committee strongly recommends 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.

50. The Committee recommends that the State party reinforce its programmes designed to reduce unemployment and in this regard, to target on a priority basis the most affected groups and regions. The Committee urges the State party to strengthen the enforcement of the existing protection for workers under its labour laws. The Committee requests the State party to provide information in its next periodic report on the measures taken to facilitate re-employment of women, as well as of those made redundant by SOEs. The Committee recommends that the State party consider ratifying ILO Convention No. 2 on unemployment.

51. The Committee recommends the State party to abolish the use of forced labour as a corrective measure, and to amend or repeal the relevant provisions of its legislation to bring them into line with the provisions of Article 6 of the Covenant. In this connection, the Committee recommends that the State party consider ratifying ILO Convention No.29 on forced labour.

52. The Committee urges 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 urges 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 encourages the State party to consider withdrawing the programme of “Diligent Work and Economical Study (*qingong jianxue*)” from its school curriculum.

53. The Committee urges the State party to take immediate steps to ensure effective and equal application of its current labour legislation for the protection of the rights of all workers, including migrant workers, to just and favourable conditions of work as enshrined in Article 7 of the Covenant. The Committee further recommends that the State party ensure the right to decent work and to provide sufficient resources to the labour inspectorate to enable regular and independent inspections of safety and health conditions in all sectors and to ensure that employers who fail to observe safety regulations are duly sanctioned. In this connection, the Committee recommends that the State party consider ratifying the ILO Convention No.81 on Labour Inspection.

54. The Committee urges 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 encourages 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.

55. The Committee urges 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 urges the State party to consider withdrawing its declaration on Article 8.1 of the Covenant.

56. The Committee recommends 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 urges 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.

57. The Committee requests that the State party provide in its next periodic report detailed information on the extent of domestic violence, in particular, violence against women, and the legislative and other measures taken by the State party to address such phenomenon, including facilities and remedies provided for victims. The Committee urges the State party to provide training to law enforcement officials and judges regarding the serious and criminal nature of domestic violence, in particular, violence against women.

58. The Committee urges the State party to adopt legislation that specifically criminalises the trafficking of human beings, and to establish mechanisms to effectively monitor its strict enforcement and provide protection and assistance to victims of sexual exploitation. The Committee requests the State party, in its next periodic report, to provide detailed information, including comparable statistical data on the extent of the problem of sexual exploitation of women and children in the State party, including prostitution, sale and trafficking in persons.

59. The Committee strongly recommends 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 calls 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.

60. The Committee, in line with its General Comment No. 14 on the right to the highest attainable standard of health, urges 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 encourages 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.

61. The Committee recommends that the State party take immediate measures to enforce laws and regulations prohibiting forced evictions and ensure that persons evicted from their homes be provided with adequate compensation or offered alternative accommodation, in accordance with the guidelines adopted by the Committee in its General Comment No.7 on forced evictions. The Committee also recommends that, prior to implementing development projects, the State party should undertake open, effective and meaningful consultations with affected residents. In this connection, the Committee wishes to draw the attention of the State party to its General Comment No. 4 on the right to adequate housing and to provide information in its next periodic report on progress achieved in this regard. The Committee further requests the State party to provide in its next periodic report, detailed information on the number and nature of forced evictions and on the extent of homelessness in the State party, disaggregated by gender, age, urban/rural residence.

62. The Committee recommends that the State party undertake effective measures to guarantee access to safe drinking water to all persons under its jurisdiction.

63. The Committee requests 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.

64. The Committee recommends that the State party allocate adequate resources and undertake effective measures for the treatment of, and care for, persons with mental illnesses, and to ensure that appropriate standards are established and enforced in psychiatric facilities to prevent maltreatment and neglect of mentally ill patients. The Committee also recommends that the State party conduct a study regarding factors and causes of the high rate of suicide among women and report back to the Committee on its findings in its next periodic report.

65. The Committee urges the State party to undertake effective measures to ensure that abortions are carried out voluntarily and under adequate medical and sanitary conditions and to ensure that the existing legislation governing the one-child policy does not violate the rights enshrined in Article 10 of the Covenant. The Committee requests the State party to provide information in its next periodic report in this regard, including information on women belonging to ethnic minority groups.

66. In line with its General Comments No.11 and 13 on the right to education, the Committee calls 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. The Committee also calls 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 urges 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.

67. The Committee calls upon the State party to provide in its next periodic report, detailed information, including disaggregated comparative statistics, to evaluate progress made and obstacles encountered in the implementation of all the provisions of the ICESCR in the ethnic minority regions including in the XUAR and the TAR.

68. The Committee urges 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.

69. The Committee strongly recommends that the State party's obligations under the Covenant be taken into account in all aspects of its negotiations with the international financial institutions and other regional trade agreements to ensure that economic, social and cultural rights, particularly of the most disadvantaged and marginalised groups, are not undermined.

70. The Committee recommends that the State party continue to ensure that its international human rights obligations and the recommendations set forth in this document are taken fully into account when entering into technical cooperation and other arrangements.

Part Two: HONG KONG SPECIAL ADMINISTRATIVE REGION

B. Positive Aspects

71. The Committee welcomes the information that the age of criminal responsibility has been raised.

72. The Committee notes with appreciation the establishment of a Commission on Poverty to devise in this connection, future strategies to combat poverty.

73. The Committee welcomes the establishment of the Sexual Minorities Forum, a formal communication channel between HKSAR and persons with different sexual orientation, and the planned establishment of the Gender Identity and Sexual Orientation Unit within the Home Affairs Bureau.

74. The Committee welcomes the extensive efforts taken by HKSAR, including sensitisation campaigns, to combat prejudices and discrimination against persons with physical and mental disabilities.

75. The Committee welcomes the enactment in 2002 of the Marital Rape Ordinance.

76. The Committee welcomes the enactment in 2003 of the Law on Prevention of Child Pornography.

C. Factors and Difficulties Impeding the Implementation of the Covenant

77. The Committee notes the absence of any significant factors or difficulties preventing the effective implementation of the Covenant in HKSAR.

D. Principal Subjects of Concern

78. The Committee regrets that HKSAR has not implemented a number of the recommendations contained in its concluding observations of 2001. The Committee wishes 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;
- (d) the continuing spread of poverty and lack of effective access to social service which affect the disadvantaged and marginalized groups;
- (e) 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;
- (f) the hardship arising from the right of abode policies in relation to permanent residence and split families; and
- (g) the persistence of inadequate housing in the form of cage-homes and bed-space apartments, despite measures taken by HKSAR to provide alternative housing to residents who choose to remain in such homes.

79. The Committee is 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 is 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.

80. The Committee is concerned that HKSAR lacks a clear asylum policy and that the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, to which China is a party, are not extended to HKSAR. In particular, the Committee regrets the position of the HKSAR that it does not foresee any necessity to have the Convention and the Protocol extended to its territorial jurisdiction.

81. The Committee is concerned that the wage disparity between men and women continues to be a problem despite the position of HKSAR that the Sex Discrimination Ordinance provides sufficient protection for women in the field of employment, in accordance with the principle of equal pay for work of equal value.

82. The Committee is concerned that the social security system in HKSAR does not include unemployment benefits.

83. The Committee expresses its concern about the particularly precarious situation of foreign domestic workers, a majority of whom are from Southeast Asia, who are unpaid and are not entitled to social security.

84. The Committee is seriously concerned that under the existing social security system, in particular, the Comprehensive Social Security Assistance (CSSA), the levels of benefit are not sufficient to guarantee a decent standard of living and that many low-income persons, in particular older persons, are not covered by the scheme. The Committee is further concerned that new migrants are unable to apply for CSSA due to the 7-year residence requirement.

85. The Committee expresses 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.

86. The Committee notes with regret that sufficient information was not provided on the extent of poverty and social exclusion in HKSAR. The Committee is also concerned about reports of increasing of poverty among the older persons, that the more so HKSAR is facing the problem of rapidly ageing society.

87. The Committee, while noting the generally high level of enjoyment to health in HKSAR, remains concerned that the spending on public hospitals has been on the decline, resulting in longer waiting lists for patients. The Committee is also concerned that under the current fee waiver system, low income patients still do not receive the most appropriate medical care. The Committee further notes with regret that many of the expensive drugs required by the chronically ill and the mentally-ill patients are not subsidised, and are thus denied to these patients in practice.

88. The Committee remains concerned about the low level of awareness of the general public in HKSAR of sexual and reproductive health issues. The Committee also regrets that no comprehensive sexual and reproductive health programme exists in HKSAR and that education on sexual and reproductive health is not part of the school curriculum.

89. The Committee is concerned that insufficient measures have been taken to facilitate enrolment in local schools of children of migrants from the Mainland and other foreign migrant workers who do not have the legal right to remain in HKSAR.

E. Suggestions and Recommendations

90. The Committee once again urges HKSAR to implement the Committee's relevant suggestions and recommendations contained in its concluding observations of 2001 (E/C.12/1/Add.58), as well as the current ones, and to undertake whatever relevant concrete measures may be necessary towards their implementation.

91. The Committee strongly urges 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 recommends 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.

92. The Committee recommends 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.

93. The Committee requests that HKSAR provide in its next periodic report, the results of the Equal Opportunities Commission Study on Gender-based Pay Inequalities and the measures to follow up the findings of the study.

94. The Committee recommends that HKSAR consider extending its social security system to cover unemployed workers through the payment of an unemployment benefit based on contributions from employers and employees.

95. The Committee urges 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 recommends that HKSAR enable domestic helpers to acquire pension rights through their inclusion in the Mandatory Provident Fund.

96. The Committee urges 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.

97. The Committee requests 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 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.

98. The Committee urges 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 recommends 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 requests 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.

99. The Committee urges the State party to continue its efforts to improve its health services, *inter alia*, through the allocation of adequate and increased resources. The Committee

recommends HKSAR to consider revising the current subsidized drug list, to meet the needs of the chronically-ill and the mentally-ill. The Committee encourages 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.

100. The Committee recommends HKSAR to develop a comprehensive sexual and reproductive health programme, including a public awareness-raising campaign about safe contraceptive methods. The Committee also calls upon HKSAR to introduce education on sexual and reproductive health in the school curriculum.

101. The Committee urges 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.

102. The Committee encourages 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.

Part Three: MACAO SPECIAL ADMINISTRATIVE REGION (MSAR)

B. Positive Aspects

103. The Committee welcomes MSAR's assurance that the Covenant may be directly invoked before domestic courts in MSAR, and that there have been specific decisions of domestic courts where reference had been made to the Covenant and its provisions.

104. The Committee welcomes MSAR's assurance that the Office of the Ombudsman has the mandate to receive complaints on violations of economic, social and cultural rights.

105. The Committee commends MSAR for the establishment of a special unit within the Social Welfare Institute offering assistance to victims of domestic violence.

106. The Committee welcomes the planned enactment of legislation to protect the rights of children specifically aimed at protecting their rights and interests.

C. Factors and Difficulties Impeding the Implementation of the Covenant

107. The Committee notes the absence of any significant factors or difficulties preventing the effective implementation of the Covenant in MSAR.

D. Principal Subjects of Concern

108. The Committee expresses its concern that women continue to be in a disadvantaged position in society in MSAR, especially with regard to employment and equal pay for work of equal value and participation in decision-making.

109. The Committee is concerned about the differences in the criteria for entitlement to maternity leave for workers in the public and private sectors, and that the entitlement of male workers to five days of paternity leave is only applicable in the public sector.

110. The Committee is concerned that no legislation exists to criminalise sexual harassment in the workplace.

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

112. The Committee is concerned about the increasing incidence of domestic violence in MSAR and that about the irregular protection given to victims of domestic violence under existing legislation.

113. The Committee notes with concern that trafficking in women and children for sexual exploitation is a serious problem in MSAR and that prosecution of traffickers has not generally been effective.

114. The Committee is 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.

115. The Committee is concerned about the high illicit drug consumption in MSAR, and about the ineffective enforcement of the law prohibiting such consumption.

116. While welcoming efforts taken by MSAR to enable integration of children of migrants in the school system, the Committee notes with regret that education provided to children of migrant workers is not free of charge.

117. The Committee notes the lack of sufficient information on efforts taken by MSAR to involve non-governmental organizations in the preparation of the report.

E. Suggestions and Recommendations

118. The Committee recommends 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.

119. The Committee recommends 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 recommends 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.

120. The Committee urges MSAR to consider enacting legislation to criminalise sexual harassment in the workplace.

121. The Committee recommends 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.

122. The Committee calls 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 urges MSAR to take effective measures to provide training for law enforcement personnel and judges regarding the criminal nature of domestic violence. Moreover, the Committee urges MSAR to ensure the availability and accessibility of crisis centres where victims of domestic violence can find safe lodging and counselling.

123. The Committee recommends 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 recommends 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.

124. The Committee recommends that MSAR take effective measures to ensure that all workers are entitled to adequate social security benefits, including migrant workers. The Committee requests MSAR to provide detailed information in its next periodic report on the extent of the coverage of its social security system, including protection for migrant workers and other disadvantaged and marginalised groups.

125. The Committee recommends that MSAR continue and that strengthened taking measures for the effective implementation of programmes to prevent illicit drug consumption, and to report back to the Committee on the progress achieved in its next periodic report.

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

127. The Committee encourages 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.

128. The Committee underlines the importance of the role of civil society in the full implementation of the Convention and recommends that MSAR to consult NGOs and other members of civil society in Macao during the preparation of the next periodic report.

129. The Committee requests the State party to include in its second periodic report on the implementation of the Covenant all available information on any measures taken and progress made, particularly with regard to the suggestions and recommendations made by the Committee in the present concluding observations.

130. The Committee requests the State party to widely disseminate the present concluding observations among all levels of society, and in particular, members of the judiciary, law enforcement officials and non-governmental organisations. It also encourages the State party to engage non-governmental organisations and other members of civil society in the process of discussions at the national level prior to the submission of the second periodic report.

131. The Committee requests the State party to submit its second periodic report before 30 June 2010.
