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

Committee on Economic, Social and Cultural Rights**Concluding observations on the third periodic report of China, including Hong Kong SAR, China, and Macao SAR, China***

1. The Committee considered the third periodic report of China,¹ including the fourth periodic report of Hong Kong SAR, China,² and the third periodic report of Macao SAR, China,³ on the implementation of the International Covenant on Economic, Social and Cultural Rights at its 5th and 7th meetings⁴ held on 15 and 16 February 2023, and adopted the present concluding observations at its 30th meeting, held on 3 March 2023.

A. Introduction

2. The Committee welcomes the submission by the State party of the third periodic report of the People's Republic of China including the fourth periodic report of Hong Kong SAR, China, and the third periodic report of Macao SAR, China. The Committee also notes with appreciation the written replies which it received to its list of issues.⁵ The Committee appreciates the constructive dialogue that it held with the State party's delegation.

D. Principal subjects of concern and recommendations: Hong Kong SAR, China**National human rights institution**

98. Noting that the Equal Opportunities Commission continues to have a limited mandate, the Committee regrets the continued lack of concrete results with respect to the establishment of an actual independent national human rights institution despite years of recommendations by various human rights mechanisms.

99. **The Committee urges Hong Kong SAR, China to establish an independent national human rights institution with a broad mandate in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles⁶), allocating sufficient human, technical and financial**

* Adopted by the Committee at its seventy-third session (13 February – 3 March 2023).

¹ E/C.12/CHN/3

² E/C.12/CHN-HKG/4

³ E/C.12/CHN-MAC/3

⁴ E/C.12/2023/SR.5 and E/C.12/2023/SR.7

⁵ E/C.12/CHN/RQ/3, E/C.12/CHN-HKG/RQ/4, E/C.12/CHN-MAC/RQ/3

⁶ A/RES/48/134

resources for it to fully exercise its mandate in relation to economic, social and cultural rights. In this regard, the Committee recall its General comment 10.⁷

Independence of the judiciary

100. Noting the information provided during the dialogue with the State party, the Committee is concerned about reports that the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (2020) has de facto abolished the independence of the judiciary of Hong Kong SAR, China.

101. The Committee urges Hong Kong SAR, China, cooperates with the State party to review the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (2020) to ensure the full independence of the judiciary and to ensure that national security legislation is not arbitrarily used to interfere with it.

Civil society, human rights defenders, journalists, lawyers working on human rights

102. Noting the information provided during the dialogue with the State party, the Committee is concerned about reports of arrests, detentions and trials without due process of civil society actors, journalists, human rights defenders, lawyers working on human rights, disbarment of such lawyers, and others working to defend economic, social and cultural rights, particularly in, but not limited to, the context of the 2019-2020 protests against the Fugitive Offenders and Mutual Legal Assistance in Criminal Matters Legislation (Amendment) Bill. The Committee is particularly concerned about reports of a lack of transparency regarding their detention and trials, and the lack of access to lawyers during the proceedings. The Committee is also concerned that the national security hotline is used extensively and might have detrimental effects on the work and expression of civil society, trade unions, teachers and other actors, including those mentioned above, working on human rights.

103. The Committee recommends that Hong Kong SAR, China immediately provide all due process guarantees of human rights defenders, civil society actors, journalists, human rights defenders, lawyers working on human rights and others working to defend economic, social and cultural rights, including access to independent and effective legal representation at every stage of the proceedings. The Committee urges that Hong Kong SAR, China, cooperates with the State party to review the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (2020) to this end. The Committee also recommends the abolition of the national security hotline. The Committee refers Hong Kong SAR, China, to its Statement on Human Rights Defenders and Economic, Social and Cultural Rights, adopted on 7 October 2016.⁸

Discrimination based on sexual orientation and gender identity

104. Noting the information provided during the dialogue with State party, the Committee is concerned that Hong Kong SAR, China has not passed comprehensive, all-encompassing anti-discrimination legislation explicitly prohibiting all forms of discrimination, which is impeding full protection against discrimination in accordance with the provisions of the Covenant. The Committee is also concerned at the lack of effective measures to combat de facto discrimination in the effective enjoyment of economic, social and cultural rights experienced by disadvantaged and marginalized individuals and groups (art. 3).

105. The Committee recommends that Hong Kong SAR, China⁹:

(a) The Committee recommends that Hong Kong SAR, China adopt comprehensive anti-discrimination legislative, political and administrative measures prohibiting direct, indirect and multiple discrimination, including explicitly prohibiting

⁷ E/C.12/1998/25

⁸ E/C.12/2016/2.

⁹ As also recommended by the Human Rights Committee (CCPR/C/CHN-HKG/CO/4 para 11 (a) and (b))

discrimination - and criminalization of - harassment, hate speech and hate crimes against lesbian, gay, bi-sexual, transgender and intersex persons in accordance with article 2(2) of the Covenant and taking into account the Committee's General Comment No. 20 (2009) - Non-discrimination in economic, social and cultural rights.

(b) Intensify its efforts to combat discrimination against lesbian, gay, bi-sexual, transgender and intersex persons, including by conducting public awareness-raising campaigns.

Equality between men and women

106. The Committee is concerned that gender disparities persist, especially in relation to employment and wages. The Committee is also concerned that gender role stereotypes persist and that women's representation in senior positions within the public administration remains unsatisfactory (arts. 3 and 7).

107. **The Committee recommends that Hong Kong SAR, China:**

(a) Adopt all necessary measures, with specific targets and a time frame, to eliminate the persistent gender wage gap;

(b) Increase its efforts to combat gender stereotypes, including by increasing the use of the media and awareness-raising campaigns;

(c) Enhance women's participation in senior public positions, including by considering quotas;

(d) Be guided by and follow its general comment No. 16.¹⁰

Youth unemployment

108. The Committee is concerned about the high rate of youth unemployment, and in particular recent years' sharp rise. The Committee is also concerned that there is no legislation explicitly prohibiting age discrimination in employment (art. 6).

109. **The Committee recommends that Hong Kong SAR, China increase its efforts to address youth unemployment, for example by implementing targeted public sector employment schemes and/or by subsidizing youth employment in private sector companies, as well as enacting legislation explicitly prohibiting age discrimination in employment.**

Working conditions

110. Noting the information provided during the dialogue with the State party, the Committee is concerned that the Statutory Minimum Wage does not include student employees and live-in domestic workers, and about the persistent difficulties faced by migrant domestic workers due to the rule of having to leave the territory of Hong Kong SAR, China maximum two weeks upon termination of a contract (two-weeks rule), as well as the live-in requirement applied to them (art. 7).

111. **The Committee recommends that Hong Kong SAR, China expands the Statutory Minimum Wage to include all categories of employees, and amend the two-weeks rule and the live-in requirement with a view to enable migrant domestic workers' full enjoyment of the Covenant's rights.**

112. The Committee is concerned about reports of exploitative practices of employers of domestic migrant workers, as well as trafficking of migrant women, and that complaints filed by migrant domestic workers regarding their working and living conditions are not adequately followed up on by labour inspection authorities (art. 7).

113. **The Committee recommends that Hong Kong SAR, China adequately monitors conditions for migrant domestic workers, including by raising the level of fines for**

¹⁰ E/C.12/2005/4

employers and increasing the number of unannounced inspections by labour inspection authorities, as well as increasing measures to prevent and combat trafficking. In this regard, the Committee recalls its General comment No. 23.¹¹

Trade union rights

114. Noting the information provided during the dialogue with the State party, the Committee is concerned about reports that domestic laws and regulations, including the Trade Union Ordinance, the Public Order Ordinance, and the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (2020) are implemented to hamper the exercise of the rights to freely form trade unions guaranteed in the Covenant (art. 8).

115. The Committee recommends that Hong Kong SAR, China review said laws and ordinances in a form to enable the rights to freely form trade unions, and that implementation of the said laws and ordinances is done to that effect.

Right to social security

116. The Committee is concerned about the coverage of privately managed mandatory occupation-based contributory systems, including the Mandatory Provident Fund System, and that the pension benefits are inadequate to provide recipients with a decent living (art. 9).

117. The Committee recommends that Hong Kong SAR, China expand the coverage of occupation-based contributory systems and raise the pension benefits to ensure that the adequate standard of living, particularly in a context of fast-rising inflation.

Older persons

118. The Committee is concerned that the implementation of the Elderly Services Programme Plan has not been adequately based on a human rights perspective (art. 10).

119. The Committee recommends that Hong Kong SAR, China review the implementation of the Elderly Services Programme Plan to ensure that human rights are adequately taken into consideration.

Housing

120. The Committee is concerned that the Long Term Housing Strategy has not sufficiently increased the availability of rental housing subsidies provided to low-income households. The Committee is also concerned that the financial eligibility threshold for public housing excludes a large number low-income households (art. 11).

121. The Committee recommends that Hong Kong SAR, China expands the scope of rental housing subsidies to low-income households, as well as consider increase the financing of public housing construction projects. The Committee also recommends that Hong Kong SAR, China lowers the threshold for financial eligibility for public housing.

COVID-19 pandemic

122. The Committee is concerned that the relatively recent strategic change from a zero-case policy to abruptly easing and lifting restrictions has strained the health-care system of Hong Kong SAR, China. The Committee is also concerned about reports of growing problems of mental health care aggravated by the prolonged lockdowns (art. 12).

123. The Committee recommends that Hong Kong SAR, China allocate emergency funding to hospitals and health clinics to expand the capacity of intensive care units, including staff and material. The Committee also recommends that funding is

¹¹ E/C.12/GC/23

earmarked to improve mental health care services both at preventive and curative levels.

124. The Committee is concerned about the broader health care system's viability due to the backlog building up from operations, procedures and medical examinations being postponed as a result of an increased influx of COVID-19 patients (art. 12).

125. The Committee recommends that Hong Kong SAR, China, earmark additional funding to specifically strengthen the resilience of the health care system to health emergencies such as the COVID-19 pandemic. In this regard, the Committee recalls its General comment No. 14.¹²

Right to education

126. Noting the information provided during the dialogue with the State party, the Committee is concerned about reports that the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (2020) is being used to put pressure on staff and students in higher education institutions, censorship of content, and undermine their academic freedom, and has led to the dismissal and arrest of students and teachers and other university staff (arts. 13 and 14).

127. The Committee urges Hong Kong SAR, China, in cooperation with the State party, to review its legislation to ensure the full academic freedom of students, staff and other university staff.

Right to take part in cultural life and enjoy the benefits of scientific progress and its applications

128. Noting the information provided during the dialogue with the State party, the Committee is concerned about reports that the implementation of the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (2020) on national security is negatively impacting the right to culture, as it has led to harassment and arrest of cartoonists, as well as censoring of online as well as offline satiric content, including censoring of independent cinema, theatre productions, podcasts and radio emissions. The Committee is also concerned that broad surveillance and censorship of online content is negatively affecting the right to enjoy scientific progress (art. 15).

129. The Committee urges Hong Kong SAR, China, in cooperation with the State party, to review the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region (2020) to ensure full artistic freedom and enjoyment of the rights to history, culture and science.

F. Other recommendations

158. In accordance with the procedure on follow-up to concluding observations adopted by the Committee, the State party is requested to provide, within 24 months of the adoption of the present concluding observations, information on the implementation of the recommendations contained in paragraph 103 (Civil society, human rights defenders, journalists, lawyers working on human rights (Hong Kong SAR, China)).

159. The Committee requests the State party to submit its fourth periodic report in accordance with article 16 of the Covenant by 31 March 2028, unless otherwise notified as a result of a change in the review cycle. In accordance with General Assembly resolution 68/268, the word limit for the report is 21,200 words.

¹² [E/C.12/2000/4](#)