



# Convention on the Rights of the Child

Distr.: General  
4 October 2013

Original: English

**ADVANCE UNEDITED  
VERSION**

---

## Committee on the Rights of the Child

### **Concluding observations on the combined third and fourth periodic reports of China (including Hong Kong and Macau Special Administrative Regions), adopted by the Committee at its sixty-fourth session (16 September – 4 October 2013)**

1. The Committee considered the consolidated third and fourth periodic reports of China (CRC/C/CHN/3-4), including Hong Kong Special Administrative Region (Hong Kong SAR) and Macau Special Administrative Region (Macau SAR), at its 1833<sup>rd</sup>, 1834<sup>th</sup> and 1835<sup>th</sup> meetings (see CRC/C/SR. 1833, 1834 and 1835), held on 26 and 27 September 2013, and adopted at its 1845<sup>th</sup> meeting, held on 4 October 2013, the following concluding observations.

#### **I. Introduction**

2. The Committee welcomes the submission of the consolidated third and fourth periodic reports of China, including Hong Kong SAR and Macau SAR, and the written replies to its list of issues (CRC/C/CHN/Q/3-4/Add.1, CRC/C/CHN-HKG/2/Add.1 and CRC/C/CHN-MAC/Q/2/Add.1), which allowed for a better understanding of the situation of children's rights in the State party. The Committee expresses appreciation for the constructive dialogue held with the multisectoral delegation of the State party.

#### **II. Follow-up measures undertaken and progress achieved by the State party**

3. The Committee welcomes the adoption of the following legislative measures by mainland China:

(a) The revisions of the Law of the People's Republic of China on the Protection of Minors in December 2006 and in October 2012;

(b) The revision of the 'Criminal Procedure Law in March 2012,' which added a chapter on "Special criminal procedures for juvenile offenders"; and

(c) The Law on Social Insurance in October 2010.

4. The Committee notes with appreciation the accession to or ratification of:

(a) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in 2008; and

- (b) The Convention on the Rights of Persons with Disabilities in August 2008.
- 5. The Committee welcomes the adoption of the following policy measures in mainland China:
  - (a) The Action Plan against Human Trafficking (2013-2020) in March 2013;
  - (b) The National Program for Child Development (2011-2020) in July 2011; and
  - (b) The Third Ten-Year Program for the Development of Children and the 12th Five-Year Social Economic Development Plan (2011-2015) with a child focus.

### **III. Main areas of concern and recommendations**

#### **A. General measures of implementation (arts. 4, 42 and 44, para. 6, of the Convention)**

##### **The Committee's previous recommendations**

6. The Committee, while welcoming the State party's efforts to implement the Committee's concluding observations of 2005 on the State party's second periodic report (CRC/C/CHN/CO/2), notes with regret that some of the recommendations contained therein have not been fully addressed.

7. **The Committee reiterates its recommendations to mainland China and Macau SAR and Hong Kong SAR to take all necessary measures to address all those recommendations that have not been implemented or not sufficiently implemented and urges the State party to:**

(a) **Immediately withdraw its reservation to article 6 of the Convention in order to promote and safeguard the inherent right to life of every child and that Hong Kong SAR withdraw its reservations to article 32 (2) and 37 (c) of the Convention;**

(b) **Further strengthen coordination between the bodies and institutions working on the implementation of existing programmes, policies and activities on the implementation of the Convention in all areas of its jurisdiction; and**

(c) **Explicitly prohibit by law corporal punishment in the family, schools, institutions and all other settings, including penal institutions.**

##### **Comprehensive policy and strategy**

While the Committee notes as positive the adoption of the National Program for Child Development (2011-2020) in July 2011 (hereinafter referred to as the NPA) for mainland China, it is concerned that the NPA lacks specific indicators, timetables, and a system to monitor progress, both at the national, provincial and county levels, which could lead to inconsistent implementation. The Committee is further concerned about the lack of participation of independent experts and non-governmental organizations in the assessment and evaluation of plans and policies on children, including the NPA.

8. **The Committee recommends that mainland China adopt as a priority a comprehensive strategy and a framework aimed at supporting the implementation of the NPA at the provincial, prefectures and county levels of government, spelling out the key priorities, goals, objectives and activities with specific responsibilities assigned to the relevant ministries/departments as well as a monitoring and evaluation system with key indicators. It encourages mainland China to establish a coordinated mechanism that would enable the submission and review of progress reports on the implementation of the NPA by all provinces, prefectures and counties. It further**

**recommends that mainland China ensure the regular, broad and transparent consultations with children and civil society, including independent experts, in the monitoring and evaluation process of the NPA and other policies and plans related to children.**

9. The Committee regrets that notwithstanding its previous recommendations to establish a comprehensive plan of action for the implementation of the Convention (CRC/C/CHN/CO/2, para 15), Hong Kong SAR and Macau SAR still lack a comprehensive policy and strategy on children in their respective jurisprudence to guide all laws, policies, plans and programmes affecting children in a holistic and integrated approach.

**10. The Committee recommends that Hong Kong SAR and Macau SAR respectively, adopt a comprehensive policy on children and on the basis of that policy, develop a strategy with clear objectives and coordinated plans for actions for the implementation of the Convention, and allocate adequate human, technical and financial resources for their implementation, monitoring and evaluation.**

#### **Allocation of resources**

11. The Committee welcomes the efforts made by mainland China to reduce the severe regional and rural-urban inequalities and disparities. However, the Committee is seriously concerned about the persistence of such disparities, especially in rural and western areas of mainland China, and the inadequate resources allocated to the local governments for the implementation of children's rights.

12. The Committee is further concerned that:

(a) Budget allocations from the central Government and funding for policies and plans concerning children's rights, particularly the NPA, are inadequate (GDP allocation to health is 1.4 per cent and for education 4 per cent) and depend on provincial and lower level resources, resulting in sharp inequities in public resource allocations;

(b) Crucial areas, such as compulsory education, maternal and child health care, health infrastructure as well as the outreach of services, maintenance of quality control and expansion of welfare services to children living in poverty and disadvantaged families, including services for children with disabilities, continue to be underfunded; and

(c) In Hong Kong SAR, resource allocations to education and social welfare remain inadequate and do not effectively target the most vulnerable groups, particularly children of ethnic or linguistic minorities, asylum seeking children, children living in poverty and children with disabilities.

**13. In the light of its day of general discussion in 2007 on "Resources for the Rights of the Child - Responsibility of States" and with emphasis on articles 2, 3, 4 and 6 of the Convention, the Committee recommends that:**

(a) **Mainland China take special measures to reduce regional and urban-rural disparities and establish a budgeting process with a child-rights perspective to adequately take into account child rights and areas of need and concern;**

(b) **Mainland China effectively increase budgetary allocations from central to provincial and local governments, especially in rural areas and western provinces, for the implementation of policies, plans and structures concerning the implementation of children's rights, particularly the NPA and in the areas of health, education and other key social services. Mainland China should also establish mechanisms to monitor and evaluate the efficacy, adequacy and equitability of the distribution of resources across provinces, prefectures and counties; and**

(c) **Mainland China, Hong Kong SAR and Macau SAR define strategic budgetary lines for children in disadvantaged or vulnerable situations that may require affirmative social measures, for example children of ethnic minorities, children with disabilities and migrant children, and ensure that those budgetary lines are protected even in situations of economic crisis, natural disasters or other emergencies.**

#### **Data collection**

14. The Committee reiterates its concern about the limited public accessibility to reliable and comprehensive statistical data in mainland China in all areas covered by the Convention (CRC/C/CHN/CO/2, para 22). The Committee is particularly concerned that due to laws and regulations on guarding State secrets in mainland China, disaggregated data and important statistics critical for an effective implementation and monitoring of the Convention are often not available in the State party.

15. **The Committee recommends that mainland China review the secrecy laws and regulations in order to ensure that information concerning children, particularly violence against children, cases of infanticide, child labor, juvenile justice, children with disabilities and children affected by migration are systematically collected, made publicly available and discussed and used for the development of policies and plans on children's rights. In this regard, it further recommends that mainland China establish an independent review mechanism for the classification of state secrets.**

16. While noting some progress in Macau SAR, the Committee reiterates its concern that a comprehensive and reliable data collection system is still not in place in Macau SAR and Hong Kong SAR respectively, that data concerning children is scattered among different departments and there is a lack of lack of disaggregated data on children under 18 years in some areas of the Convention.

17. **The Committee strongly recommends that Macau SAR and Hong Kong SAR establish centralized data collection systems to collect independently verifiable data on children, and to analyze the data collected as a basis for assessing progress achieved in the realization of child rights, and for designing policies and programmes to implement the Convention. The data should be disaggregated by age, sex, geographic location, ethnicity and socio-economic background to facilitate analysis of the situation of all children, with particular attention to children of ethnic minorities, documented or undocumented migrant children, refugee and asylum-seeking children and children with disabilities.**

#### **Independent Monitoring**

18. The Committee reiterates its concern about the lack of independent national human rights institutions with a clear mandate to monitor children's rights in mainland China, Hong Kong SAR and Macau SAR. The Committee is further concerned that contrary to its previous recommendations and despite the Legislative Council's motion in June 2007 to establish an independent Children's Commission, Hong Kong SAR has not taken any steps to set up such Commission.

19. **The Committee draws attention to its general comment No. 2 (2002) on the role of independent national human rights institutions in the promotion and protection of the rights of the child and reiterates its recommendation that the State party promptly establish independent national human rights institutions in mainland China, Hong Kong SAR and Macau SAR in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) in order to systematically and independently monitor and evaluate progress in the implementation of the Convention at the national and local levels and**

to deal with complaints from children in a child-sensitive and expeditious manner. The Committee, furthermore, recommends that Hong Kong SAR expedite the establishment of a Children's Commission or another independent human rights institution with a clear mandate to monitor children's rights and provide it with adequate financial, human and technical resources.

#### **Cooperation with civil society**

20. The Committee is deeply concerned about the obstacles faced by NGOs and the limited scope for human rights defenders and journalists to report, inter alia, on children's rights violations in mainland China due to continuous threats, police harassment, enforced disappearances and arrests of human rights defenders. The Committee further notes with serious concern reports of government persecution of families, including children of human rights activists and dissidents, and retaliation and harassment of families advocating for children's rights, as in the case of parents seeking accountability for the deaths of children due to the collapse of schools during the 2008 Sichuan earthquake.

#### **21. The Committee strongly recommends that mainland China:**

(a) **Take immediate action to allow journalists, human rights defenders and all NGOs to monitor, investigate and report human rights violations and exercise their right to freedom of expression and opinion without any form of threats, harassment or repercussions;**

(b) **Urgently end all forms of intimidation and retaliation against families seeking accountability for violations of children's rights and against children of human rights defenders; and**

(c) **Ensure that reported instances of intimidation and harassment of families pursuing children rights and of human rights defenders and their families are promptly and independently investigated, and that those responsible for such abuses are held accountable.**

#### **Child rights and the business sector**

22. The Committee is deeply concerned about the incidence and prevalence of lead poisoning of children in mainland China, which has resulted in permanent mental and physical disabilities among hundreds of thousands of children, especially in poor and rural areas. The Committee is 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 refusal to provide appropriate treatment for the affected children.

23. **The Committee draws the State party's attention to its general comment No. 16 (2013) on State obligations regarding the impact of the business sector on children's rights and recommends that mainland China strengthen the implementation of regulations to ensure that the business sector complies with international and national human rights, labour, environment and other standards, particularly with regard to child rights. The Committee recommends that mainland China:**

(a) **Immediately carry out a nationwide, publicly accessible, assessment to determine the extent of lead poisoning affecting children and communities across the country, and design a comprehensive public health strategy to tackle chronic lead exposure and its long-term consequences;**

(b) **Effectively monitor the implementation of the regulatory framework for the industries, including chemical factories operating in the State party, to ensure that**

their activities do not affect children's rights and have adverse impact on children; and ensure appropriate sanctions and remedies are provided when violations occur;

(c) Establish monitoring requirements for all industries to undertake assessments, consultations, and full public disclosure of the environmental, health-related and human rights impacts of their business activities and their plans to address such impacts; and

(d) Investigate and hold accountable government officials, including local officials, suspected of failing to uphold environmental regulations or preventing people from accessing information or medical care, and ensure that children and their families have immediate and full access to effective and medically approved treatment and long-term remedies, including rehabilitation services and compensation.

## **B. General principles (arts. 2, 3, 6 and 12 of the Convention)**

### **Non-discrimination**

24. The Committee is deeply concerned at the continuous violations of rights and discrimination against Tibetan and Uyghur children and children of Falun Gong practitioners in mainland China, including their right to freedom of religion, language and culture. The Committee is further concerned about the persistence of discrimination against children with disabilities, children of migrant workers, refugee and asylum seeking children, and children infected with or affected by HIV/AIDS, particularly in relation to education, housing, health care and other social services.

25. **In light of article 2 of the Convention, the Committee urges mainland China to take immediate actions to eliminate policies, practices and security measures that disproportionately affect or discriminate against Tibetan and Uyghur children and children of Falun Gong practitioners. It further recommends that mainland China identify and eliminate all forms of discrimination, including in education, health and social services against children with disabilities, children of migrant workers, refugee and asylum-seeking children and children infected with or affected by HIV/AIDS.**

26. The Committee is deeply concerned about the pervasive discrimination against girls and women in mainland China and the persistent patriarchal attitudes and deep-rooted stereotypes and practices that perpetuate discrimination against girls. The Committee is further concerned that due to longstanding traditions and cultural influences for boy preference and unequal status of girls, sex-selective abortions, female infanticide and abandonment of girls remain widespread, resulting among others in a high male to female sex ratio.

27. **The Committee urges mainland China to put in place a comprehensive approach to take effective and systematic action to combat social, cultural and economic discrimination against girls and women, including social-institutional norms and practices that are inconsistent with the provisions of the Convention and perpetuate discrimination against girls. The Committee further recommends that mainland China take immediate legal, policy and awareness-raising measures to prevent sex-selective abortions, female infanticide and abandonment of girls, including by addressing factors that reinforce cultural norms and practices that discriminate girls.**

28. The Committee reiterates its concern about the persistence of discrimination against children with disabilities, refugee and asylum-seeking children and undocumented children of migrant workers in Hong Kong SAR. It is concerned about the justification provided by Macau SAR, in response to the Committee's request to provide information on the practical

implementation of article 2, that no complaints related to discrimination have been recorded in its jurisdiction.

29. **The Committee recommends that Hong Kong SAR intensify measures, including awareness-raising, identification of discriminatory policies and timely implementation of relevant programs, to combat discrimination against children with disabilities, undocumented children of migrant workers, refugee and asylum-seeking children, and to ensure that these children have equal access to basic services, including health, education and other social services. The Committee reminds Macau SAR that the absence of formal complaints does not imply that children are not discriminated against in its jurisdiction and recommends that Macau SAR actively seek information on discrimination, especially on children who are vulnerable to discrimination and pursue all legislative and policy measures to eliminate all forms of discrimination against children.**

#### **Best interests**

30. The Committee is concerned that the best interests of the child is not always fully reflected and incorporated in key child-related acts and policies in mainland China, Hong Kong SAR and Macau SAR. While welcoming the statement in the report of Hong Kong SAR that the best interests of the child are necessary considerations which are paramount in all relevant decision-making, the Committee is concerned about the lack of general legislation providing for the best interests of the child.

31. **The Committee recommends that Hong Kong SAR uphold its commitment to apply the best interests of the child and that mainland China, Hong Kong SAR and Macau SAR strengthen their efforts respectively to ensure that the best interests of the child is appropriately integrated and consistently applied in all legislative, administrative and judicial proceedings, as well as in all policies, programmes and projects that have an impact on children.**

#### **Right to life, survival and development**

##### *Infanticide*

32. The Committee notes as positive the ‘Care for Girls’ campaign to change traditional preferences for boys and promote greater recognition of the value of girls in mainland China. However, it is seriously concerned that despite such programs, infanticide, particularly of girls and children with disabilities remain pervasive, a problem which is exacerbated by mainland China’s ‘One-Child Policy.’

33. **In light of article 6 of the Convention, the Committee urges mainland China to consider revising its stringent family planning policy in an effort to combat infanticide, in particular of girls and children with disabilities and to ensure that every child’s inalienable rights to life and survival are protected. It specifically recommends that mainland China:**

- (a) **Adopt comprehensive legal and policy measures to address the underlying factors for infanticide, including the ‘One-Child Policy’;**
- (b) **Ensure more effective and consistent application and enforcement of laws against infanticide in all provinces and prefectures; and**
- (c) **Improve ways to count, verify and register every birth.**

*Self-immolations by Tibetan children*

34. The Committee is deeply disturbed by an alarming escalation of self-immolations by Tibetan children and the failure of the State party to prevent such loss of life by addressing the deep underlying causes and long-standing grievances of Tibetans. It is further concerned about reports of detention and imprisonment of Tibetan children accused of ‘inciting’ self-immolations, and of harassment and intimidation of families of victims, which could exacerbate the situation and lead to more self-immolations.

**35. The Committee urges mainland China to engage in a genuine dialogue with children, religious and community leaders in Tibet Autonomous Region (TAR) in an effort to halt self-immolations and protect the inherent right to life, survival and development of all Tibetan children. It specifically recommends that mainland China:**

(a) **Take urgent measures to resolve the deep-rooted grievances of Tibetan children and their families, including by reassessing and reforming policies and programmes, which have led to the immolations and protests by children in TAR;**

(b) **Ensure that Tibetan children injured after self-immolating have full access to free medical treatment and that their conditions are independently verified and publicly reported; and**

(c) **Refrain from arresting and detaining Tibetan children and implementing security measures that may exacerbate the situation and ensure that children arrested or sentenced for ‘instigating’ or ‘inciting’ self-immolation can fully access their right to legal aid and fair trial.**

**Respect for the views of the child**

36. While the Committee notes the establishment of child participation forums, it is concerned about the lack of effective and broad mechanisms, in all areas of the State party’s jurisdiction, to promote and facilitate respect for the views of all children and children’s participation in all matters affecting them.

**37. The Committee recommends that the State party establish effective consultative mechanisms in mainland China, Hong Kong SAR and Macau SAR to ensure respect for the views of children and their participation in all matters affecting them, including in the development of policy-making, court decisions and on programme implementation.**

**D. Civil rights and freedom (arts.7,8,13-17, 19 and 37 (a) of the Convention)**

**Birth registration / Name and nationality**

38. The Committee is concerned that the rate of birth registration is low in poor and remote areas of mainland China and among girls, migrant children, adopted children, and children born outside of locally ‘sanctioned’ family size. It remains particularly concerned that:

(a) The current family planning policies on birth registration, including the issuance of birth certificates and the negative impact of financial and other forms of penalties and practices, significantly deter parents or guardians from registering their children;

(b) The family household registration (*hukou*) to which the birth registration is attached impedes birth registration of children of migrant workers; and

(c) Numerous administrative requirements for obtaining a birth certificate and complex registration procedures create many barriers to birth registration.



39. **The Committee recommends that mainland China:**

- (a) Reform family planning policies in order to remove all forms of penalties and practices that deter parents or guardians from registering births of their children;**
- (b) Abandon the hukou system in order to ensure birth registration for all children, especially for children of migrant workers;**
- (c) Simplify, streamline and facilitate the process of registration of birth 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;**
- (d) Intensify community sensitization and public awareness of the importance of birth registration, including among government agencies and in rural areas; and**
- (e) Seek technical assistance from the United Nations Children's Fund (UNICEF) among others, for the implementation of these recommendations.**

**Freedom of thought, conscience and religion**

40. The Committee is deeply concerned that despite the constitutional guarantees of freedom of religious belief for ethnic and religious minorities, mainland China continues to introduce series of regulations and policies that impose severe restrictions on cultural and religious freedoms of various groups of children, including Tibetan and Uighur children and children of Falun Gong practitioners, among others. In particular, the Committee is deeply disturbed by:

- (a) 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 are arrested, detained and subject to ill-treatment and torture;
- (b) The restrictions which limit Tibetan children's ability and freedom to study and practice their religion, such as the measures imposed on Tibetan monasteries and nunneries to place them under close control and surveillance; and
- (c) The situation of Gedhun Choekyi Nyima, who disappeared at the age of six years in 1995, and despite the State party's information, mainland China has not allowed any independent expert to visit and confirm his whereabouts, fulfilment of his rights and well-being.

41. **In light of Article 14 of the Convention and Article 36 of the State party's Constitution, the Committee reminds mainland China (CRC/C/CHN/CO/2, para 45, 2005) that it take all necessary measures to ensure the full implementation of the Regional Ethnic Autonomy Act, effectively guarantee the right to freedom of thought, conscience and religion for those under 18 which is not limited to certain recognized faiths, and respect the rights and duties of parents to give guidance to their children in the exercise of their rights in this regard in a manner consistent with the evolving capacities of the child (para 45 a, 2005). In particular, the Committee recommends that mainland China:**

- (a) Abolish criminal and administrative penalties, including re-education through labour which target children from certain groups, particularly Tibetan Buddhist, Uighur and children of families practising the Falun Gong;**
- (b) Repeal all measures and restrictions that prohibit Tibetan children of any age from participating in religious activities or receiving religious education, including measures imposed on monasteries and nunneries;**

(c) **Revise all policies and legislative provisions, including Article 14 of the ‘Implementing Measures for the Law on the Protection of Minors’, which impose serious restrictions on Uyghur children’s right to religious freedom; and**

(d) **Immediately allow an independent expert to visit Gedhun Choekyi Nyima and verify his health and living conditions.**

## **E. Violence against children (articles 19, 37 (a) and 39 of the Convention)**

### **Torture and other cruel or degrading treatment or punishment**

42. The Committee is deeply concerned about the frequently reported practice of torture and ill-treatment of children from certain religious and ethnic groups in mainland China for exercising their fundamental rights to freedom of religion, assembly and expression, notably Tibetan and Uighur children and children of Falun Gong practitioners as well as children in detention.

43. **In accordance with article 37 (a) of the Convention, the Committee strongly urges the State party to:**

(a) **Immediately carry out an independent inquiry into all alleged cases of torture and ill-treatment of children and publicly report on those cases;**

(b) **Ensure that all those who have been ordering, condoning or facilitating these practices at all levels of decision-making be brought to justice and be punished with penalties commensurate with the gravity of their crimes; and**

(c) **Ensure that children who have been victims of torture and ill-treatment obtain redress and adequate reparation, including physical and psychological recovery and guarantees of non-repetition.**

### **Sexual exploitation and abuse**

44. The Committee is seriously concerned about the high prevalence of sexual exploitation and abuse against children, including rape, in all areas of the State party’s jurisdiction. In particular, the Committee is concerned about:

(a) The particular vulnerability of children of migrant workers, especially those left behind by their parents in the care of relatives or others in mainland China to sexual exploitation and abuse;

(b) The low rate of prosecution for such crimes against children and the pervasiveness of extrajudicial settlements in mainland China and withdrawal of complaints in Macau SAR, leading to impunity for perpetrators;

(c) The lack of awareness among children in all areas of the State party’s jurisdiction about sexual abuse and ways to respond to and report such incidents;

(d) The lack of procedures to identify and support child victims of sexual exploitation and trafficking in Hong Kong SAR; and

(e) The limited access to justice, shelter, medical services, psychological counseling and compensation for child victims of sexual exploitation and abuse under the national legislation in mainland China, Hong Kong SAR and Macau SAR.

45. **The Committee urges:**

(a) **Mainland China to strengthen efforts to protect children of migrant workers from sexual exploitation and abuse and ensure that legislation relating to**

sexual abuse and exploitation is effectively enforced, and that perpetrators of such crimes are brought to justice with sanctions proportionate to their crimes;

(b) Mainland China, Hong Kong SAR and Macau SAR to systematically collect data on sexual exploitation and abuse against girls and boys, on the number of investigations and penalties against perpetrators, and on redress and compensation offered to the victims;

(c) Mainland China, Hong Kong SAR and Macau SAR to establish effective and child-friendly procedures and mechanisms, including free helplines accessible to children, to receive, monitor and investigate complaints and undertake awareness-raising activities among children, including among boys, to encourage the reporting of sexual violence and abuse in schools and communities;

(d) Hong Kong SAR to conduct a comprehensive review of sexual offences in the Crimes Ordinance and reform laws to criminalize all forms of child pornography and sexual exploitation of children on the internet; it should also establish effective policies and procedures to identify and support child victims of trafficking and sexual exploitation; and

(e) Hong Kong SAR and Macau SAR respectively to develop a national strategy to respond to the shelter, health, legal and psychosocial needs of child victims of sexual exploitation and abuse, including by adequate training for professionals.

#### **Freedom of the child from all forms of violence**

46. Recalling the recommendations of the United Nations study on violence against children of 2006 (A/61/299), the Committee recommends that the State party prioritize the elimination of all forms of violence against children. The Committee further recommends that the State party take into account general comment No. 13 (CRC/C/GC/13, 2011), and in particular:

(a) Develop a comprehensive national strategy to prevent and address all forms of violence against children;

(b) Adopt a national coordinating framework, including mandatory reporting of all cases and the necessary follow-up measures to address all forms of violence against children;

(c) Pay particular attention to and address the gender dimension of violence;

(d) Cooperate with the Special Representative of the Secretary-General on violence against children and other relevant United Nations institutions.

### **E. Family environment and alternative care (arts. 5, 18 (paras. 1-2), 9-11, 19-21, 25, 27 (para. 4) and 39 of the Convention)**

#### **Family environment**

47. The Committee notes with concern that due to the restrictive hukou policy, many migrant parents face the difficult choice of leaving their children behind, resulting in 55 million children growing up without one or both parents in rural mainland China. In this regard, the Committee expresses concern that instead of tackling the root causes of abandonment of children, mainland China continues to adopt policies that often promote institutionalization of left-behind children, including in boarding schools.

48. In accordance with article 9 of the Convention, the Committee urges mainland China to take immediate measures to avoid the separation of children from the family

**environment, including by abolishing the hukou system and providing appropriate assistance and support services to parents and legal guardians, including to working parents, in the performance of child-rearing responsibilities. It further recommends that mainland China reform the school merger programme and prioritize family environment and community-based care rather than institutionalisation of children.**

49. The Committee is concerned that mothers from mainland China who have been married to Hong Kong residents and have children who are Hong Kong SAR residents, are not able to obtain residence permits in Hong Kong SAR but regularly have to go to mainland China to renew their one-way entry permits, and that they have no right to work or family support in Hong Kong SAR creating an unstable and vulnerable family situation for their children.

**50. In accordance with article 9 of the Convention, the Committee recommends that Hong Kong SAR take all necessary measures to facilitate family reunification, including by granting these mothers residence permits in Hong Kong SAR.**

#### **Children deprived of a family environment**

51. The Committee is seriously concerned about the widespread abandonment of children in mainland China, particularly children with disabilities and girls, mainly due to its family planning policy and discrimination and stigma attached to children with disabilities and girls. Furthermore, while it notes that the NPA calls for an increase in qualified child welfare professionals by 2020, the Committee is concerned that the NPA and other new policies advocate for the establishment of children's homes and offer higher funding for such institutions than for kinship and community based care, which could unintentionally create incentives for government agencies to institutionalize children rather than to seek community-based alternative care options.

52. The Committee is concerned about the absence of procedures for regular review of the placement of children in care Hong Kong SAR and the lack of legislation on the termination of parental rights when necessary. It is also concerned about the insufficient professional support and care provided to families and children in Hong Kong SAR and that the best interests of the child and the right of the child to be heard are not sufficiently considered in family crisis situations. The Committee is concerned that in Hong Kong SAR and Macau SAR, children deprived of family care are placed in residential institutions rather than in family based care.

**53. The Committee urges mainland China to take immediate steps to eliminate the widespread stigma in relation to girls and children with disabilities and reform its family planning policy, in an effort to address the root causes for the abandonment of girls and children with disabilities. It further recommends that, in all areas under its jurisdiction, the best interests of the child is prioritised in all decisions about alternative care for children and that community-based, family-type care is preferred over institutionalization. The Committee further recommends that it continue to increase the number of professionals working with children and provide training to all professionals, including through allocation of additional government resources.**

**54. The Committee recommends that Hong Kong SAR implement the Law Reform Commission's recommendations concerning law and procedural reforms in this area and that Macau SAR and Kong SAR increase resources and services, including family and psychosocial counseling and parent education, and train all professionals working with children. It further recommends that the right of the child to have his or her best interests taken as a primary consideration and their right to be heard are fully taken into account in all decisions regarding custody, residence, contact or other issues which have an important impact on the life and development of the child.**

## **Adoption**

55. While the Committee notes that mainland China has made efforts to combat unlawful adoptions, it is deeply concerned that thousands of children are estimated to be abducted, trafficked and sold every year, including for illegal adoption purposes. It is particularly concerned about reports that some family planning officials coerce parents to give up their children born in excess of their parents' birth quotas, and sell and transfer children into the care of local orphanages for domestic or international adoption or forced labor. The Committee also reiterates its concern about the absence of information and public statistics about the number of children reportedly sold into adoption for domestic and inter-country adoptions in mainland China (CRC/C/CHN/CO/2, para 52, 2005) and the number of cases that were investigated and prosecuted.

56. **The Committee recommends that the State party:**

(a) **Urgently review the current mechanisms and procedures for domestic and intercountry adoption in mainland China, in Hong Kong SAR and Macau SAR and ensure that professionals responsible for adoption cases are fully equipped with the expertise needed to assess, review and process cases, in a timely manner, in the light of the Hague Convention;**

(b) **Create a transparent and effective system for assessment and review of the adoption process in mainland China, Hong Kong SAR and Macau SAR;**

(c) **Mainland China investigate all cases of abductions and unlawful adoptions of children, including from hospitals and "orphanages", and ensure that perpetrators of such crimes, including the government officials involved, are held accountable; and**

(d) **Establish a central data collection system to identify the number of children abducted, including for adoption purposes and children who have been rescued and reintegrated into their families and communities in mainland China.**

## **F. Disability, basic health and welfare (arts. 6, 18 (para. 3), 23, 24, 26, 27 (paras. 1-3) of the Convention)**

### **Children with disabilities**

57. With respect to mainland China, the Committee notes as positive the adoption of various policies, which promote the rights of children with disabilities. However, it notes with concern that the State party continue to adopt a medical approach to disability and the services for children with disabilities are centered mostly on institutions for physical 'rehabilitation'. It is specifically concerned about:

(a) The continued exception made to the 'One-Child Policy' whereby families with a child with disabilities are allowed to have a second child, a policy which promotes stigmatisation of children with disabilities;

(b) The widespread stigma attached to children with disabilities and multiple forms of discrimination they experience, including limited access to education, health care and social services;

(c) The severe urban-rural disparity in the number of children with disabilities, and the high number of them living in institutions, particularly in rural areas; and

(d) The State party's policy of actively developing segregated special schools while devoting few resources to the education of children with disabilities in mainstream schools. The Committee is further concerned about reports that children with disabilities are

denied admission by mainstream schools, pressured to leave the schools, or sometimes expelled due to their disabilities.

58. The Committee is concerned about the lack of screening programmes for early detection of disabilities in mainland China, Hong Kong SAR and Macau SAR.

59. With regard to Macau SAR, the Committee is concerned that children with disabilities experience de facto discrimination and have limited access to inclusive education and well-trained, motivated teachers. It is further concerned about the lack of disaggregated data on children with disabilities in Hong Kong SAR, and that reports indicate that they are commonly excluded and discriminated, including by teachers, and bullied by their peers.

60. **Recalling its general comment No. 9 (2006) on the rights of children with disabilities, the Committee urges the State party to adopt a human rights-based approach to disability and specifically recommends that it:**

**(a) Repeal all provisions which result in de facto discrimination against children with disabilities and include a specific prohibition of discrimination on the ground of disability in all relevant legislation and policies, including the proposed Regulations on the Education of People with Disabilities. Mainland China should also ensure that children with disabilities are involved in the formulation and implementation of the policies and plans affecting them at all levels;**

**(b) Independently monitor all cases of disability-based discrimination in mainland China and in Hong Kong SAR and Macau SAR and provide effective remedies in cases of violations of the rights of children with disabilities;**

**(c) Prevent and eliminate institutional-based care for children with disabilities in mainland China and take immediate steps for the deinstitutionalization within a reasonable timeframe and develop family and community-based care and services as alternatives to institutional care;**

**(d) Further develop screening services for prevention and early detection of disabilities in mainland China, Hong Kong SAR and Macau SAR, and provide proper follow-up and early development programmes;**

**(e) Promptly identify and remove all the barriers, including physical that prevent students with disabilities from entering and staying in the mainstream system in mainland China, in Hong Kong SAR and Macau SAR and reallocate resources from the special education system to promote the inclusive education in mainstream schools;**

**(f) Intensify its efforts to tackle bullying of children with disabilities in schools in Hong Kong SAR, including by teaching human rights, peace and tolerance, providing vocational education for teachers and employing special assistance for children in the classes. Furthermore, Hong Kong SAR should systematically collect disaggregated data on children with disabilities and use the collected data in the formulation of policies and programmes for children with disabilities; and**

**(g) Conduct awareness-raising and educational campaigns targeting children with disabilities, the public at large and specific groups of professionals with a view to preventing and eliminating de facto discrimination against children with disabilities in mainland China, in Hong Kong SAR and Macau SAR.**

#### **Health and health services**

61. The Committee welcomes the improvements in immunisation rates, as well as the significant reduction in maternal and child mortality in mainland China and the increase of

births in hospitals, including in rural areas. However, it is strongly concerned about the persistence of health disparities between urban and rural areas, among migrant children and between and within different regions, particularly in Western China. It is further concerned about the gaps in the allocation of health resources between the urban and rural areas and the quality of health care for children living in remote and poor areas and children of migrant workers.

**62. The Committee recommends that mainland China strengthen its efforts to address, as matter of urgency, the existing disparities in health outcomes and resource allocations in order to ensure that all children enjoy the same access to and quality of health services, paying special attention to children in vulnerable situations, especially children living in poverty and rural areas and children of migrant workers. In particular, it recommends that mainland China take all measures to eliminate child and maternal mortality, including by improving health infrastructure and the availability and accessibility to emergency obstetric and neonatal care and skilled birth attendants at primarily health facilities in rural and poor areas.**

63. The Committee is deeply concerned about unsafe vaccinations and blood transfusion, which resulted in deaths, HIV infection and serious illness or disability of thousands of children across mainland China. It is further concerned that many families of children who died or were seriously affected have not received any redress, that there is an increase in mother to child transmission of HIV/AIDS and that children infected or affected by HIV/AIDS lack free treatment and health care. It also notes with concern the lack of official statistics on the number of children affected in these incidents or on their current situation in mainland China.

64. The Committee is further concerned about the decrease in the exclusive breast feeding and the incidents of contaminated infant formula in mainland China.

**65. The Committee strongly recommends that mainland China:**

**(a) Intensify its efforts to reform laws and strengthen implementation of regulations on food and health safety standards, including for business sector and ensure that any officials or companies violating international and national environment and health standards are appropriately sanctioned and remedies provided when violations occur;**

**(b) Collects systematic data on children affected and take all measures to ensure that all children and their families have access to effective redress, including free medical treatment and adequate compensation;**

**(c) Effectively implement the central government's policy of providing HIV-infected children and orphans with free anti-HIV drugs, free schooling and a minimum monthly subsidy of 600 yuan (\$95), as reported in its replies to the Committee (CRC/C/CHN/Q/3-4/Add.1);**

**(d) Promote exclusive breastfeeding and the establishment of Baby-Friendly Hospitals and adopt a Code of Marketing of Breast-Milk Substitutes with appropriate controls on the marketing of artificial infant formula.**

#### **Adolescent health**

66. The Committee is disturbed by reports of forced sterilization and abortions in mainland China targeting, among others, teenage girls, carried out by local family planning officials in the context of implementation of mainland China's 'One-Child Policy,' practices which contravene the fundamental principles and provisions in the Convention.

**67. The Committee recommends mainland China to promptly and independently investigate and publicly report all incidents of forced abortions and forced**

**sterilization of teenage girls by local authorities, and prosecute all officials responsible for such crimes.**

68. The Committee is concerned about the low awareness and insufficient services in the area of adolescent health in the State party.

69. **The Committee recommends that in all areas under its jurisdiction, the State party ensure the widespread provision of comprehensive adolescent health services and psychosocial support and improve awareness and knowledge, including by providing sexual and reproductive health education in schools and life skills education on the prevention of substance abuse, and to introduce school health services, including youth-sensitive and confidential counselling and care.**

#### **Mental health**

70. The Committee remains concerned about the limited access and long waiting periods to mental health services available for children in mainland China and Hong Kong SAR.

71. **The Committee reiterates its recommendation (CRC/C/CHN/CO/2, para 65, 2005) that in all areas under its jurisdiction, the State party expand preventive and therapeutic mental health services for adolescents and that it adopt comprehensive child mental health policies and ensure that mental health promotion, counseling, prevention of mental health disorders in primary health care, schools and communities are integral features of the policy.**

#### **Standard of living**

72. While welcoming Hong Kong SAR's plan to increase its supply of public housing, the Committee is concerned about the housing conditions in certain poor areas. Furthermore, the Committee is concerned about the increasing child poverty in mainland China and Hong Kong SAR and that children of migrants, children of ethnic minorities and asylum seeking children are disproportionately represented among the poor and live below the poverty line.

73. **The Committee urges Hong Kong SAR to expedite the implementation of its public housing programme. It further recommends that mainland China and Hong Kong SAR adopt a multidimensional set of criteria for assessing and addressing child poverty and take all necessary measures to eliminate regional, ethnic and urban-rural disparities in children's standard of living through, inter alia, social protection and targeted programmes for children and families who are particularly vulnerable to poverty, such as migrant children, children of ethnic minorities and asylum seeking children.**

### **G. Education, leisure and cultural activities (arts. 28, 29 and 31 of the Convention)**

#### **Education, including vocational training and guidance**

74. While the Committee notes the significant achievements made by mainland China in education, including the expansion of early childhood care and education, it is concerned about the increasing disparities in access to and availability of education for children living in rural areas and especially for children from ethnic minorities, asylum seeking and refugee children, children of North Korean mothers and migrant workers. In this regard, it is seriously concerned about the reports of official harassment and forced closure of privately run schools for migrant children in areas where they have little or no access to the state school system. It is further concerned about:



- (a) The quality of education throughout mainland China, affecting students' repetition and retention and high drop-out rates for lower secondary school especially in a number of southern provinces;
- (b) Inadequate sanitation and hygiene, poor school infrastructure and physical safety for children in schools;
- (c) The lack of measures to promote the use and learning of mother-tongue and minority languages in the context of the bilingual education policy and discrimination against Tibetan and Uyghur children and children of migrant workers within the Chinese education system;
- (d) The multiple barriers in the use and promotion of the Tibetan language in schools in the Tibet Autonomous Region (TAR) of China and reports of closure of schools and detention of teachers;
- (e) The prohibition of admission of children of an "evil cult" to educational institutions, as stipulated in Article 10 of the 2013 regulation on "Admission Requirements for Universities and Colleges," which prevents children of Falun Gong practitioners, among others, from obtaining college education; and
- (f) The quality and reliability of education data throughout the country.

**75. The Committee recommends that mainland China continue to strengthen programmes and policies to ensure the accessibility of quality education for all children, particularly children of migrant workers, from ethnic minorities and refugee and asylum-seeking children. It further urges mainland China to:**

- (a) Ensure adequate funding to education at all levels and geographic areas and improve school infrastructure, number of teachers and children's access to school materials and textbooks;**
- (b) End harassment and closure of privately run schools for migrant children and ensure that education is automatically made available to all refugee and asylumseeking children following their arrival and registration in mainland China;**
- (c) Effectively implement the bilingual language policy to ensure use and promotion of ethnic minority languages and ensure participation from ethnic minorities, including Tibetan and Uyghur children at the local and regional levels in the decision-making process of the education system;**
- (d) Eliminate all restrictions, including the closure of Tibetan schools, that severely restrict the ability of Tibetan children to learn and use the Tibetan language in schools; mainland China should also ensure that all teaching and learning materials for the primary and secondary level are also available in ethnic minority languages and with culturally sensitive content, as guaranteed by the Chinese Constitution;**
- (e) Immediately repeal Article 10 of the 2013 "Admission Requirements for Universities and Colleges" and ensure that all children can access education without any restriction, regardless of their religion, belief or conscience;**
- (f) Expedite its efforts to improve school construction, safety and hygiene and access to adequate sanitation in all schools; and**
- (g) Devote more technical, financial and human resources and introduce international standards to improve data quality, disaggregation and analysis and ensure data availability, transparency and public review in education to improve data quality.**

76. In Hong Kong SAR, the Committee is concerned about:

(a) The bullying in schools and competitive nature of the school system, resulting in anxiety or depression among children and infringing their right to play and rest;

(b) The de facto discrimination of ethnic minority children and racial segregation in the public school system, due to availability of teaching only in Chinese and the system of so-called government-subsidized “designated schools” for these children; and

(c) “Cross border children” who have no access to local schools and are commuting daily to and from Mainland China.

77. In Macau SAR, the Committee is concerned about the drop out of children, particularly pregnant adolescents, from secondary schools.

78. **The Committee recommends that Hong Kong SAR:**

(a) **Take measures to address bullying in schools, including with the participation of students themselves and to reduce the competitiveness of the education system and promote active learning capacities and the right of the child to play and leisure, including by the training of teachers and providing more social workers and psychologists in school, and sensitisation of parents and guardians;**

(b) **Urgently abolish the system of so-called “designated schools” for children of ethnic minorities and reallocate resources to promote their access to education into mainstream schools, including through scholarships or lower entry qualifications;**

(c) **Intensify its efforts to implement legislation and policies on bilingual education at all levels of education, ensuring high quality education in Chinese as a second language and**

(d) **Ensure access to local schools for all children living in Hong Kong SAR.**

79. **The Committee recommends that Macau SAR strengthen its efforts to improve school attendance and retention programmes, especially for pregnant adolescents and promote quality education to enhance students’ motivation and retention.**

## **H. Other special protection measures (arts. 22, 30, 38, 39, 40, 37 (b)-(d), 32-36 of the Convention)**

### **Asylum-seeking and refugee children**

80. The Committee welcomes mainland China’s pledge in 2011 to “endeavor to finally settle the Indochinese refugee issue”. The Committee, however, is particularly concerned that:

(a) Children entering mainland China from the Democratic People’s Republic of Korea (DPRK) are still categorically considered as economic migrants and returned to the DPRK without consideration of whether there are risks of irreparable harm to the children upon return;

(b) Children of North Korean mothers lack legal identity and access to basic rights, particularly education as they are not registered under the hukou system out of fear that their mothers would be identified and forcibly returned to DPRK;

(c) Mainland China failed to recognize the Kachin asylum seekers, including children as refugees despite their circumstances and forcibly returned them to Myanmar in August 2012; and

(d) There is an absence of special reception procedures or facilities for unaccompanied and separated refugee and asylum-seeking children and that they lack access to health care, special care and protection.

81. The Committee notes as positive the decision of Hong Kong SAR to grant asylum-seeking and refugee children access to the national public school system. However, it is concerned about the lack of special care and protection for asylum seeking children upon their arrival and the administrative practice of detaining them and unaccompanied children, arriving in Hong Kong SAR by air and children who are refused entry, in juvenile detention facilities.

82. **The Committee recommends that mainland China:**

(a) **Respect the principle of *non-refoulement* and reminds it of its obligation under the Convention to ensure that no accompanied, unaccompanied or separated child, including those from the Democratic People's Republic of Korea is returned to a country where there are substantial grounds for believing that s/he will suffer irreparable harm and that this principle applies to all children and their families without distinction and regardless of nationality;**

(b) **Ensure that Kachin child refugees and their families are provided with a temporary protection regime in view of the ongoing conflict in northern Myanmar; it should also allow the United Nations High Commissioner for Refugees (UNHCR) free and unfettered access to Yunnan province to conduct refugee status determinations;**

(c) **Cease the arrest and repatriation of North Korean, especially children and women who have children with Chinese men, and ensure that children of North Koreans mothers have access to fundamental rights, including the right to identity and education; and**

(d) **Take immediate initiatives to meet the special needs and vulnerabilities of unaccompanied and separated children seeking asylum and provide appropriate care and cater for the special needs of these unaccompanied and separated children.**

83. **The Committee recommends that Hong Kong SAR:**

(a) **Cease the administrative practice of detaining asylum-seeking and refugee children;**

(b) **Ensure that asylum-seeking and refugee children are provided with accessible and adequate support, including special care, protection and adequate guardianship and legal representation; and**

(c) **Accede to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol.**

#### **Economic exploitation, including child labour**

84. The Committee is concerned about the absence of specific data on child labour in mainland China while reports indicate that child labour and exploitation, including through abductions and sale of children by criminal gangs is widespread. It is further concerned about:

(a) **The common practice of the Re-Education through Labour Programme (RTL) and 'Work Study Schools' (*gongdu xuexiao*) and the use of forced and exploitative child labour under these programmes; and**

(b) **The widespread involvement of children in hazardous work and the worst forms of child labour, especially in mining, manufacturing and brick industries; and inadequate protection of children from 16 to 18 years against hazardous work.**

85. The Committee urges mainland China as a matter of priority, to end the use of the RTL and 'Work Study Schools' program and that it:

(a) Gather data on child labour, incidences of hazardous child labour and working conditions, disaggregated by age, sex, geographical location, socioeconomic background and make them publicly available and use them to develop effective measures to prevent and eliminate all forms of child labour;

(b) Identify hazardous work and worst forms of labour carried out by children and strengthen protection and prohibition of employment of children between 16 and 18 years of age in hazardous work;

(c) Ensure that for children above the age of 16 involved in labour, their involvement is based on genuine free choice and subject to adequate safeguards based on the Convention and international standards, including through the application of sanctions against individuals involved in forced recruitment; and

(d) Consider ratifying ILO Convention No. 189 (2011) concerning Decent Work for Domestic Workers.

**Sale, trafficking and abduction, including follow up to the Optional Protocol on the sale of children, child prostitution and child pornography (OPSC)**

86. The Committee regrets that the State party has not sufficiently implemented the Committee's previous recommendations under the OPSC (CRC/C/OPSC/CHN/CO/1, 2005). It is further concerned at the increased prevalence of child trafficking and exploitation in mainland China and Macau SAR especially for the purpose of labor and sexual exploitation. It is also concerned that child sex tourism remains a serious problem in Macau SAR and that alleged complicity of government officials in trafficking and sexual exploitation related offenses has led to impunity for such crimes.

87. The Committee recalls its previous recommendations and urges the State party to take the necessary legislative measures to harmonize the Penal Code of 1997 with the provisions of the Optional Protocol, and in particular:

(a) Ensure that all the offenses referred to in article 3, paragraph 1 of the Optional Protocol are fully covered under the Penal Code, whether such offences are committed domestically or transnationally or on an individual or organized basis, paying particular attention to the sale and trafficking of children for the purpose of adoption; and

(b) Establish extraterritorial jurisdiction over the offences referred to in article 3, paragraph 1, in conformity with article 4, paragraph 2 of the Optional Protocol; and abolish the requirement of double criminality for the prosecution on the Mainland of offences committed abroad;

(c) Consider the Optional Protocol as a legal basis for extradition in respect of such offences, in conformity with article 4, paragraph 2 of the Optional Protocol.

88. The Committee further recommends that the State party:

(a) Undertake research on the root causes and extent of the commercial sexual exploitation of children, child sex tourism and sale of children, child prostitution and child pornography, to identify children at risk, assess the extent of the problem and develop targeted policies and programmes in mainland China and Macau SAR;

(b) Immediately address the issue of corruption and impunity in Macau SAR as a matter of priority, through rigorous investigations of complaints of complicity by government officials and their prosecution for such crimes; and

**(c) Take all necessary measures, legal and institutional, to strengthen identification, investigation and prosecution of foreign paedophiles in all jurisdiction of the State party, particularly in Macau SAR.**

89. The Committee regrets that the application of the Optional Protocol has not been extended to Hong Kong SAR.

**90. The Committee urges Hong Kong SAR to finalize all the preparations and extend the application of the Optional Protocol without any further delay.**

#### **Administration of juvenile justice**

91. The Committee welcomes the amendment to mainland China's criminal procedure code and the current discussions on reforming the Re-Education Through Labour Programme (RTL). It remains however deeply concerned about the continued application of administrative detention of children, including RTL and 'Work Study Schools' (gongdu xuexiao), and the failure of the State party to end these practices despite repeated concerns expressed by the treaty bodies and UN special procedures mandate holders. It is especially concerned that:

(a) Children above 16 years can be detained in RTL facilities without any access to legal safeguards or representation and such detention can last up to 18 months, according to the State party;

(b) Reports indicate that children are abducted and held incommunicado for days or months either with their parents or in the absence of their parents or guardians in secret detention facilities, including "black jails";

(c) No steps have been taken to investigate allegations of the existence of "black jails" and torture and ill-treatment, including food and sleep deprivation against children in such places and RTL facilities;

(d) Children of migrant workers are significantly overrepresented in mainland China's criminal justice system; and

(e) Children, especially in vulnerable situations, such as children in poverty, face several obstacles to accessing justice, including inadequate access to legal aid and lack of independent legal aid.

**92. The Committee recommends that in all areas of its jurisdiction, the State party strengthen its efforts to build a system of restorative and rehabilitative juvenile justice fully in line with the Convention, in particular articles 37, 39 and 40, the Committee's general comment No. 10 on Children's rights in Juvenile Justice (CRC/C/GC/10) and other relevant standards. It urges mainland China to ensure that no child is deprived of his or her liberty unlawfully or arbitrarily and that the best interests of the child shall be the primary consideration in any action. It further recommends that it:**

**(a) Abolish the institutionalized system of RTL and 'Work Study Schools' which allows for the widespread application of administrative detention of children; end the use of incommunicado detention of children, including by immediately closing all secret detention facilities, such as "black jails";**

**(b) Ensure that children arrested and deprived of their liberty are brought before an independent judicial authority to examine the legality of their arrest and detention within 24 hours of their arrest and are provided with adequate free and independent legal assistance immediately and can contact their parents or close relatives;**

**(c) Independently investigate and publicly report on the existence of secret detention facilities, such as "black jails," including the authority under which they**

have been established and prosecute individuals responsible for operating secret detention facilities, including “black jails” as well as those involved in torture and ill-treatment of children in such facilities;

(d) Adopt urgent and specific measures to address the disproportionate representation of children of migrant workers in the criminal justice system; and

(e) Ensure that children can exercise their right to legal aid directly, and address disparities in access to justice by enhancing the quality and accessibility of legal aid to all children, including those in situations of vulnerability, such as children of migrant workers and ethnic minorities and children from religious communities.

93. The Committee recommends that Hong Kong SAR:

(a) Raise the minimum age of criminal responsibility to an internationally acceptable level;

(b) Ensure that detention, including pre-trial detention is used as a measure of last resort and for the shortest possible period of time, even in case of very severe crimes and that it is reviewed on a regular basis with a view to withdrawing it;

(c) Promote alternative measures to detention, such as diversion, probation, counseling, community service or suspended sentences, wherever possible and develop social reintegration programmes for children in conflict with the law; and

(d) Ensure immediate removal of children from adult detention facilities and place them in a safe, child-sensitive environment where they are treated humanely and with respect for their inherent dignity, and can maintain regular contact with their families, and are provided with education and vocational training.

94. The Committee urges Macau SAR to prohibit and abolish the use of solitary confinement against children and immediately remove all children held in solitary confinement.

#### **Protection of witnesses and victims of crimes**

95. The Committee regrets that the efforts to ensure measures to protect child victims and witnesses are insufficient and not properly reflected in the State party’s legislation.

96. The Committee recommends that the State party ensure, through adequate legal provisions and regulations, that all child victims and/or witnesses of crimes, e.g. child victims of abuse, domestic violence, sexual and economic exploitation, abduction and trafficking, and witnesses of such crimes, are provided with the protection required by the Convention, and that it take fully into account the United Nations Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime, annexed to Economic and Social Council resolution 2005/20.

### **I. Ratification of international human rights instruments**

97. The Committee recommends that the State party, in order to further strengthen the fulfilment of children’s rights, ratify the core human rights instruments to which it is not yet a party, particularly the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, the International Covenant on Civil and Political Rights, the International Convention for the Protection of All Persons from Enforced Disappearances and the International Convention for the Protection of the Rights of All Migrant Workers and Members of their Families.

**J. Cooperation with regional and international bodies**

98. The Committee recommends that the State party cooperate, among others, with the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children.

**K. Follow-up and dissemination**

99. The Committee recommends that the State party take all appropriate measures to ensure that the present recommendations are fully implemented by, *inter alia*, transmitting them to the Head of State, Parliament, relevant ministries, the Supreme Court and local authorities for appropriate consideration and further action.

100. The Committee further recommends that the consolidated third and fourth periodic reports and the written replies by the State party and the related recommendations (concluding observations) be made widely available in the languages of the country, including (but not exclusively) through the Internet, to the public at large, civil society organizations, media, youth groups, professional groups and children, in order to generate debate and awareness of the Convention and the Optional Protocols thereto and of their implementation and monitoring.

**L. Next report**

101. The Committee invites the State party to submit its next fifth and sixth periodic reports in one consolidated report by 31 March 2019 and to include in it information on the implementation of the present concluding observations. The Committee draws attention to its harmonized treaty-specific reporting guidelines adopted on 1 October 2010 (CRC/C/58/Rev.2 and Corr. 1) and reminds the State party that future reports should be in compliance with the guidelines and not exceed 60 pages. The Committee urges the State party to submit its report in accordance with the guidelines. In accordance with General Assembly resolution 67/167 of 20 December 2012, in the event a report exceeding the page limitations is submitted, the State party will be asked to review and resubmit the report in accordance with the above-mentioned guidelines. The Committee reminds the State party that if it is not in a position to review and resubmit the report, translation of the report for purposes of examination of the treaty body cannot be guaranteed.

102. The Committee also invites the State party to submit an updated core document in accordance with the requirements of the common core document in the harmonized guidelines on reporting, approved at the fifth Inter-Committee Meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3).

---