

**For discussion  
on 15 March 2021**

**Legislative Council Panel on Constitutional Affairs**

**An outline of the topics in the third report of the  
Hong Kong Special Administrative Region under the  
Convention on the Rights of the Child**

**Purpose**

This paper seeks Members' comments on the proposed outline of the topics to be included in the third report of the Hong Kong Special Administrative Region (HKSAR) under the United Nations (UN) Convention on the Rights of the Child (CRC).

**Application of the CRC in the HKSAR and reporting obligation**

2. The CRC was extended to Hong Kong in 1994. On 10 June 1997, the Government of the People's Republic of China (PRC) notified the UN Secretary-General that the CRC ratified by the PRC in 1992, with the reservations and declarations made by the PRC for and on behalf of the HKSAR, would apply to the HKSAR with effect from 1 July 1997<sup>1</sup>. Full text of the CRC can be found on the website of the Constitutional and Mainland Affairs Bureau (CMAB).<sup>2</sup>

3. Under Article 44 of the CRC, State Parties have the obligation to submit periodic reports on the measures adopted which lend progress to the enjoyment of rights recognised in the CRC. The HKSAR's report under the CRC has been submitted to the UN as part of the report of the PRC.

4. The initial report of the HKSAR was submitted in June 2003 as part of the PRC's second report, and was considered by the UN Committee on the Rights of the Child (the Committee) in September 2005. The HKSAR's second report (the previous report) was submitted as part of the PRC's combined third and fourth reports in July 2010 and considered by the Committee in September 2013.

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<sup>1</sup> By the Government of the PRC's notification to the UN Secretary-General on 10 April 2003, the said reservations and declarations were partially withdrawn.

<sup>2</sup> The link to the full text of the CRC -  
[https://www.cmab.gov.hk/doc/en/documents/policy\\_responsibilities/crc.doc](https://www.cmab.gov.hk/doc/en/documents/policy_responsibilities/crc.doc)

5. The Central People's Government (CPG) is preparing its combined fifth and sixth reports under the CRC. In this connection, the HKSAR Government will submit to the CPG a report on the implementation of the CRC in the HKSAR for incorporation into PRC's report.

### **Public consultation**

6. In line with the established practice, we have prepared an outline of the topics to be covered in the HKSAR's third report under the CRC for public consultation (see paragraphs 8 to 9 below). The purpose of the consultation exercise is to invite views from stakeholders and members of the public on implementation of the CRC in Hong Kong, based on the framework of topics identified in the outline, and to suggest any additional topics that should be included in this report.

7. The public consultation on the report outline has started on 23 February 2021. We have published the report outline and disseminated the document to relevant stakeholder groups as well as Home Affairs Enquiry Centres of District Offices. The outline is also available in electronic form on the website of the CMAB at <http://www.cmab.gov.hk>. The public consultation will close on 9 April 2021. Comments received<sup>3</sup> will be duly considered in drafting the HKSAR's report.

### **Outline of topics of the HKSAR's third report under the CRC**

8. The proposed outline is at **Appendix**. According to the form and format stipulated by the Committee, the report will group articles in specified clusters to reflect the holistic perspective on children's rights under the following themes:

- (a) General measures of implementation, including reservations and declarations (Articles 4, 42 and 44(6));
- (b) Definition of "the child" (Article 1);
- (c) General principles (Articles 2, 3, 6 and 12);
- (d) Civil rights and freedoms (Articles 7, 8, and 13 to 17);
- (e) Violence against children (Articles 19, 24(3), 28(2), 34, 37(a) and 39);

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<sup>3</sup> Unless confidentiality is specifically requested by respondents submitting views to the consultation exercise, their comments may be available for inspection by members of the public.

- (f) Family environment and alternative care (Articles 5, 9 to 11, 18(1) - (2), 20, 21, 25 and 27(4));
- (g) Disability, basic health and welfare (Articles 6(2), 18(3), 23, 24, 26, 27(1)-(3) and 33);
- (h) Education, leisure and cultural activities (Articles 28 to 31); and
- (i) Special protection measures (Articles 22, 30, 32 to 40).

We have identified topics to be covered within this reporting framework with reference to the previous report. Generally speaking, significant developments since the submission of the previous report in July 2010 will be reported. Furthermore, we will include responses to the Concluding Observations by the Committee on the previous report, where recommendations concerning the HKSAR were made. Relevant paragraphs of the Concluding Observations are identified in the outline, and the full document is attached for reference.

9. In this report, we will also cover the implementation of the Optional Protocol to the CRC on the involvement of children in armed conflict<sup>4</sup>. This Optional Protocol, which concerns matters of national defense, will be addressed in PRC's report prepared by the CPG. We will also report HKSAR's position with regard to the Optional Protocol under the Convention on the sale of children, child prostitution and child pornography<sup>5</sup>.

### **Comments sought**

10. Members are invited to comment on the proposed outline. We will carefully take into consideration views and suggestions received, including those of Members, in drafting the HKSAR's report. The HKSAR's report will be published and disseminated to the public and copies will be sent to Members in due course.

### **Constitutional and Mainland Affairs Bureau March 2021**

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<sup>4</sup> This Protocol has been ratified by the PRC and took effect in 2008, and its application includes the HKSAR.

<sup>5</sup> This Protocol has been ratified by the PRC and took effect in 2003, but its application has yet to extend to the HKSAR.

**An outline of the topics to be covered in the third report of the  
Hong Kong Special Administrative Region under  
the Convention on the Rights of the Child**

**Introduction**

The Government is going to prepare the third report of the Hong Kong Special Administrative Region (“HKSAR”) under the United Nations (“UN”) *Convention on the Rights of the Child* (“the Convention”)<sup>1</sup>. It will form part of the combined fifth and sixth reports of the People’s Republic of China (“PRC”) under the Convention.

2. The report will mainly consist of –
  - (a) information about any new measures taken and any significant developments since the submission of the second report of the HKSAR in July 2010 (“the previous report”) as part of the combined third and fourth reports of the PRC; and
  - (b) responses to recommendations made in the Concluding Observations by the UN Committee on the Rights of the Child (“the Committee”) on the previous report (“the Concluding Observations”, at Annex).
3. Structure of the report follows the *Treaty-specific guidelines regarding the form and content of periodic reports to be submitted by States parties under article 44, paragraph 1(b), of the Convention on the Rights of the Child* (“the Guidelines”) issued by the Committee. The Guidelines also give instruction on reporting statistical information, disaggregated by relevant criteria, in separate annexes.

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<sup>1</sup> The Convention was extended to Hong Kong in 1994. On 10 June 1997, the Government of the PRC notified the UN Secretary-General that the Convention ratified by the PRC in 1992, with the reservations and declarations made by the PRC for and on behalf of the HKSAR, would apply to the HKSAR with effect from 1 July 1997. By the Government of the PRC’s notification to the UN Secretary-General on 10 April 2003, the said reservations and declarations were partially withdrawn. Article 44 of the Convention provides for States Parties’ obligation to submit periodic reports on the measures adopted which lend progress to the enjoyment of rights recognised therein. HKSAR’s report under the Convention has been submitted to the UN as part of the PRC’s report.

4. In accordance with established practice, an outline of the report is set out in paragraphs 6 - 60 below, identifying subject headings and individual topics that we plan to cover, in order to facilitate drafting of the report and to invite public views.

5. References are made to the previous report submitted in July 2010, which was considered by the Committee in September 2013. The previous report is available on this Bureau's website: [https://www.cmab.gov.hk/en/issues/child\\_report2.htm](https://www.cmab.gov.hk/en/issues/child_report2.htm).

For additional reference, HKSAR's initial report, submitted as part of the PRC's second report in June 2003 and considered by the Committee in September 2005, is also available on our website: [http://www.cmab.gov.hk/en/issues/child\\_report.htm](http://www.cmab.gov.hk/en/issues/child_report.htm).

Please also refer to our website for the text of the Convention and statement on its application to the HKSAR: [http://www.cmab.gov.hk/doc/en/documents/policy\\_responsibilities/crc.doc](http://www.cmab.gov.hk/doc/en/documents/policy_responsibilities/crc.doc).

## **Proposed Outline of HKSAR's Third Report under the Convention**

### ***Part I: Common Core Document of the HKSAR***

6. The "Common Core Document" follows the standard format, form and content as prescribed by the *Harmonised Guidelines on Reporting under the International Human Rights Treaties of the United Nations*. This part of the report contains information of a general and factual nature relating to the implementation of human right treaties in the HKSAR.

### ***Part II: Implementation of the Convention in the HKSAR***

7. Instead of following an article-by-article sequence, specific information relating to the implementation of the Convention in the HKSAR will be reported in "clusters" – provisions grouped according to their theme. The grouping and order of clusters follow the

aforementioned Guidelines, and certain articles may be featured under more than one chapter. The UN has also set a strict word limit of 21 200 words to report on all the themes under the Convention.

## **I. General measures of implementation (Articles 4, 42 and 44(6))**

8. This section concerns the HKSAR's framework for ensuring implementation of the Convention, as well as measures to make its provisions widely known. We will also provide any update to our position on reservations and declarations relating to the Convention, including response to paragraph 7(a) of the Concluding Observations with respect to Articles 32(2)(b) and 37(c). Substance of this chapter includes –

### **A. Article 4: Implementation of rights**

9. We will report that the Commission on Children has been established to coordinate policies and develop strategies for the well-being of children, along with up-to-date information on relevant legislation, public services, resource allocation, monitoring mechanism and efforts to cooperate with civil society. Response to paragraphs 7(b), 11, 14(c), 18 and 20 of the Concluding Observations will be included.

### **B. Articles 42 and 44(6): Dissemination of the Convention and report**

10. We will advise the Committee on developments in the public education and training measures related to the promotion of children's rights. With reference to established practice, public engagement relating to HKSAR's report will be ensured through open consultation, Legislative Council Panel discussion, stakeholder NGOs and other available channels.

## **II. Definition of “the child” (Article 1)**

11. In this section, we will provide information concerning the definition of the child under the law of the HKSAR, as well as how children benefit from protection and enjoy their rights up to the age of majority at 18 years.

12. While our general position remains as stated in para. 79 of the previous report, we will include any updates in such relevant areas as free education, sexual acts, prevention of child pornography, criminal liability, juvenile offenders, entry into controlled premises, etc.

## **III. General Principles (Articles 2, 3, 6 and 12)**

13. This section covers the framework as well as legislative, administrative or other measures in place to uphold main principles of the Convention, namely –

### **A. Article 2: Non-discrimination**

14. We will inform the Committee of any development in the legislative, administrative and other measures taken to protect children against all forms of discrimination under the legal and institutional framework for promoting equal opportunities as set out in HKSAR’s earlier reports. Response will be given to paragraph 30 of the Concluding Observations.

### **B. Article 3: Best interests of the child**

15. The best interests of the child have always been necessary considerations for HKSAR’s social welfare institutions, courts of law, administrative authorities and legislative bodies. We will update the Committee on any systemic improvements in such areas as provision of family/health services, administration of juvenile justice and education, and respond to paragraph 32 of the Concluding Observations.

### **C. Article 6: The right to life, survival and development**

16. In the HKSAR, the right to life is safeguarded at the constitutional level. We will provide updates on relevant issues such as the review mechanism, registration and investigation of child fatality.

### **D. Article 12: Respect for the views of the child**

17. We will provide information on the channels available for children to express views through stakeholder engagement, schools as well as specific procedures in social services and correctional facilities. Response will be given to paragraph 38 of the Concluding Observations.

## **IV. Civil rights and freedoms (Articles 7, 8, and 13-17)**

18. Fundamental rights and freedoms for children in Hong Kong continue to be protected at the constitutional level under the Basic Law, as well as through the Hong Kong Bill of Rights Ordinance and other pieces of domestic legislation. Our position generally remains as explained in the previous report for the issues pertaining to this chapter, including –

### **A. Articles 7 and 8: Name, nationality and preservation of identity**

19. We will inform the Committee of any major development in registration of children at birth or other relevant circumstances, so as to safeguard their entitlement to a name, nationality and family relations.

### **B. Article 13: Freedom of expression**

20. We will provide any updates on children's exercise of their freedom to seek, receive and impart information and ideas in the HKSAR, subject to certain necessary restrictions as prescribed by law.



### **C. Article 14: Freedom of thought, conscience and religion**

21. We will provide any information on significant measures taken to ensure respect for children's freedom of thought, conscience and religion, and their freedom to manifest religion or beliefs which may be subject only to certain necessary restrictions as prescribed by law.

### **D. Article 15: Freedom of association and of peaceful assembly**

22. We will inform the Committee of children's exercise of their freedom of association and peaceful assembly, where only justifiably necessary restrictions may be imposed in conformity with the law.

### **E. Article 16: Protection of privacy**

23. We will update the Committee on measures taken to protect children from arbitrary or unlawful interference with their privacy, family, home or correspondence and unlawful attacks on their honour or reputation.

### **F. Article 17: Access to appropriate information**

24. We will report on the efforts made to disseminate diverse and beneficial information to children through mass media platforms, internet access, etc., also to protect them from material injurious to their well-being.

## **V. Violence against children (Articles 19, 24(3), 28(2), 34, 37(a) and 39)**

25. Prevention, enforcement and support measures to protect children from different forms of violence were distributed across multiple sections under the previous reporting structure, and, for this report, will be gathered in one chapter as follows –

#### **A. Articles 19 and 24(3): Abuse, neglect and harmful practices**

26. Updates will be provided on the legislative and administrative measures taken to protect children from abuse and support victims of child abuse. These may include case management procedures, training for childcare professionals, public education, family services, helplines for children, etc. We will also inform the Committee that children in the HKSAR continue to be safe from harmful traditional practices.

#### **B. Article 34: Sexual exploitation and abuse**

27. We will update the Committee on any development in legal protection, as well as law enforcement, education and support measures, to prevent sexual violence against children, including child pornography and sexual exploitation on the Internet. Response will be given to paragraph 46 of the Concluding Observations.

#### **C. Articles 37(a) and 28(2): The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, including corporal punishment**

28. We will report any development regarding implementation of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in the HKSAR, as well as programmes to ensure non-violent discipline in families, schools and institutions, particularly correctional institutions. Response will be given to paragraph 7(c) of the Concluding Observations.

#### **D. Article 39: Recovery and social integration**

29. Measures promoting the physical/psychological recovery and social integration of child victims are generally covered in the above parts or Chapter IX of the report.

**VI. Family environment and alternative care (Articles 5, 9-11, 18(1)-(2), 20, 21, 25 and 27(4))**

30. This section covers the parental and family services available in the HKSAR, including arrangements for children in various alternative care circumstances. The exiting framework continuously evolves to suit changing needs as set out below –

**A. Articles 5 and 18(1)-(2): Parental guidance and responsibilities**

31. We will illustrate support for parents/guardians in maintaining a family environment and discharging their common responsibility to care for children as their capacities evolve. This includes any development in the work of the Family Council, family services, family life education and other childcare assistance services to parents.

**B. Article 9: Separation from parents**

32. We will inform the Committee of any updates to the laws relating to child guardianship and custody, as well as measures to protect children separated from their parents by such circumstances as sole custody and detention, including the arrangement for children living in prison with their mothers.

**C. Article 10: Family reunification**

33. We will provide updates on the services available to newly arrived children and cross-boundary families, as well as response to paragraph 51 of the Concluding Observations.

**D. Article 27(4): Recovery of maintenance for the child**

34. We will report any updates since the previous report for measures to secure the recovery of maintenance for the child from the parents or other persons having financial responsibility for the child.

**E. Articles 20 and 25: Children deprived of a family environment and periodic review of placement**

35. We will update the Committee on measures to protect children temporarily or permanently deprived of their family environment, including placement in institutions or foster homes, as well as the mechanism to ensure that children are placed in appropriate care. Response will be given to paragraph 55 of the Concluding Observations.

**F. Article 21: Adoption**

36. We will provide any updates on legislation and policies concerning both domestic and intercountry adoption. Response will be given to paragraph 57 of the Concluding Observations.

**G. Article 11: Illicit transfer and non-return**

37. We will report any development regarding legislative and other measures to combat international child abduction in the HKSAR.

**VII. Disability, basic health and welfare (Articles 6(2), 18(3), 23, 24, 26, 27(1)-(3) and 33)**

38. This section covers the various programmes and institutions serving to safeguard the basic health and adequate living standard for every child in the HKSAR. A combination of long-standing measures and new initiatives implement the necessary protection –

**A. Article 23: Children with disabilities**

39. In accordance with the Convention on the Rights of Persons with Disabilities, we are committed to recognising the special needs of children with disabilities and educating the public in this regard. We will also update the Committee on support measures for children with disabilities to participate in the community. Response will be given to paragraph 61 of the Concluding Observations.

## **B. Article 6(2): Survival and Development**

40. We will provide any updates concerning infant mortality, maternity protection and other issues that could contribute to child fatality, such as illness, traffic or other accidents, crime, etc.

## **C. Article 24: Health and health services**

41. We will update the Committee on the wide range of primary healthcare, preventive care, hospital and specialist clinic services, public education, and other programmes to address such issues pertinent to children's health as immunisation, oral health, environmental pollution, food safety, control of communicable diseases, malnutrition and obesity, breastfeeding promotion, mental health, HIV/AIDS, as well as adolescent facing health risks relating to teenage pregnancy, tobacco smoking, alcohol consumption, etc. Response will be given to paragraph 72 of the Concluding Observations.

## **D. Article 33: Protection from substance abuse**

42. Information on tackling drug abuse among children and youth will be provided. This includes our multi-pronged approach on anti-drug work, comprising preventive education and publicity, treatment and rehabilitation, legislation and law enforcement, external cooperation, and research.

## **E. Articles 26 and 18(3): Social security and childcare services**

43. Social security programmes benefiting children and childcare services for working parents, are largely covered in other parts, and we will insert reference to relevant paragraphs in the report.

## **F. Article 27(1)-(3): Standard of living**

44. We will update the Committee on the general position of living standard in Hong Kong. We will also report any relevant development in the work of the Commission on Poverty, and the implementation of the Statutory Minimum Wage as well as measures to

safeguard children in terms of access to social welfare, housing, nutrition, transport, and necessary financial supplements. Response will be given to paragraph 74 of the Concluding Observations.

### **VIII. Education, leisure and cultural activities (Articles 28 - 31)**

45. This section concerns the measures to ensure implementation of policies, maintenance of quality standards, sufficient financial and human resources, for children in Hong Kong to have full enjoyment of –

#### **A. Article 28: Education, including vocational training and guidance**

46. Education remains among the Government's highest priorities. Further to the framework set out in previous reports, we will inform the Committee of notable developments in pre-primary education, free universal basic education, small class teaching, the New Academic Structure, medium of instruction policy, curriculum reform, etc. We will also provide information on vocational training.

47. In addition to systemic development, we will report updates on support measures with regards financial assistance, as well as problems such as dropouts and school bullying. Targeted measures to assist students with special educational needs, gifted students, newly arrived children from Mainland China, non-Chinese speaking children and cross-boundary students will also be included. Response will be given to paragraph 78 of the Concluding Observations.

#### **B. Article 29: Aims of education**

48. Our aims of education serve the all-round development of the child, as elaborated in the previous report. We will inform the Committee of measures enhancing quality of education, including teacher training, as well as any development in civic education and the cultivation of such important concepts as human rights, anti-discrimination, cultural identity, national values and respect for the natural environment.

### **C. Article 31: Leisure, recreation and cultural activities**

49. Children's right to leisure has received greater attention in the community in recent years. We will provide updates on the various initiatives to promote arts, culture, sports and extra-curricular activities, including performance and creativity programmes for children, heritage visits, sports facilities and in-school sports programmes, library services, children play facilities, etc.

### **D. Article 30: Children belonging to indigenous or minority groups**

50. The rights for ethnic minority children to enjoy their own cultures, to profess and practise their own religions and to use their own languages continue to be protected in the HKSAR. We will insert reference to relevant information provided in other parts of the report.

## **IX. Special protection measures (Articles 22, 30, 32-40)**

51. While the above chapters set out various efforts ensuring every child's full enjoyment of their rights, this section focuses on the measures in place to protect children under special circumstances including –

### **A. Article 22: Refugee children**

52. The guarantees of rights and freedoms under the Basic Law apply to all persons in the HKSAR in accordance with the law. We will provide any updates on the assistance to children of non-refoulement claimants, and give response to paragraph 84 of the Concluding Observations.

### **B. Article 30: Minority children, including street situations**

53. Incidents of children living or working on the street are very rare in Hong Kong. Protection measures for children in other groups, including ethnic minorities, are covered in other parts of the report.

### **C. Articles 32 to 36: Children in situations of exploitation**

54. Measures to protect children from sexual exploitation (Article 34) and abuse are covered in Chapter V concerning violence against children. While the issue of substance abuse (Article 33) is addressed in Chapter VI from the perspective of public health, we will supplement information on protection against exploitation of children in the illicit production and trafficking of drugs under this part.

55. Furthermore, we will inform the Committee of measures against economic exploitation, including child labour (Article 32), such as the implementation of relevant international conventions and enforcement of legislative protection with regard to the Apprenticeship Ordinance and the Minimum Wage Ordinance, which is applicable to all employees in Hong Kong including young workers.

56. We will also report any development in measures to combat the sale, trafficking and abduction of children (Article 35), as well as protection from any other form of exploitation prejudicial to children's welfare (Article 36). Response will be given to paragraph 91 of the Concluding Observations on the HKSAR's position with regard to the *Optional Protocol to the Convention on the sale of children, child prostitution and child pornography*.

### **D. Articles 37 and 40: Children in conflict with the law**

57. The general features of the administration of juvenile justice in the HKSAR, both during legal proceedings and where young offenders are deprived of liberty, have been explained in the previous reports. We will update the Committee on safeguards for treatment with humanity and respect for dignity, representation of children in courts and legal assistance, minimum age of criminal responsibility, and sufficient sentencing options with alternatives to detention/imprisonment.



58. We will also report any development on special protection measures for children coming into conflict with the law, including separation of young offenders from adults, as well as training for administrators of juvenile justice. Response will be given to paragraph 94 of the Concluding Observations.

#### **E. Article 38: Children in armed conflicts**

59. Having regard to relevant definitions or interpretation under international law, the HKSAR has not been involved in armed conflict for a long time. We will reaffirm the commitment to ensure protection of children from hostilities.

#### **F. Article 39: Recovery and social reintegration**

60. As measures promoting the physical and psychological recovery, as well as social integration, of children subjected to violence, exploitation and other harmful situations are generally covered in other parts above, we will insert reference to relevant paragraphs in the report and supplement any development in rehabilitation for juvenile offenders.

#### **Invitation of public views**

61. We invite members of the public to submit their views on the implementation of the Convention in respect of the above topics, and to suggest any additional topics that should be included in the report.

62. In suggesting additional topics to be included in the report, please indicate why those issues are significant and relevant to the application of the Convention in Hong Kong. The submission may also include any views on the Government's handling of such issues.

63. Please note the following points on personal data privacy –

- It is voluntary for members of the public to supply their personal data upon providing views on this outline. The submissions and personal data collected may be transferred to the relevant Government bureaux and departments for purposes directly related to the preparation of the report and subsequent follow-up actions relevant to the report. The Government bureaux and departments receiving the data may only use the data for such purposes.
- The names and views of individuals and organisations that put forth submissions in response to this outline (“respondents”) may be published for public viewing or otherwise made available for public inspection, including being uploaded to the Internet. We may, either in discussion with others, whether privately or publicly, or in any subsequent report, cite comments submitted in response to this outline.
- To safeguard respondents’ data privacy, we will remove respondents’ relevant data (other than names), such as residential/return addresses, email addresses, identity card numbers, telephone numbers, facsimile numbers and signatures, where provided, when publishing their submissions.
- We will respect the wish of respondents to remain anonymous and/or keep the views confidential in part or in whole. If the respondents request anonymity in the submissions, their names will be removed when publishing their views. If the respondents request confidentiality, their submissions will not be published. If the respondents do not request anonymity or confidentiality in their submissions, it will be assumed that the respondents can be named and the views can be published in their entirety.
- Any respondent providing personal data in the submission to this Bureau will have rights of access and correction with respect to such personal data. Any requests for data access or correction of personal data should be made in writing through the channels mentioned in paragraph 64 below.

64. We will consider carefully all the comments and suggestions received. Any persons or organisations wishing to offer views are invited to send them to the Constitutional and Mainland Affairs Bureau on or before 9 April 2021:

by post:	Team 5 Constitutional and Mainland Affairs Bureau Central Government Offices 12/F, East Wing 2 Tim Mei Avenue, Tamar, Hong Kong
by fax:	2840 0657
by e-mail:	crc_consultation@cmab.gov.hk

**Constitutional and Mainland Affairs Bureau**  
**February 2021**



# Convention on the Rights of the Child

Distr.: General  
29 October 2013

Original: English

## Committee on the Rights of the Child

### Concluding observations on the combined third and fourth periodic reports of China, adopted by the Committee at its sixty-fourth session (16 September–4 October 2013)

1. The Committee considered the combined third and fourth periodic reports of China (CRC/C/CHN/3-4 and Corr.1), including Hong Kong, China (CRC/C/CHN-HKG/2) and Macao, China (CRC/C/CHN-MAC/2), at its 1833rd–1835th meetings (see CRC/C/SR.1833–1835), held on 26 and 27 September 2013, and adopted at its 1845th meeting, held on 4 October 2013, the following concluding observations.

#### I. Introduction

2. The Committee welcomes the submission of the combined third and fourth periodic reports of China, including Hong Kong, China and Macao, China, 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/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 State party's multisectoral delegation.

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

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

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

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

(c) The adoption of the Law on Social Insurance, in October 2010.

4. The Committee notes with appreciation the ratification of:

(a) The Optional Protocol on the involvement of children in armed conflict, in 2008;

(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 Plan of Action against Human Trafficking 2013-2020, in March 2013;
- (b) The National Programme for Child Development 2011-2020, in July 2011;
- (c) The twelfth Five-Year Plan for National Economic and Social Development 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 its second periodic report (CRC/C/CHN/CO/2), notes with regret that some of the recommendations contained therein have not been fully addressed.

7. **Recalling its previous recommendations, the Committee recommends that the State party take all necessary measures to address those recommendations that have not been implemented or not sufficiently implemented, and urges it 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 withdraw the reservations of Hong Kong, China to articles 32 (para. 2 (b)) and 37 (c) of the Convention;**

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

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

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

8. While the Committee notes as positive the adoption in July 2011 of the National Programme for Child Development 2011-2020 (NPCD) for mainland China, it is concerned that the NPCD lacks specific indicators, timetables and a system to monitor progress, 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 (NGOs) in the assessment and evaluation of plans and policies on children, including the NPCD.

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

**with children and civil society, including independent experts, in the monitoring and evaluation process of the NPCD and other policies and plans related to children.**

10. 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, China and Macao, China still lack a comprehensive policy and strategy on children in their respective jurisprudence to guide, in a holistic and integrated manner, all laws, policies, plans and programmes affecting children.

**11. The Committee recommends that Hong Kong, China and Macao, China each adopt a comprehensive policy on children and, based on that policy, develop a strategy with clear objectives and coordinated plans of action for the implementation of the Convention, and allocate adequate human, technical and financial resources for their implementation, monitoring and evaluation.**

#### **Allocation of resources**

12. The Committee welcomes the efforts made by the State party to reduce the severe regional and rural-urban inequalities and disparities in mainland China. 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 local governments for the implementation of children's rights.

13. 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 NPCD, are inadequate (gross domestic product allocation to health and education is 1.4 per cent and 4 per cent, respectively) 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 and quality assurance of services, as well as plans for expansion of welfare and other services to children living in poverty and disadvantaged families, including services for children with disabilities, continue to be underfunded;

(c) In Hong Kong, China, 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.

**14. In 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) The State party take special measures to reduce regional and urban-rural disparities in mainland China and establish a budgeting process with a child-rights perspective to adequately take into account child rights and areas of need and concern;**

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

**(c) Strategic budgetary lines be defined in mainland China, Hong Kong, China and Macao, China 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 that those budgetary lines be ensured protection even in situations of economic crisis, natural disasters or other emergencies.

#### **Data collection**

15. 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). It is particularly concerned that due to laws and regulations on guarding State secrets in mainland China, disaggregated data and important statistics critical for effective implementation and monitoring of the Convention are often not available in the State party.

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

17. While noting some progress in Macao, China, the Committee reiterates its concern that a comprehensive and reliable data collection system is still not in place there, nor in Hong Kong, China; data concerning children is scattered among different departments; and there is a lack of disaggregated data on children under 18 years in some areas of the Convention.

18. **The Committee strongly recommends that centralized data collection systems be established in Macao, China and Hong Kong, China to collect independently verifiable data on children, and to analyse 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 socioeconomic 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**

19. The Committee recalls its concern about the lack, in all areas under the State party's jurisdiction, of independent national human rights institutions with a clear mandate to monitor children's rights. The Committee is further concerned that, contrary to its previous recommendations and despite the motion by the Legislative Council in June 2007 to establish an independent children's commission, Hong Kong, China has not taken any steps to set up such a commission.

20. **The Committee draws attention to its general comment No. 2 (2002) and reiterates its recommendation that the State party promptly establish independent national human rights institutions on the mainland and in Hong Kong, China and Macao, China in accordance with the 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 a children's commission or another independent human rights institution with a clear**

**mandate to monitor children's rights be established in Hong Kong, China and provided with adequate financial, human and technical resources.**

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

21. 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 against 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.

**22. The Committee strongly recommends that the State party:**

**(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 kind 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;**

**(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**

23. 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 of refusals to provide appropriate treatment for the affected children.

**24. The Committee draws the State party's attention to its general comment No. 16 (2013) and recommends that it strengthen the implementation of regulations in mainland China to ensure that the business sector complies with international and national human rights, labour, environment and other standards, particularly as regards child rights. The Committee recommends that the State party:**

**(a) Immediately conduct 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;**



(d) Investigate and hold accountable government officials, including local officials, suspected of failing to uphold environmental regulations or preventing people from gaining access to 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**

25. The Committee is deeply concerned at the continuous violations of the rights of and discrimination against Tibetan and Uighur 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.

26. **In light of article 2 of the Convention, the Committee urges the State party to take immediate action in mainland China to eliminate policies, practices and security measures that disproportionately affect or discriminate against Tibetan and Uighur children and children of Falun Gong practitioners. It further recommends that the State party identify and eliminate all forms of discrimination, including in education, and 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.**

27. 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 long-standing traditions and cultural influences that perpetuate 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.

28. **The Committee urges the State party to adopt a comprehensive approach to take effective and systematic action to combat social, cultural and economic discrimination against girls and women, including social and institutional norms and practices that are inconsistent with the provisions of the Convention and that perpetuate discrimination against girls. The Committee further recommends that the State party 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 against girls.**

29. 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, China. It is concerned about the justification provided by Macao, China in response to the Committee's request to provide information on the practical implementation of article 2, namely, that no complaints related to discrimination have been recorded in its jurisdiction.

30. **The Committee recommends that Hong Kong, China intensify measures, including awareness-raising, identification of discriminatory policies and timely implementation of relevant programmes, to combat discrimination against children with disabilities, undocumented children of migrant workers, and 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 Macao, China that the absence of formal complaints does not imply that children are not discriminated against in its jurisdiction and recommends that it actively seek information on discrimination, especially with respect to children who are vulnerable to discrimination, and pursue all legislative and policy measures to eliminate all forms of discrimination against children.

#### **Best interests**

31. 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, China and Macao, China. While welcoming the statement that in Hong Kong, China the best interests of the child are necessary considerations which are paramount in all relevant decision-making (CRC/C/CHN-HKG/2, para. 105), the Committee is concerned about the lack of general legislation providing for the best interests of the child.

32. **The Committee recommends that Hong Kong, China uphold its commitment to apply the best interests of the child and that the State party strengthen its efforts 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*

33. 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 programmes, infanticide, particularly of girls and children with disabilities, remains pervasive, a problem which is exacerbated by the one-child policy in mainland China.

34. **In light of article 6 of the Convention, the Committee urges the State party 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 the State party:**

- (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;**
- (c) **Improve ways to count, verify and register every birth.**

##### *Self-immolations by Tibetan children*

35. The Committee is deeply disturbed by an alarming escalation of self-immolations by Tibetan children and the State party’s failure 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.

36. **The Committee urges the State party to engage in a genuine dialogue with children, religious and community leaders in Tibet Autonomous Region 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 the State party:

(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 Tibet Autonomous Region;

(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;

(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 gain full access to their right to legal aid and fair trial.

#### **Respect for the views of the child**

37. 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.

38. The Committee recommends that the State party establish effective consultative mechanisms in mainland China, Hong Kong, China and Macao, China to ensure respect for the views of children and their participation in all matters affecting them, including in the development of policymaking, court decisions and programme implementation.

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

#### **Birth registration, name and nationality**

39. 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 whose birth would put a family above the limit of the 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;

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

40. The Committee recommends that the State party:

(a) Reform family planning policies in order to remove all forms of penalties and practices that deter parents or guardians from registering the birth 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 birth registration by removing all financial and administrative barriers associated with the process and improving services, including availability and access to birth registry services for parents and guardians;

(d) Intensify community sensitization and public awareness of the importance of birth registration, including among government agencies and in rural areas;

(e) Seek technical assistance from the United Nations Children's Fund (UNICEF), among others, to implement these recommendations.

#### **Freedom of thought, conscience and religion**

41. The Committee is deeply concerned that despite the constitutional guarantees of freedom of religious belief for ethnic and religious minorities, the State party continues to introduce 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. 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 placing them under close control and surveillance;

(c) The situation of Gedhun Choekyi Nyima, who disappeared at the age of 6 years in 1995, and the fact that, while the State party has provided some information, it has not allowed any independent expert to visit and confirm his whereabouts, the fulfilment of his rights and his well-being.

42. In light of article 14 of the Convention and article 36 of the State party's Constitution, and recalling its previous recommendations (CRC/C/CHN/CO/2, para. 45), the Committee recommends that the State party 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 that 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. In particular, the Committee recommends that the State party:

(a) Abolish criminal and administrative penalties, including re-education through labour, which target children from certain groups, particularly Tibetan Buddhist and Uighur children and children of families practising 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 the right of Uighur children to religious freedom;

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

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

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

43. 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.

44. **In accordance with article 37 (a), 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;**

(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**

45. 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 Macao, China, 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, China;

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

46. **The Committee urges:**

(a) **The State party to strengthen efforts on the mainland 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) **The State party to systematically collect data on sexual exploitation and abuse of 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, China and Macao, China to establish effective and child-friendly procedures and mechanisms, including free helplines**

accessible to children, to receive, monitor and investigate complaints; and to 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, China to conduct a comprehensive review of sexual offences covered 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;

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

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

47. Recalling the recommendations of the United Nations study on violence against children (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 its general comment No. 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 follow-up measures necessary 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**

48. 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, the State party continues to adopt policies that often promote institutionalization of left-behind children, including in boarding schools.

49. In accordance with article 9 of the Convention, the Committee urges the State party 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 the State party reform the school merger programme in mainland China and prioritize family environment and community-based care rather than institutionalization of children.

50. The Committee is concerned that women from mainland China who are married to residents of Hong Kong, China and also have children who are residents of Hong Kong, China are not able to obtain residence permits in Hong Kong, China, and thus regularly have

to go to mainland China to renew their one-way entry permits, and that they are not entitled to work or family support in Hong Kong, China, creating an unstable and vulnerable family situation for their children.

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

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

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

53. The Committee is concerned about the absence of procedures for regular review of the placement of children in care in Hong Kong, China 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, China 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, China and Macao, China, children deprived of family care are placed in residential institutions rather than in family-based care.

**54. The Committee urges the State party to take immediate steps in mainland China 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 of the abandonment of girls and children with disabilities. It further recommends that, in all areas under the State party's jurisdiction, the best interests of the child be prioritized in all decisions about alternative care for children and that community-based, family-type care be preferred over institutionalization. The Committee further recommends that the State party continue to increase the number of professionals working with children and provide training to all professionals, including through allocation of additional government resources.**

**55. The Committee recommends that Hong Kong, China implement the Law Reform Commission's recommendations concerning law and procedural reforms in this area and that Macao, China and Hong Kong, China increase resources and services, including family and psychosocial counselling and parent education, and train all professionals working with children. It further recommends that the rights of the child to have his or her best interests taken as a primary consideration and 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**

56. While the Committee notes that the State has made efforts in mainland China 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 the parents' birth quotas, and sell them or transfer them into the care of local orphanages for domestic or international adoption or forced labour.

The Committee is also concerned about the absence of information and public statistics, in particular regarding the number of children in mainland China reportedly sold into adoption for domestic and intercountry adoptions and the number of cases that have been investigated and prosecuted.

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

(a) **Urgently review the current mechanisms and procedures for domestic and intercountry adoption in all areas of the State party 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 light of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption;**

(b) **Create a transparent and effective system for assessment and review of the adoption process in all areas of the State party;**

(c) **Investigate all cases of abductions and unlawful adoptions of children in mainland China, including from hospitals and “orphanages”, and ensure that perpetrators of such crimes, including the government officials involved, are held accountable;**

(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**

58. With respect to mainland China, the Committee notes as positive the adoption of various policies that promote the rights of children with disabilities. However, it notes with concern that the State party continues to adopt a medical approach to disability and that the services for children with disabilities are centred 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 stigmatization of children with disabilities;

(b) The widespread stigma attached to children with disabilities and the 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 children with disabilities living in institutions, particularly in rural areas;

(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.

59. The Committee is concerned about the lack of screening programmes for early detection of disabilities in all areas of the State party.

60. With regard to Macao, China, 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, China, and that reports indicate that they are commonly excluded and discriminated against, including by teachers, and bullied by their peers.

61. **Recalling its general comment No. 9 (2006), 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; and ensure that children with disabilities in mainland China 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, China and Macao, China 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, take immediate steps for deinstitutionalization within a reasonable time frame 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, China and Macao, China, and provide proper follow-up and early development programmes;**

(e) **Promptly identify and remove all barriers, including physical, that prevent students with disabilities from entering and staying in the mainstream system in all areas of the State party and reallocate resources from the special education system to promote inclusive education in mainstream schools;**

(f) **Intensify its efforts to tackle bullying of children with disabilities in schools in Hong Kong, China, 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, China 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;**

(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 all areas of the State party.**

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

62. The Committee welcomes the improvements in immunization 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 deeply 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 urban and rural areas and the quality of health care for children living in remote and poor areas and children of migrant workers.

63. **The Committee recommends that the State party strengthen efforts to address, as matter of urgency, the existing disparities in health outcomes and resource allocations in order to ensure that all children in mainland China 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 the State party take all measures to eliminate child and maternal mortality in mainland China, including by improving health infrastructure and the availability of and accessibility to emergency obstetric and neonatal care and skilled birth attendants at primary health facilities in rural and poor areas.

64. The Committee is deeply concerned about the unsafe vaccinations and blood transfusions that have affected thousands of children across mainland China, causing HIV infection, serious illness or disability and deaths. It is further concerned that many of the 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 with 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.

65. The Committee is further concerned about the decrease in exclusive breastfeeding and the incidents of contaminated infant formula in mainland China.

66. **The Committee strongly recommends that the State party:**

(a) **Intensify its efforts to reform laws and strengthen implementation of regulations on food and health safety standards, including for the 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) **Collect 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 (US\$ 95), as reported in its replies to the Committee;**

(d) **Promote exclusive breastfeeding and the establishment of baby-friendly hospitals and effectively enforce the International Code of Marketing of Breast-Milk Substitutes with appropriate controls on the marketing of artificial infant formula.**

#### **Adolescent health**

67. 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 the implementation of the one-child policy, practices which contravene the fundamental principles and provisions in the Convention.

68. **The Committee recommends that the State party promptly and independently investigate and publicly report all incidents of forced abortions and forced sterilization of teenage girls by local authorities in mainland China, and prosecute all officials responsible for such crimes.**

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

70. **The Committee recommends that the State party, in all areas under its jurisdiction, ensure the widespread provision of comprehensive adolescent health services and psychosocial support; 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 introduce school health services, including youth-sensitive and confidential counselling and care.**

#### **Mental health**

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

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

#### **Standard of living**

73. While welcoming the plan of Hong Kong, China 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, China 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.

74. **The Committee urges Hong Kong, China to expedite the implementation of its public housing programme. It further recommends that mainland China and Hong Kong, China 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**

75. While the Committee notes the significant achievements made by the State party as regards education in mainland China, 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 whose mothers are from the Democratic People's Republic of Korea and children of 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, which affects students' repetition and retention, and high drop-out rates for lower secondary school, especially in several 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 Uighur 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 Tibet, 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 a college education;

(f) The quality and reliability of education data throughout the country.

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

(a) Ensure adequate funding to education at all levels and in all geographic areas and improve school infrastructure, the 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 asylum-seeking 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 by ethnic minorities, including Tibetan and Uighur 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; it 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 Constitution of China;

(e) Immediately repeal article 10 of the 2013 admission requirements for universities and colleges and ensure that all children can have access to 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;

(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.

**77. In Hong Kong, China, the Committee is concerned about:**

(a) Bullying in schools and the 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 against ethnic minority children and racial segregation in the public school system, due to the availability of teaching only in Chinese and the system of government-subsidized “designated schools” for these children;

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

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

(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 training teachers and providing more social workers and psychologists in schools, and through the sensitization of parents and guardians;

(b) Urgently abolish the system of “designated schools” for children of ethnic minorities and reallocate resources to promote their access to education in 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;

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

79. In Macao, China, the Committee is concerned about the dropout of children, particularly pregnant adolescents, from secondary schools.

80. The Committee recommends that Macao, China 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**

81. The Committee welcomes the State party’s pledge in 2011 to “endeavour 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 are still categorically considered as economic migrants and returned to the Democratic People’s Republic of Korea without consideration of whether there are risks of irreparable harm to the children upon return;

(b) Children whose mothers are from the Democratic People’s Republic of Korea 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 the Democratic People’s Republic of Korea;

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

(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.

82. The Committee notes as positive the decision of Hong Kong, China 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 such children, as well as unaccompanied children arriving in Hong Kong, China by air and children who are refused entry, in juvenile detention facilities.

83. The Committee recommends that the State party:

(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 she or 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 temporary protection in view of the ongoing conflict in northern Myanmar; it should also allow the Office of the United Nations High Commissioner for Refugees free and unfettered access to Yunnan Province to conduct refugee status determinations;

(c) Cease the arrest and repatriation of citizens of the Democratic People's Republic of Korea, especially children, and women who have children with Chinese men, and ensure that children of mothers from the Democratic People's Republic of Korea have access to fundamental rights, including the right to identity and education;

(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.

84. The Committee recommends that Hong Kong, China:

(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;

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

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

85. 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 abduction and sale of children by criminal gangs, is widespread. It is further concerned about:

(a) The common practice of the re-education through labour (RTL) programme and "work study schools" (*gongdu xuexiao*) and the use of forced and exploitative child labour under these programmes;

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

86. The Committee urges the State party to, as a matter of priority, end the use of the RTL and "work study schools" programmes and that it:

(a) Gather data on child labour, incidences of hazardous child labour and working conditions, disaggregated by age, sex, geographical location and socioeconomic background, and make such data publicly available and use it 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 prohibit employment of children aged 16–18 in arduous work;

(c) Ensure, with respect to children above the age of 16 involved in labour, that 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;

(d) Consider ratifying International Labour Organization 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**

87. The Committee regrets that the State party has not sufficiently implemented the Committee's recommendations of 2005 under the Optional Protocol on the sale of children, child prostitution and child pornography (CRC/C/OPSC/CHN/CO/1). It is further concerned at the increased prevalence of child trafficking and exploitation in mainland China and Macao, China, especially for the purpose of labour and sexual exploitation. It is also concerned that child sex tourism remains a serious problem in Macao, China and that alleged complicity of government officials in offences related to trafficking and sexual exploitation has led to impunity for such crimes.

88. The Committee recalls its previous recommendations and urges the State party to take the necessary legislative measures to harmonize the 1997 Penal Code with the provisions of the Optional Protocol on the sale of children, child prostitution and child pornography, and in particular:

(a) Ensure that all the offences 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;

(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 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.

89. 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 Macao, China;

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

(c) Take all necessary measures, legal and institutional, to strengthen identification, investigation and prosecution of foreign paedophiles in all jurisdictions of the State party, particularly in Macao, China.

90. The Committee regrets that the application of the Optional Protocol has not been extended to Hong Kong, China.

91. The Committee urges Hong Kong, China to finalize all preparations necessary so that the application of the Optional Protocol can be extended without any further delay.

### **Administration of juvenile justice**

92. The Committee welcomes the amendment to the criminal procedure code for mainland China and the current discussions on reforming the RTL programme. It remains however deeply concerned about the continued application of administrative detention of children, including RTL and work study schools, and the State party's failure to end these practices despite repeated concerns expressed by the treaty bodies and United Nations 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 that 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, of children in such places and RTL facilities;
- (d) Children of migrant workers are significantly overrepresented in the criminal justice system in mainland China;
- (e) Children, especially those in vulnerable situations, such as children in poverty, face several obstacles to access to justice, including inadequate access to legal aid and lack of independent legal aid.

93. **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 (2007) and other relevant standards. With regard to mainland China, the Committee urges the State party 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. The Committee further recommends that, with regard to mainland China, the State party:**

- (a) **Abolish the institutionalized system of RTL and work study schools, which allows for the widespread application of administrative detention of children; and 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, 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;**
- (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.**



94. The Committee recommends that Hong Kong, China:

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

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

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

(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, can maintain regular contact with their families, and are provided with education and vocational training.

95. The Committee urges Macao, China to prohibit and abolish the use of solitary confinement to punish children and immediately remove all children held in solitary confinement.

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

96. 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.

97. The Committee recommends that the State party ensure, through adequate legal provisions and regulations, that all child victims and/or witnesses of crimes, for example 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 Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime.

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

98. 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 Disappearance and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

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

99. 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**

100. 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, the parliament, relevant ministries, the Supreme Court and local authorities for appropriate consideration and further action.

101. The Committee further recommends that the combined third and fourth periodic reports and 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**

102. The Committee invites the State party to submit its fifth and sixth periodic reports in one combined 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.

103. 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 by the fifth inter-committee meeting of the human rights treaty bodies in June 2006 (HRI/GEN/2/Rev.6, chap. I).

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