
**Committee on the Elimination of
Discrimination against Women
Twentieth session
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**Concluding comments of the Committee on the Elimination of
Discrimination against Women: China**

Combined third and fourth periodic reports

Introduction

267. The Committee expresses its appreciation to the Government of China for submitting its combined third and fourth periodic reports. However, the Committee notes that the report insufficiently follows the Committee's guidelines for the preparation of periodic reports. In particular, the report does not incorporate sufficient statistical data disaggregated by sex, comparing the current situation to that at the time of the previous report.

268. The Committee commends the Government for its oral presentation of the report, and for the detailed oral and written replies, including statistical information, to the questions posed by the Committee.

269. The Committee commends the Government for having sent a high-level and large delegation that included specialists from different departments of the central Government, as well as the Hong Kong Special Administrative Region, headed by the Permanent Representative of China to the United Nations.

270. The Committee notes that Chinese women constitute more than one fifth of the world's women.

Positive aspects

271. The Committee acknowledges with appreciation the comprehensive efforts undertaken by the Government of China to implement the Convention since the consideration of its second periodic report in 1992. These efforts are indicative of the political will of the Government to eliminate discrimination and to advance equality between women and men. The Committee reaffirms that the Convention recognizes that women's rights include civil, political, economic, social and cultural rights and that they are an inalienable, integral and indivisible part of universal human rights.

272. The Committee commends the Government for further strengthening the legislative framework to ensure equality between women and men. It notes in particular the 1992 Law on the Protection of the Rights and Interests of Women (the Women's Law), the 1995 Mother and Child Health Law, the 1996 and 1997 amendments to the criminal law with regard to trafficking in women, the 1996 Law on the Protection of the Rights and

Interests of the Elderly concerning social security provisions for the elderly, and the recent revision of the law on adoption.

273. The Committee commends the Government for the elaboration of programmes to ensure implementation of those laws, and especially the Programme for the Development of Chinese Women (1995-2000). It notes the achievements of the Government in ensuring social and economic rights for hundreds of millions of people. It also notes that economic reforms in recent years have brought about strong and steady economic growth. The Committee commends the efforts of the Government to combine economic restructuring with concern for the social well-being of China's citizens. It commends, in particular, the Government's efforts to alleviate poverty, to address the unemployment of women, to modify gender stereotypes, including in the mass media, to initiate legal awareness campaigns and to reduce illiteracy of women in rural areas. The Committee also commends the work of the All China Women's Federation in implementing government policy for gender equality.

274. The Committee welcomes the overall increase of facilities and personnel for maternal health care, the greater access to family planning services and to primary health care. It commends the Government for its collaboration with UNFPA to initiate a pilot family planning programme, based on voluntary participation, information and freedom of choice. The Committee welcomes in particular the strong and unequivocal objection to the use of coercive measures in implementation of its population policy.

275. The Committee commends the Government for hosting, in September 1995, the Fourth World Conference on Women and for its subsequent efforts to implement the Beijing Declaration and Platform for Action. The Committee emphasizes that the Convention constitutes the legal basis and framework for the implementation of the Platform for Action.

Factors and difficulties affecting the implementation of the Convention

276. The Committee notes that the great size and diversity of China pose special challenges to the realization of equality between women and men.

277. The Committee notes that the persistence of prejudice and stereotypical attitudes concerning the role of women and men in the family and in society, based on views of male superiority and the subordination of women, constitutes a serious impediment to the full implementation of the Convention.

278. The Committee considers that the gap between the situation of women in urban areas and those in rural and remote areas constitutes a major obstacle to the full implementation of the Convention.

279. The Committee notes with concern the adverse impact of economic restructuring on women in the transition from a planned economy to a market economy, and in particular the gender-specific consequences for women's employment and re-employment.

Principal areas of concern and recommendations

280. The Committee is concerned that the Government's approach to the implementation of the Convention has an apparent focus on the protection of women rather than on their empowerment. Thus, the central machinery responsible for government policy is the National Working Committee on Women and Children, perpetuating the identification of women with children. Similarly, in the area of women's health, there is a focus on mother-child health, limited to women's reproductive function. Likewise, labour laws and regulations overemphasize the protection of women.

281. The Committee recommends that the Government re-examine its approach to realizing gender equality, with an emphasis on the human rights framework of the Convention and the empowerment of women. The Government should encourage a country-wide social dialogue that advocates equality between women and men, and a comprehensive public campaign aimed at changing traditional attitudes.

282. The Committee recommends that the Government examine and enhance the structure, authority and resources of the national machinery for the advancement of women.

283. Although the Convention is an integral part of Chinese law, the Committee is concerned that the Women's Law does not contain a definition of discrimination against women. It is also concerned that the Women's Law does not provide for effective remedies in cases of violation of the law. It is unclear whether the Convention can be, or ever has been, invoked in a court of law, and what the outcome of such cases might have been.

284. The Committee recommends that the Government adopt legislation that expressly prohibits gender discrimination, including unintentional and indirect discrimination, in accordance with the definition in article 1 of the Convention. It also recommends that the Government improve the availability of means of redress, including legal remedies, under the Women's Law. The Government should provide legal aid to women who suffer discrimination in its various forms, to assist them in the realization of their rights. It should also widely publicize all these measures so that adequate enforcement of the law can be ensured. The Committee recommends further that the Government adopt measures and allocate resources at both the central and provincial levels to monitor implementation of the various laws on gender equality.

285. The Committee is concerned about the diverse forms of violence against women in China, including custodial violence, sexual abuse, domestic violence, sexual violence and sexual harassment in the workplace. The Committee is also concerned that economic conditions may contribute to an increase in violence against women.

286. The Committee recommends that the Government examine and revise its laws and policies on violence against women in the light of the Committee's general recommendation 19. This should include adoption of a special law on domestic violence and provision of services for survivors, such as shelters and hotlines. The handling of domestic violence cases should be systematically included in the training of law enforcement officials and health-care personnel. The Committee urges the Government

to regulate sexual harassment and to provide legal remedies for women victims of sexual harassment in the workplace. The Committee requests the Government to provide information in its next report on procedures for ensuring the rights of women in custody to protection from sexual abuse and for sanctioning prison officers responsible for such abuse.

287. The Committee recommends that the Government consider the possibility of extending an invitation to the Special Rapporteur on Violence against Women, including its causes and consequences, to visit China and all its provinces.

288. The Committee is concerned that prostitution, which is often a result of poverty and economic deprivation, is illegal in China.

289. The Committee recommends decriminalization of prostitution. Given the HIV/AIDS pandemic, the Committee also recommends that due attention be paid to health services for women in prostitution. The Government is also urged to take measures for the rehabilitation and reintegration of prostitutes into society.

290. Notwithstanding the serious efforts of the Government to combat trafficking in women, the Committee expresses its concern about reports in some localities of corrupt officials who are involved or colluding in the trade in women, including through payments from prostitutes.

291. The Committee urges the Government to investigate reports of local officials' involvement in trafficking and the exploitation of prostitution, and to prosecute all persons engaged in such practices.

292. The Committee is concerned that the proportional representation of women in all spheres of public life, and especially at the higher decision-making levels, has increased only minimally since the consideration of China's second report.

293. The Committee urges the Government to adopt temporary special measures within the meaning of article 4, paragraph 1 of the Convention to increase the number of women at the higher echelons of Government. The women's talent bank of the All China Women's Federation should be used extensively to increase the percentage of women in all public bodies. The Government should also encourage gender-balance in the composition of village committees.

294. Notwithstanding the Government's positive efforts and achievements in reducing illiteracy, the Committee is concerned about the disproportionate persistence of illiteracy among women, especially women in rural and remote areas, and among ethnic and religious minority women. The Committee also notes a lack of information concerning the situation of women in science and technology.

295. The Committee recommends that the Government adopt a specific time-frame, with budgetary and resource allocation, for the achievement of universal literacy and primary education. It should also abolish official and unofficial school fees, which often result in the exclusion of girls from enjoying their right to education, particularly in poor rural areas. Special

measures and incentives should be introduced to ensure that girls are able to fully utilize access to primary education, and are given opportunities for secondary and higher education and vocational training. Likewise, the Committee urges the Government to revise school textbooks and curricula to eliminate gender stereotypes and to include the achievement of gender equality as a societal goal in its education policy.

296. The Committee is concerned about the economic situation of women in the transition from a centrally planned to a market economy. The rising unemployment of women, difficulties in finding new employment, the lack of enforcement of labour laws for women workers and the continuing categorization of certain jobs as unsuitable for women are of particular concern. The Committee is concerned that retraining of unemployed women for jobs in the service sector may lead to further gender segregation of the labour market, with women being trapped in low-wage sectors. The Committee notes with concern that women are faced with age discrimination as they seek re-employment. It is also concerned that an overemphasis on the protection of, rather than equal opportunities for, women in the labour market perpetuates stereotypes and creates additional obstacles for women competing in a market economy. The Committee notes that the situation of women workers in special economic zones also remains a concern.

297. The Committee is concerned about the consequences of women's loss of employment, or of interrupted employment, on women's rights to housing, health care and social security.

298. The Committee urges the Government to analyse, from a gender perspective, the effects of its economic policies, and to take steps to mitigate and counteract their negative effects on women. In addition to enforcing existing labour laws, the Committee invites the Government to increase women's means of redress against discrimination and inequality at work, including by promoting the recognition of women's right to participate in workers' organizations and their right to strike.

299. The Committee recognizes that population growth is a genuine and severe problem and that considerable progress has been made in providing family planning services, but expresses concern about various aspects of the implementation of China's population policy, including the following:

(a) The Committee notes with concern that only 14 per cent of men use contraceptives, thus making contraception and family planning overwhelmingly a woman's responsibility. In the light of the fact that vasectomy is far less intrusive and costly than tubal ligation, targeting mainly women for sterilization may amount to discrimination;

(b) Notwithstanding the Government's clear rejection of coercive measures, there are consistent reports of abuse and violence by local family planning officials. These include forced sterilizations and abortions, arbitrary detention and house demolitions, particularly in rural areas and among ethnic minorities;

(c) The Committee is concerned about the growing disparity in the male/female sex ratio at birth as an unintended consequence of the

population policy, owing to the discriminatory tradition of son preference. The shortage of females may also have long-term implications regarding trafficking in women;

(d) The Committee is concerned about illegal practices of sex-selective abortion, female infanticide and the non-registration and abandonment of female children. The Committee expresses particular concern about the status of Aout-of-plan≡ and unregistered children, many of them girls, who may be officially non-existent and thus not entitled to education, health care or other social benefits.

300. The Committee urges the Government to examine the ways in which its population policy is implemented at the local level and initiate an open public debate thereon. It urges the Government to promote information, education and counselling, in order to underscore the principle of reproductive choice, and to increase male responsibility in this regard. The Government should make clear that coercive and violent measures are prohibited and enforce such prohibition through fair legal procedures that sanction officials acting in excess of their authority. The Committee urges the Government to introduce gender-sensitivity training for family planning officials.

301. Recognizing that male children, especially in rural and remote areas, remain responsible for supporting people in old age, the Government should explicitly address the linkages between economic security in old age and its family planning policies. It should take all appropriate measures to modify and eliminate son preference, *inter alia*, by expanding educational and employment opportunities for women in rural areas. The Government should enforce laws against sex-selective abortion, female infanticide and abandonment of children and remove all legal disabilities from Aout-of-plan≡ and unregistered children.

302. The Committee is concerned that traditional attitudes and prejudices against women remain particularly pronounced in rural areas. It notes, in particular, the lack of opportunities for rural women to benefit fully from the economic progress of China, and that rural women face loss of property rights as a result of change in marital status. In this regard, it notes that some 70 per cent of agricultural workers are women and that this requires particular attention. The Committee is also concerned about the high rates of suicide among rural women.

303. The Committee recommends that all government policy and planning for rural areas, including micro-credit, small enterprise development and other income-generating projects, be developed with the full and active participation of rural women. Urgent attention should be given to addressing women's suicide rates through measures such as the provision of mental health services and a better understanding of the causes of these suicides. Women's studies centres could be encouraged to undertake the necessary research. The Government is urged to ensure that women have equal enjoyment of land rights independent of their marital status.

304. The Committee notes that there is no discussion in the report of women's participation in the informal sector of the economy. The

Committee requests that this issue be addressed in the Government's next report.

305. The Committee urges the Government to integrate, in its next report, statistical information under each article of the Convention, to provide analysis of the situation of women over time, as well as in comparison to the situation of men, so that an assessment can be made of the factual progress made in implementation of the Convention.

306. In the light of the diversity of the country and its population, the Committee repeats the request it made in its concluding comments on China's second periodic report, that the Government provide in its reports a breakdown of information by provinces and autonomous regions and also include information on ethnic minorities particularly the Uyghur and Tibetan peoples.

307. The Committee urges the Government to translate the Convention on the Elimination of All Forms of Discrimination against Women into local languages. It recommends a comprehensive public campaign to improve legal literacy of the Convention and to raise awareness of gender equality as a societal goal and of women's rights as human rights. It also recommends gender-sensitization training on the basis of the Convention for all government officials and cadres. The Committee urges the Government to initiate broad public discussions in the various provinces and autonomous regions in the preparation of its fifth periodic report under article 18 of the Convention.

Hong Kong Special Administrative Region

Concluding comments of the Committee

Introduction

308. The Committee expresses its appreciation to the Government of China, Hong Kong Special Administrative Region, for submitting, in a timely manner, an extremely well-structured and informative initial report. It commends the Government on its oral presentation of the report and for the detailed oral and written replies, including statistical information, to the questions posed by the Committee.

309. The Committee notes that there are many non-governmental organizations working actively in Hong Kong for the full implementation of the Convention.

Positive aspects

310. The Committee commends the Government of China for the continuing applicability of the Convention to the Hong Kong Special Administrative Region following resumption of Chinese sovereignty over Hong Kong on 1 July 1997 under the principle of 'one country, two systems'. It notes that the Government has disseminated the Convention, including through the Internet.

311. The Committee welcomes the guarantee of human rights and fundamental freedoms of women and men, contained in the Hong Kong

Basic Law and in the Bill of Rights Ordinance. It also notes the recent adoption and revision of laws to eliminate discrimination against women. The Committee commends, in particular, the Sex Discrimination Ordinance of 1995 and the establishment thereunder of the Equal Opportunities Commission as an independent statutory body and with adequate resources, responsible for addressing complaints on discrimination and promoting gender equality through public education and other means.

312. The Committee welcomes the recent judicial decision which has enforced the right to non-discrimination by recognizing that a non-marital child can claim residence in the Hong Kong Special Administrative Region on the basis of the residence rights of either her mother or father.

313. The Committee expresses satisfaction at the high level of literacy and the universal system of free education.

Factors and difficulties affecting the implementation of the Convention

314. The Committee notes with concern that China has entered seven reservations and declarations in respect of the provisions of the Convention as applied to Hong Kong. Of particular concern is the reservation exempting the affairs of religious denominations or orders from the scope of the Convention.

Principal areas of concern and recommendations

315. The Committee expresses concern that the Basic Law does not contain a prohibition of discrimination against women.

316. The Committee recommends the adoption of a constitutional definition of discrimination, both direct and indirect, to complement the prohibition of discrimination in civil law under the Sex Discrimination Ordinance.

317. Notwithstanding the important mandate and valuable work of the Equal Opportunities Commission, the Committee is concerned about the absence of a governmental mechanism for the advancement of women in Hong Kong charged with the pro-active development of policy and long-term strategies on gender equality.

318. The Committee recommends that the Government of the Hong Kong Special Administrative Region establish a high-level central mechanism with appropriate powers and resources to develop and coordinate a women-focused policy and long-term strategy to ensure effective implementation of the Convention.

319. The Committee expresses concern that the electoral system of the Region contains structural obstacles to the equal political participation of women, which is indirect discrimination against women, especially with respect to the functional constituencies.

320. The Committee urges the Government to take all measures necessary to ensure the equal representation of women in all constituencies, including

rural committees, on the basis of the principle of universal and equal suffrage, in accordance with the Committee's general recommendation 23.

321. The Committee notes the low representation of women in governmental advisory boards and statutory committees, as well as in the civil service and the judiciary.

322. The Committee recommends that the Government make use of affirmative action and temporary special measures in accordance with article 4, paragraph 1, of the Convention to realize women's right to participation in all areas of public life and particularly at high levels of decision-making. It also recommends that the Government study the experience of other countries in using quotas, timetables for achieving specified goals and databases on women candidates, with a view to applying them in Hong Kong.

323. The Committee is concerned that the Domestic Violence Ordinance applies only to physical abuse in marital relations, and that it does not provide for counselling and treatment of offenders. It also notes with concern that the report does not contain information on rape and that marital rape is not considered a criminal offence in the Hong Kong Special Administrative Region.

324. The Committee recommends that the Government enhance services for survivors of domestic violence, including domestic workers, with a view to their empowerment and rehabilitation, including through psychological counselling, legal aid, temporary shelter and appropriate health services. The Committee also urges the amendment of existing legislation to include marital rape as a criminal offence. It requests the Government to provide information on sexual crimes, including rape and marital rape, in its next report under article 18 of the Convention.

325. The Committee notes that while prostitution itself is not unlawful, provisions to ensure the health and safety of sex workers are unclear, and there may be discrimination against women in the enforcement of related crimes.

326. The Committee recommends that adequate regulations to protect women sex workers be put in place and enforced. It also recommends that the Government monitor the links between the presence of migrant women, a regulatory approach to prostitution and trafficking in women.

327. The Committee commends efforts to develop a standard labour contract for migrant workers with provision for minimum wages, but it is concerned that these workers can be exposed to abuse and custodial violence.

328. The Committee recommends that the Government monitor and take action to protect women migrant workers from abuse and violence, as well as to prevent such violence.

329. Noting that over 50 per cent of recent university graduates were women, the Committee is nevertheless concerned at the degree of segregation in the educational specialization of women and men and at the

low percentage of women in the higher levels of the teaching professions and academia.

330. The Committee recommends the adoption of temporary special measures aimed at increasing de facto equality between women and men within the meaning of article 4, paragraph 1 of the Convention, to increase the number of women in non-traditional areas of education, especially in science, technology and engineering, and to promote women from junior and auxiliary positions in teaching and academia to senior positions. It urges the Government to address the perpetuation of gender stereotypes and to allocate adequate resources for gender studies programmes.

331. Noting the growing participation of women in the formal economy and the low level of unemployment of women, the Committee is nonetheless concerned about the large discrepancies in wages earned by men and women. The Committee is also concerned about the highly disproportionate number of women in the lowest wage levels, especially given the absence of minimum wage laws. The Committee is also concerned that the contraction of the manufacturing sector affects particularly low-skilled women.

332. The Committee recommends that the principle of equal pay for work of equal value be included in relevant legislation and that criteria be established to determine the measure of equal value in a largely gender-segregated labour market.

333. The Committee encourages the Government to review regularly the reservations entered to the Convention. It urges the Government to amend all laws that are incompatible with the Convention, including those relating to immigration and to pension schemes, with a view to removing the relevant reservations. In particular, it encourages the Government to eliminate discrimination against indigenous women following its review of the small house policy. The Committee also encourages the Government to re-examine the reservation relating to the favourable treatment of women in respect of labour law protection of pregnancy and maternity, which might well be in accordance with articles 4, paragraph 1, and 11, paragraph 2, of the Convention, as well as that regarding religious denominations.

334. The Committee invites the Government to hold public consultations with non-governmental organizations in the process of the implementation of the Convention and when preparing its second periodic report.

335. The Committee requests the Government of China and the Government of the Hong Kong Special Administrative Region to provide information addressing the concerns raised in the present concluding comments in the next periodic report required under article 18 of the Convention.

336. The Committee requests the wide dissemination in China and the Hong Kong Special Administrative Region of the present concluding comments, in order to make the people of China and the Region, and particularly its government administrators, politicians and senior level cadres aware of the steps that had been taken to ensure *de jure* and *de facto* equality for women and further steps that are required in that regard. It also

requests the Government to continue to disseminate widely, and in particular to women's and human rights organizations, the Convention, the Committee's general recommendations and the Beijing Declaration and Platform for Action.