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**NATIONAL REPORT SUBMITTED IN ACCORDANCE WITH  
PARAGRAPH 15 (A) OF THE ANNEX TO HUMAN RIGHTS  
COUNCIL RESOLUTION 5/1**

**China\***

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\* The present document was not edited before being sent to the United Nations translation services.

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## **I. INTRODUCTION AND BACKGROUND**

### **A. Report overview and methodology**

1. The present report was prepared in accordance with the General Guidelines for the Preparation of Information under the Universal Periodic Review set out in document A/HRC/6/L.24. It focuses on the legislative framework and institutional infrastructure, policies and practice, current challenges and future prospects for the promotion and protection of human rights in China, including the Mainland, the Hong Kong Special Administrative Region (HKSAR) and the Macao Special Administrative Region (MSAR). Chapters VI and VII provide separate accounts of the situations in HKSAR and MSAR; in keeping with the principle of “one country, two systems”, these chapters were prepared by the Governments of the respective Special Administrative Regions.

2. A special task force was established to prepare this report. The task force was composed of members from nearly 30 national legislative, judiciary and administrative departments (see list in annex 1), with the Ministry of Foreign Affairs as its focal point. Oral and written consultations were held with nearly 20 non-governmental organizations (NGOs) and academic institutions (see list in annex 2), including the All-China Federation of Trade Unions, the All-China Women’s Federation, the China Society for Human Rights Studies and the Institute of Law of the Chinese Academy of Social Sciences. Broad public consultations were conducted via the website of the Ministry of Foreign Affairs.

### **B. China in brief**

3. China has one of the longest histories of any country in the world. After 1840, China was gradually reduced to a semi-colonial and semi-feudal country as a result of invasions by foreign Powers. In 1949, the People’s Republic of China was founded and the Chinese people won national independence and liberation. Since then, the Chinese people have become the masters of the country in the true sense, and a fundamental social and political system for the promotion and protection of human rights has been established.

4. China is the world’s largest developing country, with a land mass of some 9.6 million square kilometres. It has a population of some 1.32 billion, accounting for 21 per cent of the world’s total. There are 56 ethnic groups in China and all are equal.

5. The Chinese Government resumed the exercise of sovereignty over Hong Kong and Macao in 1997 and 1999 respectively and established the Hong Kong Special Administrative Region (HKSAR) and the Macao Special Administrative Region (MSAR).

### **C. China’s basic position on human rights and the situation of human rights in China**

6. China respects the principle of the universality of human rights and considers that all countries have an obligation to adopt measures continuously to promote and protect human rights in accordance with the purposes and principles of the Charter of the United Nations and the relevant provisions of international human rights instruments, and in the light of their national realities. The international community should respect the principle of the indivisibility of human rights and attach equal importance to civil and political rights and economic, social and cultural rights as well as the right to development. Given differences in political systems, levels of development and historical

and cultural backgrounds, it is natural for countries to have different views on the question of human rights. It is therefore important that countries engage in dialogue and cooperation based on equality and mutual respect in their common endeavour to promote and protect human rights.

7. Since 1978, when China launched its policy of reform and opening up, there has been a significant advancement in the level and extent of the Chinese people's enjoyment of all human rights. The Chinese people, who once lacked basic necessities, are now enjoying relative prosperity. There has been constant progress in such social spheres as education, culture and public health. Democracy and the rule of law have gradually improved. Political restructuring has progressed steadily, with more extensive citizen participation in the political life of the country. Governments at all levels are now conscientiously implementing the Scientific Outlook on Development, an approach that places people first and seeks to ensure comprehensive, coordinated and sustainable development, in an effort to build a harmonious society characterized by democracy, the rule of law, equity and justice. China will further deepen its political restructuring and accelerate social development, focusing on education, health care, employment and other aspects of the people's welfare in order to ensure that all people enjoy their rights to equal participation and equal development.

8. China is committed to engaging in exchanges and cooperation with other countries in the field of human rights and to promoting the adoption by the international community of a fair, objective and non-selective approach to the handling of human rights issues.

## **II. THE LEGAL AND INSTITUTIONAL FRAMEWORK FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS**

### **A. The Constitution**

9. The Constitution of the People's Republic of China expressly stipulates that "the State respects and safeguards human rights". Chapter II of the Constitution sets out in detail the fundamental rights and duties of citizens, including civil and political rights, such as the right to vote and to stand for election, freedom of speech, of the press, of assembly, of association, of procession and of demonstration, of religious belief, of correspondence and of the person; and economic, social and cultural rights, such as the right to work, to rest, to education, to social security and to engage in academic and creative pursuits. The Constitution also has specific provisions on the protection of the rights of women, the elderly, minors, persons with disabilities and ethnic minorities.

### **B. National human rights legislation and international human rights instruments**

10. Over the past three decades of reform and opening up, the National People's Congress and its Standing Committee have enacted nearly 250 laws relating to the protection of human rights. China has developed a fairly comprehensive legal system to safeguard human rights: this system has the Constitution as its core and encompasses a number of other essential laws, such as the Law on Legislation, the Criminal Law, the Criminal Procedure Law, the Administrative Procedure Law, the Law on Administrative Review, the Judges Law, the Public Prosecutors Law, the People's Police Law, the Lawyers Law, the Law on State Compensation, the Law on Regional Ethnic Autonomy, the Law on the Protection of Rights and Interests of Women, the Law on the Protection of Persons with Disabilities, the Law on the Protection of Minors, the Compulsory Education Law, the Property Rights Law, the Labour Law and the Work Safety Law. In the legislative process, legislative bodies at all levels consistently seek to draw on the people's wisdom and reflect the

people's will. In the case of legislation having a bearing on the people's vital interests, extensive consultations, including the holding of public hearings and the publishing of draft legislative texts in full, are held to solicit views and comments from all groups in society.

11. China is a party to 25 international human rights instruments (see annex 3), including the six core human rights conventions: the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD). China has signed the International Covenant on Civil and Political Rights (ICCPR). The relevant departments are carrying out necessary legislative, judiciary and administrative reforms to create the conditions for the early ratification of ICCPR. As of August 2008, China had submitted 6 periodic reports under CERD covering 13 reporting periods, 4 reports under CEDAW covering 6 reporting periods, 4 reports under CAT covering 5 reporting periods, 2 reports under CRC and its initial report under ICESCR.

12. The Chinese Government takes the observations and recommendations of the treaty bodies seriously and considers them thoroughly; it accepts and implements them in the light of China's national realities.

### **C. Institutional safeguards for human rights**

#### **1. China's basic political infrastructure**

13. The system of people's congresses is China's fundamental political system. The Chinese people exercise their powers through the National People's Congress and local people's congresses, enacting laws and regulations and deciding on matters of major national and local significance. Deputies to people's congresses are elected by the people through democratic elections. Every citizen who has reached the age of 18 has the right to vote and stand for election. Elections are competitive, with direct elections at the county and township levels. For several years the voter participation rate<sup>1</sup> throughout the country has been above 90 per cent.

14. China's political party system is one of multiparty cooperation and political consultation under the leadership of the Communist Party of China (CPC). In addition to the Communist Party, there are eight other political parties in China; these democratic parties participate, through cooperation with the CPC, the ruling party, in the administration of State affairs and the formulation and implementation of State laws and regulations.

15. China adheres to the principle that all ethnic groups are equal and implements a system of regional ethnic autonomy in areas with high concentrations of ethnic minorities. Organs of self-government are established in these autonomous areas to ensure the exercise of autonomous rights, including the right to enact legislation and the right of ethnic groups to independently administer their affairs in such areas as the economy, education, science, culture and health.

#### **2. The judicial system**

16. The people's courts are the State judicial organs. The people's procuratorates are the State organs for legal supervision and have the powers to authorize arrests, initiate public prosecutions and lodge protests in accordance with the law, and to oversee the proceedings of people's courts,

the investigatory activities of public and State security organs and law enforcement in prisons. The people's courts and procuratorates exercise their judicial and procuratorial authority independently, free from any interference by any administrative organ, organization or individual.

### **3. Human rights education**

17. Since 1986, China has implemented four five-year programmes for the dissemination of general knowledge of the law with a view to keeping citizens fully informed of their rights and obligations. The fifth such programme (2006-2010), which is currently under way, emphasizes education and training for public servants in the areas of human rights and the rule of law. Since the early 1990s, China has gradually incorporated instruction in the legal system and human rights in school curricula. Most primary and secondary schools now offer classes on the Chinese legal system. Law schools at 30 universities have introduced courses on human rights law, while more than 20 institutions of higher learning and research institutes have established human rights research centres.

### **4. Participation of non-governmental organizations, academic institutions and the information media in the protection of human rights**

18. The Chinese Government encourages and supports the engagement of civil society in activities for the promotion and protection of human rights. At the end of 2007, there were 387,000 registered NGOs in China. They are active in such fields as poverty alleviation, health, education, environmental protection and the safeguarding of citizens' rights, and they are an influential force in China's political, economic, cultural and social life. Academic institutions actively conduct human rights research and disseminate information on human rights, and participate in the formulation of important human rights legislation. The information media play a special disseminating and oversight role in the promotion and protection of human rights by publishing, writing, holding lectures and covering news stories of major public concern.

## **III. POLICIES AND PRACTICES FOR THE PROMOTION AND PROTECTION OF HUMAN RIGHTS**

### **A. Economic, social and cultural rights**

#### **1. The right to subsistence and the right to development**

19. The Chinese Government attaches top priority to realizing the people's right to subsistence and right to development. Since 1953, the Chinese Government has formulated and implemented 11 five-year national economic and social development plans. These plans have been essential in raising the Chinese people's living standards and promoting social progress. With the introduction of the policy of reform and opening up in 1978, the Chinese economy has registered an average annual growth of 9.8 per cent and a tenfold real growth in per capita gross domestic product (GDP). Living standards have achieved two historic leaps: from poverty to subsistence and from subsistence to relative prosperity.

20. Since 1986, the Chinese Government has implemented a development-oriented poverty alleviation strategy. Through economic development projects, special poverty relief projects, coordinated urban and rural development measures and contributions from all sectors of society, poverty has been reduced extensively across the country. The number of persons in rural areas living in extreme poverty has fallen from 250 million some 30 years ago to 15 million. China is the

first country in the world to meet the poverty reduction target set in the United Nations Millennium Development Goals (see annex 4, table 1, for information on poverty alleviation in China during the period 1986-2007).

21. With a mere 9 per cent of the world's arable land, China has managed to provide adequate food for a population that accounts for 21 per cent of the world's total population. Overall living standards have improved markedly, and the pattern of consumption has shifted from one that reflects efforts to secure a basic living to one that reflects the pursuit of a modern life. The Engel coefficient (i.e., food expenditure as a proportion of total household spending)<sup>2</sup> for urban and rural households has dropped from 57.5 per cent and 67.7 per cent 30 years ago to 36.3 per cent and 43.1 per cent respectively.

22. The Chinese people's right to subsistence has generally been secured, and their living standards are constantly improving. All this has laid a solid foundation for the people's full enjoyment of the right to development and for all-round human development.

## **2. The right to work**

23. China has a large population and labour force. In order to create more job opportunities, the Chinese Government pursues a proactive employment policy and adheres to the guiding principles that workers choose or create their own jobs, the market regulates employment and the Government promotes employment. In recent years, the Chinese Government has introduced an enabling policy for self-employment and entrepreneurship and has encouraged businesses to employ laid-off workers. It has also improved the system of employment assistance and vocational training to help the large number of workers who lost their jobs as a result of economic restructuring. By the end of 2007, some 769 million people were employed and the urban registered unemployment rate was 4 per cent. China is now a world leader in terms of the ratio of employed persons to total population.

24. In 2007, China promulgated a number of important labour laws, including the Labour Contract Law, the Employment Promotion Law and the Law on Mediation and Arbitration of Labour Disputes, which offer strengthened legal guarantees for the rights and interests of workers. A system of labour standards covering working hours, rest, leave, remuneration, prohibition of child labour, and vocational safety and health is taking shape. A system of labour contracts and collective contracts has been established, and the tripartite mechanism for coordinating labour relations among the Government, trade unions and businesses has been improved. A minimum wage system has been introduced throughout the country. By the end of 2007, China had nearly 3,200 labour dispute arbitration committees at the county level and above.

25. To safeguard workers' rights and protect citizens' equal right to work, China has endeavoured to eliminate discrimination in employment, with special attention paid to ensuring employment opportunities and equal treatment for women. Employment assistance to persons with disabilities and rural migrant workers has been increased.

26. With the promulgation of the Work Safety Law and the Mine Safety Law, China has set up a four-tier safety monitoring and control system at the national, provincial, city and county levels and has established a top-down management system to monitor safety in coal mines as well as an emergency rescue and assistance system. In recent years, the Chinese Government has adopted a number of measures to improve work safety, such as establishing a safety clearance mechanism, increasing enterprise accountability for work safety, eliminating hidden safety threats, strengthening accident investigations and sanctions, and determining responsibility in the case of accidents.

27. Trade unions have a total of 209,000,000 members, of whom 66,746,000 are rural migrant workers in cities. Employees have the collective right to conclude labour contracts with employers covering remuneration, working hours, rest, leave, labour safety, health, and insurance benefits.

### **3. Social security**

28. The Chinese Government has consistently endeavoured to establish a sound social security system that is commensurate with the country's level of economic development, and the foundations of a social security system comprising social insurance, social relief and social welfare have begun to take shape. Over the past five years, China's accumulated budgeted expenditure for social security reached 1.95 trillion yuan, or 1.41 times the amount spent over the previous five-year period.

29. A system of social insurance including urban old-age insurance, unemployment insurance, industrial accident insurance, maternity insurance, urban workers' medical insurance and urban residents' basic medical insurance has been established and is developing rapidly. A new type of cooperative health-care system in rural areas now covers the entire countryside and has 815 million participants. The Chinese Government is exploring ways to set up an old-age insurance scheme in rural areas (see annex 4, table 2, for information on the participation of urban residents in the social insurance scheme from 2000 to 2007).

30. The Chinese Government has established a number of social relief and assistance systems or schemes, including the urban and rural subsistence allowance scheme, the rural "five guarantees" system (guarantees of food, clothing, medical care, shelter and burial expenses for eligible individuals in rural areas), the urban and rural medical care assistance scheme, the disaster emergency relief system and the system of assistance to urban vagrants. As of June 2008, the urban subsistence allowance scheme covered 22,677,000 urban residents while the rural subsistence allowance scheme covered 37,499,000 rural poor. At the end of 2007, China had a total of 43,607 welfare institutions taking in a total of 1,999,500 elderly persons, persons with disabilities and orphans.

### **4. The right to housing**

31. The Chinese Government is accelerating housing development in response to the themes of "Adequate shelter for all" and "Sustainable human settlements development in an urbanizing world". Recent years have witnessed marked improvement in housing conditions and the housing environment in both urban and rural areas. Twelve Chinese cities have won the UN-HABITAT Award.

32. The Chinese Government has introduced a low-rent housing system to meet the housing needs of low-income urban households through public finance. Eligible households may either live in low-rent housing provided by the Government or receive a subsidy from the Government to find their own housing. This system has helped to improve the housing conditions of 950,000 low-income families. The Chinese Government is also working to improve and standardize its "Affordable Home Ownership Scheme", a programme aimed at helping low- and medium-income households buy low-cost but reasonably comfortable housing. Such low-cost housing is built across the country every year. By the end of 2007, nearly 17 million people had been housed under this scheme. In addition, China has established a system of public reserve funds for housing, which by 2007 had enabled 47 million people to improve their housing conditions.

33. In the wake of the devastating earthquakes that struck Wenchuan, Sichuan Province, in May 2008, the Chinese Government lost no time in organizing the construction of shelters and other temporary dwellings and the repair and reinforcement of damaged buildings. More than 10 million people affected by the earthquakes were provided with temporary accommodation within three months of the disaster. The reconstruction of homes in the areas hit by the earthquakes will be completed in three years' time.

## **5. The right to education**

34. The Chinese Government pursues a strategy of making the country stronger through science and education. Under this strategy, priority is given to the development of education, and Government investment in education has increased continuously. From 2003 to 2007, total budgetary expenditure on education reached 2.43 trillion yuan, an increase of 1.26 times over the previous five years. Total budgetary spending on education as a proportion of GDP has increased steadily.

35. By the end of 2000, nine-year compulsory education had been made virtually universal throughout the country and illiteracy had essentially been eliminated among the young and middle-aged. China has fully met the primary education target set in the Millennium Development Goals ahead of schedule. By the end of 2007, 99 per cent of China's population had undergone compulsory education, with an average level of attainment of 8.5 years, while the illiteracy rate among young and middle-aged persons had been reduced to 3.5 per cent.

36. In order to further extend the coverage of compulsory education, China has established a mechanism to ensure funds for compulsory education; under this mechanism, rural compulsory education is an essential component of State-financed programmes. In 2006, China amended its Compulsory Education Law to make compulsory education free of charge nationwide. From 2006 to 2008, tuition and miscellaneous education fees were phased out in both urban and rural areas, thereby ensuring truly free compulsory education.

37. The Chinese Government endeavours to promote equity in education and to address education imbalances between urban and rural areas and among regions; it has implemented an education resources policy that gives preferential treatment to rural, inland, western, impoverished, border and ethnic minority areas. The State has earmarked special funds to assist students belonging to ethnic minorities; these funds are used to set up State scholarships, education subsidies, education loans and work-study programmes in universities, secondary vocational schools and regular secondary schools throughout the country in order to enable students from poor families to complete their studies.

## **6. The right to health**

38. China has established a fairly comprehensive system for disease control and prevention, and the provision of health-care and medical services at the national, provincial, municipal and county levels. The state of medical care and the health of the population have improved considerably. The life expectancy of Chinese citizens has risen to 73 years from 35 years in the early years of the People's Republic. The maternal mortality rate has dropped from 1,500 per 100,000 to 36.6 per 100,000, while the infant mortality rate has fallen from 200 per 1,000 to 15.3 per 1,000. The number of health-care and medical institutions in the country has increased 86 times, to a total of 315,000. As many as 223 million people are covered by the basic medical insurance schemes for urban workers or residents. Some 10.1 million patients from poor families have been provided with medical assistance.

39. China was the first developing country to eliminate smallpox. The Chinese Government has carefully reviewed its experiences and drawn lessons from its work to combat the outbreak of severe acute respiratory syndrome (SARS). In 2004, China successfully brought the avian influenza epidemic under control. After the devastating earthquakes of 2008 in Wenchuan, Sichuan Province, the entire disaster-stricken area emerged without the outbreak of any epidemic. The State provides free medical treatment to persons suffering from such major infectious diseases as HIV/AIDS, tuberculosis and schistosomiasis. The State Council has set up a working committee on HIV/AIDS prevention and control, and government spending on HIV/AIDS prevention and treatment has increased with each passing year, reaching 1.56 billion yuan in 2008.

40. Environmental protection is a fundamental State policy in China. The Chinese Government has strengthened pollution control and conducted a national survey of pollution sources. It attaches great importance to the important role played by ecological conservation in maintaining people's health. By the end of 2007, China's investment in pollution control accounted for 1.36 per cent of GDP. China has set up 2,399 environmental monitoring stations with nearly 50,000 professional environmental assessors and analysts. China is actively implementing its National Programme of Action on Environment and Health to strengthen environmental and health risk assessment and management.

41. From 2001 to 2005, the Chinese Government invested 22.3 billion yuan to address the problem of safe drinking water supply in rural areas, and it is hoped that another 192 million rural residents will have access to safe drinking water by 2009. China will meet the Millennium Development Goal of halving by 2015 the proportion of people who lack access to safe drinking water ahead of schedule.

## **B. Civil and political rights**

### **1. Guarantee of the right to life**

42. The Constitution, the General Rules of Civil Law and other relevant Chinese laws all contain provisions to guarantee citizens' right to life. Under the Criminal Law, any act of deprivation of human life, such as intentional homicide, or any act of infringement of a person's life, such as negligent homicide, causing explosions or causing a serious accident through negligence, constitutes a criminal offence.

43. In China, the death penalty is strictly controlled and is applied with extreme caution. The Criminal Law provides that "the death penalty is to be applied only to criminals who commit the most heinous crimes" and stipulates that "the death penalty is not to be applied to any person who has not reached the age of 18 when the crime is committed or to any woman who is pregnant at the time of adjudication". To reduce the number of executions, China has established a system of temporary stays of execution. In the case of a criminal who commits a heinous crime, if immediate execution is not essential, a two-year stay of execution may be announced at the time the death sentence is imposed. If a person sentenced to death with a stay of execution does not intentionally commit any crime during the period of suspension, his sentence is commuted to life imprisonment upon the expiration of the two-year period; if the person demonstrates meritorious service, his sentence is commuted to fixed-term imprisonment of not less than 15 years and not more than 20 years upon expiration of the two-year period.

44. As of 1 July 2006, all death sentence appeal cases are to be heard in open court sessions, and audio-video recordings of the entire proceedings of all such hearings will gradually be required. Since 1 January 2007, the authority to review and approve death penalty cases has been restored to

the Supreme People's Court. In its review of death penalty cases, the Supreme People's Court generally brings the defendant before the court and, if necessary, conducts on-site investigations and verification at crime scenes. The death sentence review mechanism now proceeds smoothly.

## **2. Guarantee of the right to freedom of the person**

45. The Chinese Constitution stipulates that "the freedom of the person of citizens of the People's Republic of China shall be inviolable". The Criminal Law establishes unlawful detention as a punishable criminal offence. Anyone who illegally deprives another of his or her freedom of the person shall be investigated for criminal liability according to the law. State officials who take advantage of public office to commit such crime are subject to heavier punishment.

46. The Criminal Procedure Law provides that no citizen shall be arrested except with the approval or by decision of a people's procuratorate or by decision of a people's court, and that arrests shall be made by a public security organ. This mechanism of checks and balances can effectively supervise and restrict the exercise of such power.

47. The Criminal Procedure Law, the Regulations on Detention Facilities and other relevant laws and regulations contain explicit provisions governing criminal detention and arrest; they cover such matters as applicable criteria, procedure, time limit and place of custody. All such provisions are designed to guarantee detainees' right to bring charges or submit petitions. Under the Law on State Compensation, citizens who are wrongfully detained or sentenced are entitled to State compensation.

48. During the past five years, the procuratorial organs, public security organs and courts have introduced a number of mechanisms, such as: notification of duration of detention; reminder of duration prior to expiry of detention period; regular inspection briefings; and an oversight mechanism to handle complaints of unduly prolonged detention and to rectify such cases. These mechanisms are intended to eliminate cases of unlawful extension of detention.

## **3. Prohibition of torture**

49. The Criminal Law, the Criminal Procedure Law, the Judges Law, the Public Procurators Law and the People's Police Law explicitly prohibit the extortion of confessions by torture or the illegal collection of evidence. The Criminal Law establishes as a punishable criminal offence the extortion of a confession by torture, the collection of evidence by force and the ill-treatment of detainees. Anyone who perpetrates such acts will be held criminally responsible. Under the Law on State Compensation, any citizen who suffers from physical injuries caused by torture applied in order to extort a confession, acts of violence, or the unlawful use of weapons or police instruments shall be entitled to claim State compensation. Every people's court at the intermediate level and above has a compensation committee.

50. Additional regulations have been promulgated in recent years to strengthen the mechanism of torture prevention, supervision, punishment and compensation. These include the Regulations of the Supreme People's Procuratorate concerning the Criteria for Filing Cases of Tort Due to Dereliction of Duty, the Regulations on Procedures for the Handling of Criminal Cases by Public Security Organs, the Regulations on Procedures for the Handling of Administrative Cases by Public Security Organs and the Six Prohibitions for People's Prison Police. The total number of cases involving the extortion of confession by torture, the collection of evidence by force and the ill-treatment of detainees is on the decline in China.

#### **4. The right to a fair trial**

51. Fair trials are guaranteed through a series of systems and mechanisms, such as the open trial system, the defence system, the recusal system and the people's assessors system. In 2007, litigants who accepted the verdicts of courts of first instance accounted for 90.01 per cent of all adjudicated cases.

52. With the exception of cases involving State secrets, personal privacy or crimes committed by minors, all people's court hearings are open to the public.

53. In order to ensure that a trial is fair and impartial, any litigant who believes that a judicial officer has a conflict of interest in his or her case has the right to request the judicial officer to withdraw from the case. If a case being heard at first instance is likely to have an extensive social impact, or if so requested by a litigant, the case shall be tried by a collegiate panel composed of people's assessors and judges. People's assessors enjoy the same rights as judges insofar as determination of the facts of a case and identification of the applicable law are concerned. Between 2005 and 2007, a total of 55,681 people's assessors participated in the hearing of 1.21 million cases.

54. China's Constitution and Criminal Procedure Law both explicitly provide that a defendant has the right to a defence. In cases where the accused is blind, deaf, mute or a minor and has not appointed legal counsel, or where the accused may face life imprisonment or the death penalty but has not appointed legal counsel, the courts should designate a defence counsel. If a defendant is unable to appoint counsel for financial reasons, courts may designate a legal aid lawyer to defend him free of charge. The amended Lawyers Law, which entered into force in June 2008, further safeguards the rights of lawyers in litigation, including the right to meet clients, right of access to files, right to investigate and collect evidence and the right to defend.

#### **5. Freedom of religious belief**

55. China is a country with a great diversity of religious beliefs. The main religions are Buddhism, Taoism, Islam, Catholicism and Protestantism.

56. The Constitution expressly provides that citizens enjoy freedom to believe or not to believe in any religion. No State organ, organization or individual may force citizens to believe or not to believe in any religion, nor may they discriminate against citizens who believe or do not believe in any religion. The Criminal Law stipulates that "a State official who illegally deprives a citizen of his or her freedom of religious belief or who infringes the customs or habits of ethnic minorities shall, if the case is serious, be sentenced to imprisonment of two years or less or placed under criminal detention". In 2005, the Regulations on Religious Affairs were promulgated by the State Council to further safeguard the legitimate rights and interests of religious communities, regulate the administrative conduct of government departments and promote inter-religious and social harmony.

57. According to incomplete statistics, there are more than 100 million followers of different faiths in China, and the religious population is steadily increasing. For example, the number of Protestants is nearly 23 times greater than it was in the early years of the People's Republic, and the number of clergy has doubled over the last decade. The number of Muslims professing the Islamic faith has increased from 18 million in 1997 to 21 million.

58. There are over 3,000 religious organizations or groups established independently by various religions. These groups select and ordain their leaders and governing bodies in accordance with their own regulations; they independently run their religious affairs, publish scriptural texts, operate social services and engage in friendly exchanges with religious communities in other countries. Since 1980, some 50 million copies of the Bible have been printed and distributed in China.

## **6. Freedom of speech and of the information media**

59. The Constitution explicitly provides that citizens enjoy freedom of speech and of the press, and have the right to criticize a State organ or its officials and to make suggestions.

60. In order to strengthen the infrastructure that allows citizens to fully enjoy freedom of speech and to ensure their right of access to information, China has increased its investment in expansion and development of the press and the publishing and information industries, with priority given to poverty-stricken and ethnic minority areas. To this end, a programme to provide every village with access to telephone, radio and television and a “Farmhouse Library” project have been launched. China now has some 310 radio stations, 350 television stations, some 2,000 newspapers, more than 9,000 periodicals or magazines and has published 240,000 book titles (see annex 4, table 3, for information on the publication of books and periodicals in China from 1949 to 2007). There are currently 970 million telephone subscribers in China, of whom 600 million are mobile phone users. There are 1,919,000 websites in the country, with 253,000,000 Internet users and 46,980,000 blog writers. With such easy, fast and diverse ways of gaining access to information and expressing opinion, including criticism of the Government, Chinese citizens are enjoying an entirely new lifestyle.

61. The Regulations on Public Access to Government Information, which entered into force on 1 May 2008, provide that citizens have the right to apply for access to government information and that the Government shall inform the public in a timely fashion about emergencies or situations that may have a major impact on people’s welfare. More than 160 national institutions, including the National People’s Congress, the National Committee of the Chinese People’s Political Consultative Conference, the State Council, the Supreme Procuratorate and the Supreme People’s Court, as well as all provinces, autonomous regions and municipalities directly under the Central Government have instituted regular press briefings or conferences and have appointed spokespersons.

62. As stipulated in the Regulations on Letters and Calls of Complaint, governments at every level have an office responsible for handling complaint letters and visits; such offices receive comments, suggestions and petitions addressed to government departments from individual citizens, legal persons or organizations. This mechanism helps to subject the Government to citizens’ supervision and to ensure citizens’ right to participation, expression and oversight.

## **C. Protection of the rights of special groups**

### **1. Women’s rights**

63. It has always been a basic State policy of China to promote equality between men and women. China has put into place a complete legal regime for protecting the rights and interests of women. This regime has its basis in the Law on the Protection of Rights and Interests of Women and encompasses some 100 laws and regulations, such as Marriage Law. The Beijing Declaration and Platform for Action adopted at the Fourth World Conference on Women held in Beijing in 1995 has had an important impact on the promotion of gender equality and women’s development.

64. The State Council has established a National Working Committee on Children and Women, which is headed by a Vice-Premier of the State Council and composed of 28 ministries and commissions and five NGOs. Five ministerial-level joint working or coordinating bodies have been established to deal with questions relating to the promotion of urban and rural women's development and the protection of their rights and interests.

65. The Chinese Government has promulgated an Outline Programme for the Development of Chinese Women for the periods 1995-2000 and 2001-2010, which identifies priorities and indicators for women's development, and has set up a special agency to monitor and assess the progress of the Outline Programme. In addition, networks for the collection of statistical data on and the monitoring of women's situation have been established at the level of provinces, autonomous regions and municipalities directly under the Central Government. The Chinese Government has continuously improved the system for compiling and analysing statistical data and has added gender-specific statistical indicators.

66. Women account for more than 20 per cent of all National People's Congress deputies. The proportion of women in employment has increased from 7.5 per cent in the early days of the People's Republic to the current level of 45 per cent, which is higher than the world average. China has already met the target of eliminating gender disparity in primary and secondary education set in the Millennium Development Goals.

## **2. Children's rights**

67. China has developed a complete system of legislation for the protection of children's rights, which includes the Compulsory Education Law, the Protection of Minors Law and the Law on the Prevention of Juvenile Delinquency.

68. Drawing on the global goals set by the World Summit for Children and the Convention on the Rights of the Child, China in 1992 promulgated the Outline Programme for the Development of Chinese Children in the 1990s, the country's first national plan of action for the promotion of child development. Currently, the Outline Programme for the Development of Chinese Children (2001-2010), which identifies specific goals and policy measures in the areas of health, education, legal protection and environment, is progressing smoothly.

69. With the under-5 mortality rate falling from 61 per 1,000 in 1991 to 18.1 per 1,000 in 2007, China has attained the target set in the Millennium Development Goals of reducing by two thirds the under-5 mortality rate ahead of schedule. By the end of 2007, the child immunization programme had been further expanded and now includes 11 vaccines for children. Children's education is at the top of China's education development agenda. The primary school enrolment rate for children of school age has risen from 20 per cent at the beginning of the People's Republic to 99.49 per cent at present.

## **3. Rights of persons with disabilities**

70. There are over 83 million persons with disabilities in China, accounting for 6.34 per cent of China's total population. More than 30 laws and regulations, such as the Law on the Protection of Persons with Disabilities, have been enacted to protect and guarantee the rights of persons with disabilities to rehabilitation, education, employment, social security, involvement in the administration of State affairs and social participation. Governments at every level have a working committee on persons with disabilities, thus mainstreaming the development of such persons in China's economic and social development agenda. To date China has implemented five national

programmes for the development of persons with disabilities. Over the past two decades, the Government's programme of poverty alleviation through development has helped to lift 10 million disabled persons in rural areas out of poverty, and 15 million have been provided with rehabilitation services. The education and employment situations of persons with disabilities have improved considerably.

71. China endeavours to eliminate discrimination and prejudice against persons with disabilities. It has accelerated the construction of barrier-free facilities in both urban and rural areas to foster a social environment friendly to disabled persons and protect their legitimate rights and interests. There are now more than 3,000 legal aid services for disabled persons and over 100,000 stations providing volunteer assistance to such persons.

72. China's successful hosting of the 2007 Special Olympics World Summer Games and the 2008 Paralympic Games has served to further promote the understanding of and respect, love and concern for persons with disabilities in China and the rest of the world, thus contributing to the protection of rights and interests of persons with disabilities. China ratified the Convention on the Rights of Persons with Disabilities in 2008.

#### **4. Rights of ethnic minorities**

73. China is a multi-ethnic nation. In addition to the Han ethnic group, there are 55 other ethnic groups with a combined population of 106 million, accounting for 8.41 per cent of China's total population. Ethnic equality constitutes the cornerstone of China's policy regarding ethnic minorities.

74. China implements a system of regional ethnic autonomy in areas where ethnic minorities live in high concentrations. Organs of self-government in these autonomous areas enjoy extensive autonomous rights in respect of legislation, the economy, education, culture and health. The head of an autonomous region, prefecture or county government must be a citizen of the ethnic minority exercising regional autonomy in the area concerned. There are now 155 areas of ethnic autonomy in the country. Ethnic minorities living in these areas make up 75 per cent of China's total ethnic minority population. China safeguards the right of ethnic minorities to use and develop their own spoken and written languages, endeavours to protect their cultures and respects their customs, habits and religious beliefs. The Chinese Government has helped 13 ethnic groups create and develop written languages.

75. Ethnic minorities in China benefit from special preferential policies in the political, economic, cultural and educational spheres. All ethnic minorities are represented in the National People's Congress and the National Committee of the Chinese People's Political Consultative Conference. The Chinese Government gives full and unreserved support to ethnic minority areas in terms of human, material and financial resources and policies. The Government also encourages and arranges developed regions to help ethnic minority areas. Since 2000, the Chinese Government has invested an aggregate total of more than 1 trillion yuan to finance projects under the Western Development Strategy, the "Prosperity for Border Areas and Inhabitants" Programme and a special support programme for 22 ethnic groups with small populations. A total of 70 key projects, such as the Qinghai-Tibet railway and the "West to East" electric power transmission project, have been completed, all giving a powerful impetus to the development of ethnic minority areas.

76. All social services and programmes in ethnic minority areas are moving forward steadily. Compulsory education is generally available in these areas and illiteracy has virtually been eliminated among ethnic minority youth and middle-aged persons. In entrance examinations for

institutions of higher learning, applicants from ethnic minorities are given priority and may be admitted with lower exam scores. The conditions of health-care services in ethnic minority areas have improved markedly; the number of hospitals increased from 230 in the early years of the People's Republic to 11,796 in 2006.

#### **D. Participation in international human rights activities**

77. China actively participates in United Nations human rights activities: it has played a positive and constructive role in the 1993 World Conference on Human Rights in Vienna, the 2001 World Conference against Racism in Durban, the former Commission on Human Rights and the Human Rights Council.

78. China maintains good relations of cooperation with the Office of the United Nations High Commissioner for Human Rights (OHCHR) and has hosted eight visits by the High Commissioner. Since the signing in 2000 by China and OHCHR of a Memorandum of Understanding on Technical Cooperation, the two sides have conducted a series of exchanges and undertaken a number of cooperation projects in the field of human rights. The Chinese Government takes a positive approach towards cooperation with the United Nations special procedures. Since 1994, China has hosted visits by the Special Rapporteur on freedom of religion or belief, the Working Group on Arbitrary Detention, the Special Rapporteur on the right to education and the Special Rapporteur on the question of torture.

79. China takes an active part in bilateral and regional exchanges and cooperation in the field of human rights. For more than a decade, China has engaged in human rights dialogue and exchanges with nearly 20 countries, actively participated in Asia-Pacific regional, subregional and interregional human rights activities and has hosted the eighth and the thirteenth Workshops on Regional Cooperation for the Promotion and Protection of Human Rights in the Asia-Pacific Region and two informal seminars on human rights within the framework of the Asia-Europe Meeting (ASEM).

#### **IV. DIFFICULTIES AND CHALLENGES**

80. China is a developing country. Although its total GDP ranks among the world's highest, the country still ranks well below 100 in terms of per capita GDP. Imbalances in development between urban and rural areas and among regions persist, as does the imbalance between economic and social development. Economic and social development are hampered by such constraints as resources, energy and the environment. The major difficulties and challenges confronting China in its efforts to promote and protect human rights are described below:

81. The poverty-stricken population remains vast. According to China's current poverty benchmarks, some 43.2 million rural people still live in extreme poverty or with low incomes and are unable to meet their basic needs; these people account for 4.6 per cent of China's total rural population. Social development in impoverished areas lags far behind the rest of the country.

82. The employment situation remains dire. The re-employment of workers laid off from State-owned or collective enterprises remains a daunting task. In the next few years, 24 million jobs will be needed in cities and towns each year.

83. The social security system is not well designed. Its coverage is small and the pooling and management of social security funds is still carried out by lower-level agencies. As no social security funds were accumulated during the years of the planned economy, the payment of social

security benefits constitutes a tremendous pressure. The social security system needs to be adapted to meet such new challenges as the ageing of population, accelerated urbanization, employment diversification and rising prices.

84. The problem posed by the fact that public health services are not adapted to people's needs remains acutely obvious. The imbalance in the development of health-care services between urban and rural areas and among regions persists. Irrational allocation of resources, weak public health services, inadequate rural and community-based medical services, poor regulation of the manufacture and distribution of pharmaceuticals, the rapidly rising costs of medical care and medicines have all elicited strong reactions from the people.

85. Pressures associated with the need to protect the rights of special groups continue to mount. Owing to their underdeveloped economies, some ethnic minority areas are lagging behind in their economic and social development. The general public and some Government departments have a low level of gender awareness, and gender mainstreaming remains a challenge. Some 10 million persons with disabilities still live in poverty and have difficulty gaining access to public services and participating in society.

86. Environmental protection remains a Herculean task. The irrational industrial structure and the extensive nature of economic growth have yet to be fundamentally addressed. During the Eleventh Five-Year Plan period (2006-2010), China's already huge population is expected to increase by a further 4 per cent, and total GDP is expected to grow by more than 40 per cent. The constraints to economic and social development imposed by the high cost of resources and by the environment will be felt ever more acutely.

87. Work safety is inadequate and work safety management in various sectors and industries is flawed. Punishment of violations is not severe enough, and the regulatory system is unsatisfactory. Serious to extremely severe accidents have occasionally occurred.

88. The task of enhancing food safety remains an arduous one. The food safety regulatory mechanism is flawed. An extremely small number of enterprises and individuals are dishonest and operate their businesses in violation of laws and regulations. The tainted milk powder incident, in which a few lawbreakers added melamine to raw milk, is one example of this.

89. Some State officials, particularly local government employees, still need to enhance their human rights awareness and their performance in exercise of their functions under the law. Cases of slack law enforcement and miscarriages of justice persist. The judicial mechanism for protecting human rights needs to be further improved.

## **V. FUTURE OBJECTIVES**

90. In order to give effect to the principle, enshrined in the Chinese Constitution, that the State respects and safeguards human rights, and in response to the recommendations set out in the 1993 Vienna Declaration and Programme of Action, the Chinese Government is formulating a National Human Rights Action Plan for 2009-2010, which will set goals for the promotion and protection of human rights for the next two years and identify the measures to be taken by Government departments.

91. China will effectively implement the Action Plan once it is adopted by seeking to balance development between urban and rural areas and among regions, accelerating social development, with emphasis on improving people's welfare, and promoting social equity and justice. China is endeavouring to build a harmonious society in which all citizens enjoy their rights to education,

employment, medical and old-age care, and housing, thus ensuring equal participation by the entire population and all individuals in development and in the fair distribution of the benefits resulting therefrom, as stated in the Declaration on the Right to Development. To this end, priority will be given to the following endeavours:

92. Increasing investment in poverty reduction, strengthening the programme of poverty reduction through development and raising the levels of poverty relief benefits so as to reduce the number of people living in poverty; bridging the gap between urban and rural areas with regard to living standards and public services; energetically developing rural education, with emphasis on secondary vocational education, gradually making it available free of charge; achieving an annual average increase of 5 per cent in per capita disposable income for urban residents and per capita net income for rural residents.

93. Continuing to implement a proactive employment policy, focusing on the re-employment of workers laid off as a result of restructuring, and keeping the urban registered unemployment rate below 5 per cent.

94. Further developing and improving the social security system and the related management and services structure, diversifying sources of social security funding, providing social security at multiple levels and placing the management of social insurance and social services under the authority of an independent specialized operator; further expanding social security coverage and in general ensuring equal access to social security for all employed persons in urban areas; and developing and improving the rural social security system.

95. Upholding the public welfare character of public medical and health-care services, always putting disease prevention first, focusing on rural areas and attaching equal importance to traditional Chinese medicine and Western medicine; reinforcing Government responsibilities and increasing Government spending so as to develop systems of public health services, medical services, medical insurance and guaranteed supplies of medicines for the benefit of urban and rural citizens alike; and providing the people with safe, effective, convenient and affordable medical and health services, thereby improving the health of the whole nation.

96. Increasing investment in the development of ethnic minority areas, with emphasis on helping poor members of ethnic minorities living in particularly difficult circumstances; supporting basic education for ethnic minorities; promoting the traditional medicine and cultures of ethnic minorities; and enhancing their capacity for self-development.

97. Actively promoting gender equality and concern for special groups in society as a whole; incorporating gender awareness in macropolicies to ensure women's equal participation in national development and the equal sharing of the benefits resulting therefrom; increasing Government assistance to persons with disabilities and guaranteeing their social participation and equal access to public services.

98. Implementing the National Environmental Protection Programme under the Eleventh Five-Year Plan (2006-2010), bringing sulphur dioxide emissions and chemical oxygen demand (COD) under control by 2010 and reducing total pollutant emissions by 10 per cent of 2005 levels; improving the quality of the environment in key areas and cities and bringing ecological and environmental deterioration largely under control.

99. Improving work safety laws, regulations and policy measures, strengthening work safety supervision; establishing an integrity system and a “blacklist” scheme; punishing irregularities or violations more severely; enhancing citizens’ awareness of work safety through publicity, education and training and strengthening their capacity for self-rescue and mutual aid.

100. Developing and improving risk-monitoring, assessment and control mechanisms in the area of food safety and punishing irregularities or violations more severely.

101. Deepening political restructuring; expanding citizens’ orderly participation in political affairs, improving democratic institutions, diversifying the forms and expanding the channels of democracy; holding democratic elections, further developing the process of democratic decision-making, democratic administration and democratic oversight, guaranteeing the people’s rights to be informed, to participate, to be heard and to oversee; gradually adopting the same ratio of deputies to represented population in elections to people’s congresses in urban and rural areas.

102. Advancing the rule of law as a fundamental principle and deepening the reform of the judiciary; advancing democracy and openness in the judicial system; further regulating law enforcement and judicial practice and strengthening judicial oversight; improving the human rights training given to public servants, providing education in human rights and the legal system to all members of society and enhancing citizens’ awareness of their rights and obligations.

## **VI. PROMOTION AND PROTECTION OF HUMAN RIGHTS IN THE HONG KONG SPECIAL ADMINISTRATIVE REGION**

[Original: Chinese and English]

### **A. Methodology and consultation**

103. In preparing this part of the report, the Hong Kong Special Administrative Region (HKSAR) Government conducted an exercise in September 2008 to consult the public. The HKSAR Government published a consultation document which contained the background and objectives of the review, a proposed outline of the report and an appeal to the public for comments. This document was sent to a broad spectrum of the community, including the Legislative Council, relevant non-governmental organizations (NGOs), interested members of the public and the media, and was distributed through the District Offices and on the Internet. During the consultation period, the HKSAR Government also collected views from representatives of NGOs at the Human Rights Forum. The HKSAR Government carefully considered all the views and comments received.

### **B. Background information**

104. The HKSAR was established on 1 July 1997 as a Special Administrative Region of the People’s Republic of China. In accordance with the Basic Law of the HKSAR of the People’s Republic of China, the HKSAR enjoys a high degree of autonomy and enjoys executive, legislative and independent judicial power, including that of final adjudication.

105. The Chief Executive is the head of the HKSAR. He leads the Government of the HKSAR and is responsible for implementing the Basic Law, signing bills and budgets passed by the Legislative Council, promulgating laws, making decisions on government policies and issuing executive orders.

106. The Legislative Council is the legislature of the HKSAR. It has 60 Members, with 30 Members returned by geographical constituencies through direct elections and 30 Members by functional constituencies.

107. The legal system of the HKSAR is founded on the rule of law and an independent judiciary. Under the principle of “One Country, Two Systems”, the HKSAR’s legal system differs from that of the Mainland, and is based on the common law. The Court of Final Appeal is the highest appellate court in the HKSAR. All judges are qualified legal practitioners and have security of tenure, which is protected by the Basic Law.

### **C. Framework and measures for the promotion and protection of human rights**

108. In the HKSAR, human rights and freedoms are guaranteed constitutionally by the Basic Law, including equality before the law, freedom of speech and of the press, freedom of association, of assembly and of demonstration, freedom from unlawful search of or intrusion into homes or other premises, freedom and privacy of communication, freedom of movement, freedom of religious belief and right to social welfare in accordance with law. The Basic Law also provides for the rights of HKSAR permanent residents to vote and to stand for election in accordance with law.

109. A total of 15 international human rights treaties apply to the HKSAR. As regards local legislation, the Hong Kong Bill of Rights Ordinance was enacted specifically to give effect in local law to the provisions of the International Covenant on Civil and Political Rights as applied to the HKSAR. The Ordinance binds the HKSAR Government and all public authorities. Further human rights protection is accorded by specific legislation, including the Sex Discrimination Ordinance, Disability Discrimination Ordinance, Mental Health Ordinance, Family Status Discrimination Ordinance, Race Discrimination Ordinance and Personal Data (Privacy) Ordinance.

110. The protection of human rights is buttressed by the rule of law and an independent judiciary. In addition, there is an extensive institutional framework of organizations which help promote and safeguard different rights. These include a comprehensive legal aid system, the Equal Opportunities Commission, the Office of the Privacy Commissioner for Personal Data, the Ombudsman, the Independent Police Complaints Council, as well as various administrative channels for complaints and redress. The effectiveness of these mechanisms and organizations is closely monitored by the Legislative Council, the media and the public.

111. The HKSAR also attaches great importance to promotion of human rights through public education and publicity. Human rights topics form part of the school curriculum at different levels and are included in the syllabuses of a wide range of subjects. Courses on various aspects of human rights are offered by tertiary institutions. Outside of schools, government bureaux and departments organize activities to promote aspects of human rights relevant to their functional responsibilities and provide financial assistance to community organizations to promote public involvement in the endeavours. The HKSAR Government also organizes human rights training and education for civil servants.

112. The promotion of human rights is also an important part of relevant organizations’ work. For instance, the Equal Opportunities Commission operates regular programmes to provide public education against discrimination and to promote equal opportunities. The Committee on the Promotion of Civic Education produces and distributes educational materials and sponsors programmes to foster community awareness of the rights of the individual. The Women’s Commission promotes the well-being and interests of women in all aspects of life.

#### **D. Achievements and challenges**

113. Since its establishment, the HKSAR has been taking steps to promote and protect human rights. Steady progress has been made. The key developments are highlighted below.

114. On constitutional development, the Basic Law provides that the ultimate aim is the election of the Chief Executive (CE) and all Members of the Legislative Council (LegCo) by universal suffrage in accordance with the principle of gradual and orderly progress. In December 2007, following extensive public consultation on the models, roadmap and timetable for implementing universal suffrage, the HKSAR Government submitted a report to the Standing Committee of the National People's Congress (NPCSC). Consequently, the NPCSC decided that the election of the CE may be implemented by universal suffrage in 2017, and that after the CE is elected by universal suffrage, the election of the LegCo of the HKSAR may be implemented by the method of electing all the members by universal suffrage.

115. Between 2008 and 2012, the third-term HKSAR Government will endeavour to roll forward Hong Kong's electoral methods to a midway point. It will undertake public consultation to determine the two electoral methods for 2012. Between 2012 and 2017, the fourth-term HKSAR Government and the LegCo will address together the method for implementing universal suffrage for the election of the CE.

116. The political appointment system of the HKSAR Government was implemented in 2002. Under the system, the principal officials (Secretaries of the HKSAR Government) are political appointees who serve coterminous with the CE in these positions for a term of five years. This represents a major step forward in the system of governance as it has widened the pool of candidates for appointment of principal officials and also requires the principal officials to shoulder political responsibility. Two additional tiers of political appointees (i.e. Under Secretaries and Political Assistants) were created in April 2008. Under the political appointment system, the civil service continues to remain permanent, meritocratic, professional and politically neutral.

117. The more recent initiatives to enhance the protection of human rights include the enactment of the Race Discrimination Ordinance in July 2008. During the legislative process, the HKSAR Government received a number of requests for amendments to the proposed legislation. The HKSAR Government has made certain amendments to address some of the requests and is of the view that the Ordinance, as amended, represents a major step forward in our commitment to combat racial discrimination. To reinforce existing services, the HKSAR Government is planning the establishment of four regional support service centres for ethnic minorities to provide interpretation service to facilitate their access to public services and to organize language training and other programmes to promote their integration into the community. The HKSAR Government is also drawing up administrative guidelines for relevant bureaux and departments to facilitate their formulation and implementation of policies to promote racial equality.

118. The Independent Police Complaints Council Ordinance was also enacted in July 2008. The Ordinance aims to convert the existing Independent Police Complaints Council into a statutory body and thus enhances the independence of the Council as well as the transparency of the police complaints system.

119. With regard to the interests of women, the Sex Discrimination Ordinance was enacted in 1995. In 2001, the Women's Commission was established to promote the well-being and interests of women in Hong Kong, and to monitor the implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

120. To protect the rights of persons with disabilities, the Disability Discrimination Ordinance has been in force since 1995. With the ratification of the Convention on the Rights of Persons with Disabilities by the Central People's Government, this Convention has been applied to the HKSAR since 31 August 2008.

121. The interests of the child are primary in the HKSAR Government's formulation and dispensation of legislation and policies relating to or affecting children. It is also paramount in actions undertaken by courts of law and administrative authorities in charge of child welfare. Children in the HKSAR are now entitled to 12 years of free education in public schools. The HKSAR Government also organizes activities and provides funding for community projects to promote public awareness of and respect for children's rights. The HKSAR Government pioneered the Children's Council project and established the Children's Rights Forum to provide a platform for exchange and to solicit the views of children representatives on matters relating to their interest.

122. To encourage community involvement and seek contribution from the civil society, the HKSAR Government maintains continued dialogue with relevant NGOs and has in recent years established regular channels including the Human Rights Forum, the Ethnic Minorities Forum, the Sexual Minorities Forum as well as the Children's Rights Forum to facilitate communication, exchange of views and mutual understanding.

123. Through the various channels, the HKSAR Government receives views and suggestions from the public on human rights issues. Some have proposed that the establishment of a Human Rights Commission be considered. Since the HKSAR's existing framework is operating well, the HKSAR Government does not see the need to establish a separate human rights institution to supersede or duplicate existing institutions. We do recognize that, with the development of society, there will be a need for further work and continued demand from different sectors for more to be done. The HKSAR Government will continue to gauge the views of all relevant sectors and balance different interests in the community. The HKSAR Government will also have to ensure that measures to be taken will suit local circumstances and fit the evolving situation in Hong Kong.

## **VII. PROMOTION AND PROTECTION OF HUMAN RIGHTS IN THE MACAO SPECIAL ADMINISTRATIVE REGION**

[Original: Chinese and English]

### **A. Consultation process**

124. The draft Macao Special Administrative Region (MSAR) report was made available for comments and proposals at the MSAR Government website.

### **B. Background and framework for the promotion and protection of human rights**

125. On 20/12/1999, China resumed the exercise of sovereignty over Macao, the MSAR was established and its Basic Law (BL) entered into force. The BL, which has constitutional value, is based on the principle "One Country, Two Systems". Under this principle, the previous capitalist system and way of life shall remain unchanged for 50 years. The MSAR enjoys a high degree of autonomy (except for defence and foreign affairs) and executive, legislative and independent judicial powers, including that of final adjudication. All systems and policies, including the system for safeguarding fundamental rights and freedoms, are based on the BL, and no law can contravene the BL.<sup>3</sup>

126. Human rights (HR) are safeguarded at all levels. First, the BL itself sets forth directly a broad range of human rights (political and some social rights are provided for in Chapter III, economic rights in Chapter V, and cultural and other social rights in Chapter VI). Second, its article 40 (1) ascertains that the provisions of the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, and international labour conventions, as applied before, shall remain in force and shall be implemented through the laws of the MSAR. Article 40 (2) determines that restrictions to rights and freedoms have to be prescribed by law and in any case cannot contravene the provisions of article 40 (1), granting, therefore, reinforced protection to human rights by forbidding restrictions in breach of such treaties. Third, by virtue of articles 8 and 18 of the BL, previous laws that do not contravene it or have not been subject to amendments remain in force. As a result, the continuity of the legal system is ensured, and implicitly also of all HR and freedoms provided for at the level of ordinary law. Overall, the BL secures constitutional protection to human rights.

127. The MSAR legal system is a civil law system, underpinned on principles (of equality, legality and publicity of Law) that shape all laws. Applicable international law is directly received, prevails over ordinary law and may be directly applied and invoked before a court of law. Altogether, the mentioned articles of the BL, applicable international law, and subsequent ordinary law fully safeguard fundamental rights and freedoms.

### **C. Promotion and protection of human rights on the ground**

128. The two Covenants, the most important human rights treaties, humanitarian law treaties, and ILO conventions are applicable in the MSAR.<sup>4</sup>

129. The supervisory mechanism of internal observance of treaty obligations rests primarily with the judiciary.<sup>5</sup> However, other institutional bodies, such as the Ombudsman (Commission Against Corruption - CAC), several Commissions on specific human rights (e.g. for Women's Affairs, Senior Citizens' Affairs, Refugees, Trafficking in Persons, Disciplinary Control of the Security Forces, Fight against Drug, Mental Health, Rehabilitation's Affairs, etc.) and an extensive social partnership between the MSAR Government and private associations uphold the legal protection mechanism.

130. Fundamental rights and freedoms are the object of the MSAR Government's policy of systematic and continued divulgation, carried out by all sorts of means (Internet, media, distribution of brochures and leaflets in public places, interactive campaigns, etc.), specifically aimed at increasing public awareness on the existence of rights and freedoms, manners of exercising them, and available remedies.

### **D. Achievements, best practices, challenges and constraints**

131. The MSAR legal system is anchored on the rule of law and operates through the due process of law. Judges are fully independent and the Procuratorate is an autonomous organ, i.e. outside the Executive branch of the MSAR Government, that carries out its powers and functions independently and free from any interference.

132. The respect for fundamental rights and freedoms is deeply rooted in the MSAR legal system and is cherished by Macao residents as a cornerstone of their way of living.

133. Regular dialogue with the civil society, including the participation of local associations in many consultative mechanisms, namely for setting up the MSAR Government's policies, is an important feature of Macao governance.

134. The rapid economic development of Macao, albeit contributing to a high level of employment, led to a rise in the number of non-resident workers. One of the main challenges facing the MSAR in the last years lies on the need to balance the continuous demand for additional qualified manpower from abroad with an adequate protection of Macao residents' expectations as regards the improvement of their living conditions.

135. Significant achievements have been obtained in the phased setting up of a compulsory education system and on the generalization of universal and free education.

136. New legislation was adopted and several preventive measures against terrorism and terrorism financing were taken. Nonetheless, an appropriate balance between the need to guarantee the security of persons and the respect for human rights was kept.

137. In spite of the MSAR Government efforts and the CAC achievements, major challenges and constraints still exist in the path for a fair and clean society. Measures have been taken to strengthen anti-corruption and auditing monitoring of government departments or administrative procedures that are more prone to corruption. Yet more efforts, particularly at the educational and the prevention levels, need to be undertaken to effectively promote a culture of integrity. A particular constraint and area of concern is electoral corruption where the political culture of many Macao voters still creates difficulties on the fight to completely eradicate electoral bribery.

138. Another particular challenge lies on the need to build a more accountable Government to the citizens.

139. The MSAR Government dedicates great attention to the preservation and promotion of Macao's historic buildings and heritage, namely to the sites ("Historic Centre of Macao") included in the UNESCO World Heritage List. Macao also hosts annually international arts events. Yet the Macao residents feel constrained by the limited number of museums and artistic and cultural events available.

140. Tolerance and respect for cultural differences constitutes a cornerstone of the MSAR lifestyle. Such cultural diversity, also characterized by the cross-cultural features from both the East and the West, contributes to the unique identity of the MSAR. Another important challenge facing the MSAR ability to maintain this key feature of Macao's identity lies in the need to integrate a relevant number of immigrants to Macao at a time of significant influx of non-resident workers that is provoking reactions from some sectors of Macao's population.

141. The MSAR Government has undertaken effective measures to promote adequate education on issues of tolerance and bias, in particular through the teaching of, and the conducting of public awareness campaigns on, equality and the fundamental rights, the youth being the main target group.

### **E. Priorities, initiatives and commitments**

142. The MSAR Government remains deeply committed to ensure the enjoyment and protection in an effective manner of the fundamental rights and freedoms enshrined in the BL, in the human rights treaties applicable in Macao, as well as in ordinary legislation.

143. The MSAR Government recognizes the importance of the reporting mechanism to the United Nations human rights treaty bodies and takes seriously their observations and recommendations.

144. The MSAR Government pledges to continue to promote human rights, with due regard to the young generations, in order to assure a multicultural and ethnic society based on harmony, anti-bias and tolerance education.

145. The MSAR Government shall strive to maintain a proper balance between the enjoyment of civil and political rights and social, economic and cultural rights, particular consideration being given to the rights of vulnerable groups, such as the disabled, the elderly, the children, the women and persons under custody.

146. The MSAR Government commits to improve social rights. Cooperation with the civil society and NGOs will be enhanced.

147. The MSAR Government commits to extend compulsory education until the end of secondary school.

148. The MSAR Government is committed to fully protect personal freedom and human dignity, inter alia, by reinforcing preventive measures and suppressing the trafficking of human beings and the exploitation of women and children and protecting victims' rights.

149. The MSAR Government pledges to increase its fight against corruption. To this end, the scope and powers of the CAC shall be broadened and reinforced. The CAC's jurisdiction will be extended to the private sector, in order for the MSAR Government and the community to play a bigger part in building a probity culture. Anti-corruption mechanisms for administration and financial management systems related to public resources shall be put in place. Additional efforts shall be undertaken, together with the civil society and NGOs, to further promote a corruption-free society and to maximize the effectiveness of publicity campaigns to build a clean society.

150. In line with the commitment to a government more accountable to the citizens, the MSAR Government shall strengthen its accountability system for bureau directors, department heads and division chiefs in systemic and disciplinary terms.

151. The MSAR Government shall continue to dedicate great attention to the preservation and promotion of Macao's historic buildings and heritage, namely to the sites ("Historic Centre of Macao") included in the UNESCO World Heritage List. The annual international arts events that are currently hosted in Macao will be improved. Studies will be made with a view to promote new museums and artistic and cultural events that have good potential for Macao's cultural development and economic diversification.

152. Monitoring mechanisms of government policies in the field of human rights shall be strengthened, along with other means to improve "law in action" and to assess its effectiveness.

*Notes*

<sup>1</sup> 参加投票人数与选民总数的比例

<sup>2</sup> 恩格尔系数 (%) = 食品支出总额/家庭或个人消费支出总额\*100%。该系数反映随着家庭和个人收入增加，收入中用于食品方面的支出比例将逐渐缩小。根据联合国粮农组织提出的标准，恩格尔系数在59%以上为贫困，50-59%为温饱，40-45%为小康，30-40%为富裕。

<sup>3</sup> For further detail as to the MSAR background and institutional framework, please refer to Part III of China's Core Document [HRI/CORE/1/Add.21/Rev.2].

<sup>4</sup> A complete list of applicable treaties is available on the MSAR Government website.

<sup>5</sup> For an updated description on human rights protection mechanisms under such treaties and available remedies, please refer to Part III of China's latest reports to each of the relevant UN HR treaty bodies.

## **Annex 1**

### **NATIONAL INSTITUTIONS CONTRIBUTING TO THE PREPARATION OF CHINA'S NATIONAL REPORT UNDER THE UNIVERSAL PERIODIC REVIEW**

- Commission of Legislative Affairs of the Standing Committee of the National People's Congress
- Supreme People's Court
- Supreme People's Procuratorate
- Ministry of Foreign Affairs
- National Development and Reform Commission
- Ministry of Education
- Ministry of Industry and Information Technology
- State Ethnic Affairs Commission
- Ministry of Public Security
- Ministry of Civil Affairs
- Ministry of Justice
- Ministry of Human Resources and Social Security
- Ministry of Environmental Protection
- Ministry of Housing and Urban-Rural Development
- Ministry of Agriculture
- Ministry of Health
- National Population and Family Planning Commission
- General Administration of Press and Publication
- General Administration of Quality Supervision, Inspection and Quarantine
- General Administration of Work Safety
- National Bureau of Statistics
- State Administration for Religious Affairs
- Hong Kong and Macao Affairs Office of the State Council
- Office of Legislative Affairs of the State Council
- State Council Information Office
- State Bureau for Letters and Calls of Complaint
- Office of the State Council Steering Group on Poverty Alleviation through Development

**Annex 2**

**NON-GOVERNMENTAL ORGANIZATIONS PARTICIPATING IN THE  
CONSULTATION ON THE PREPARATION OF CHINA'S NATIONAL  
REPORT UNDER THE UNIVERSAL PERIODIC REVIEW**

- All-China Women's Federation
- All-China Federation of Trade Unions
- China Disabled Persons' Federation
- China Society for Human Rights Studies
- United Nations Association of China
- Law Institute of the Chinese Academy of Social Sciences
- China NGO Network for International Exchanges
- Red Cross Society of China
- China Family Planning Association
- China Centre of Tibetan Studies
- China Care Association
- China Ethnic Minority Association for International Exchanges
- China Association of Women Entrepreneurs
- China Glory Charity Programme Promotion Association
- China Education Association for International Exchange

**Annex 3**

**THE 25 INTERNATIONAL HUMAN RIGHTS CONVENTIONS  
TO WHICH CHINA IS A PARTY**

1. Convention on the Prevention and Punishment of the Crime of Genocide
2. Convention relating to the Status of Refugees
3. Protocol relating to the Status of Refugees
4. International Convention on the Elimination of All Forms of Racial Discrimination\*
5. International Convention on the Suppression and Punishment of the Crime of Apartheid
6. Convention on the Elimination of All Forms of Discrimination against Women\*
7. Convention on the Rights of the Child\*
8. Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value
9. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment\*
10. Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field
11. Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea
12. Geneva Convention relative to the Protection of Civilian Persons in Time of War
13. Geneva Convention relative to the Treatment of Prisoners of War
14. Protocol Additional to the Geneva Convention of 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)
15. Protocol Additional to the Geneva Convention of 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II)
16. Convention concerning Vocational Rehabilitation and Employment (Disabled Persons)
17. Convention concerning the Rights of Association and Combination of Agricultural Workers
18. International Covenant on Economic, Social and Cultural Rights\*
19. Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography

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\* Denotes a core human rights convention.

20. Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour
21. Convention concerning Minimum Age for Admission to Employment
22. Convention concerning Discrimination in Respect of Employment and Occupation
23. Convention concerning Employment Policy
24. Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict
25. Convention on the Rights of Persons with Disabilities\*

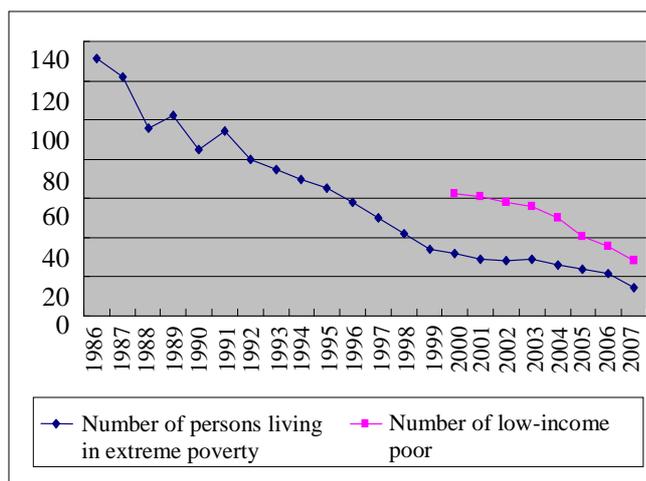
**Annex 4**

**TABLES**

**Table 1. Poverty alleviation in China, 1986-2007**

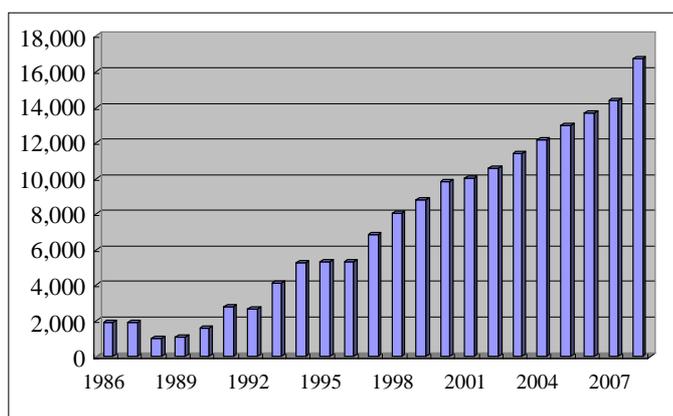
Poverty-reduction in rural areas

(Millions of people)



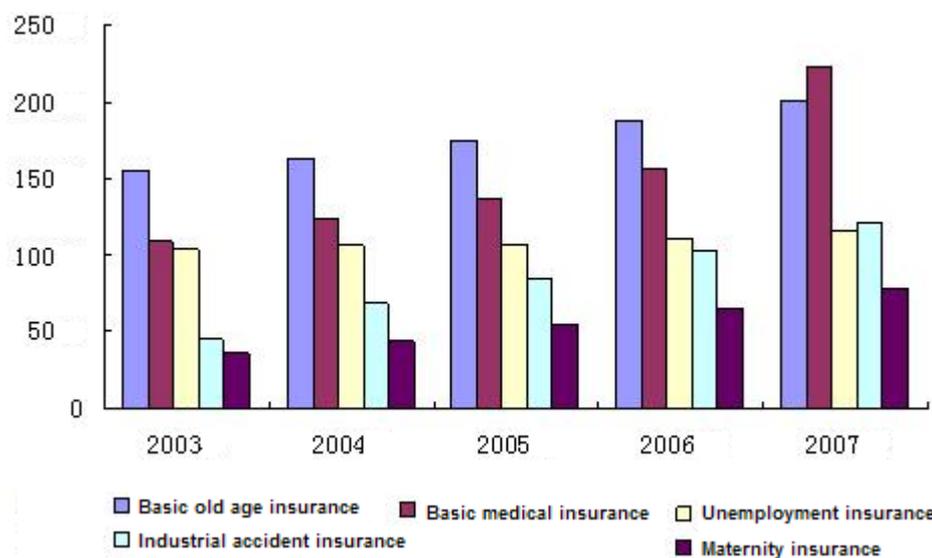
Growth in central budget allocations for poverty alleviation programmes

(Millions of yuan)



**Table 2. Urban residents participating in social insurance schemes, 2003-2007**

(Millions of people)



**Table 3. Periodicals and books published, 1949-2007**

Year	Periodicals		Books	
	Types of publication	Number printed per issue (millions)	Number of titles	Number of copies (millions)
1949	257		8 000	105
1978	930	62.001	14 987	3 774.24
2002	9 029	204.06	170 962	6 870
2007	9 468	166.97	248 283	6 293

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