

## CHINA

### CERD A/38/18 (1983)

465. The initial report of China (CERD/C/101/Add.2 and Add.3) was introduced by the representative of the reporting State, who referred to the information provided by his Government with regard to minorities living in China, and pointed out that laws had been enacted to ensure the participation of minorities in State and local affairs on equal footing with all other nationalities, that at the Sixth National People's Congress, held in June 1983, all minority nationalities had been represented and that 13.5 per cent of all the deputies were members of minority nationalities. Furthermore, he informed the Committee that a Nationalities Committee under the Standing Committee of the National People's Congress was responsible for studying matters having a bearing on the nationalities and drafting relevant legislation, that interference by government officials with minority customs and manners was punishable under article 147 of the Chinese Criminal Code and that, in an effort to promote the economic and cultural development of the minorities, the State had increased investments in infrastructure in the minority areas.

466. The members of the Committee expressed satisfaction that China had decided to begin a dialogue with the Committee. They pointed out that China's accession to the Convention constituted an enormous step towards the universal acceptance of that international instrument and that it enhanced the Chinese people's contribution to the struggle against racial discrimination both within and outside the country. The Committee also welcomed the comprehensive information provided by the Chinese Government on ethnic nationalities in China. One member stated that the report of China was a revelation in that 56 nationalities had joined in efforts to build a society based on social justice and respect for all human beings. It observed, however, that more information on the implementation of the various provisions of the Convention was necessary to understand the extent to which the Government of China was in a position to fully comply with its obligations under the Convention. The Committee, therefore, expressed the wish that subsequent reports would provide information in a more amplified manner with regard, in particular, to articles 3 to 7 of the Convention, that they would be presented in accordance with the revised guidelines laid down by the Committee and that they would include references to the pertinent provisions of the Chinese Constitution and other legislation designed to combat racial discrimination.

467. Members of the Committee noted that the minority nationalities in China represented only 6.7 per cent of the total population, but they occupied more than 50 per cent of the land area, and they requested more information on those nationalities, and on the organs of self-government of the autonomous areas, especially the supervision which was exercised by the central authorities with regard to the legislative, executive, and financial aspects of regional autonomy and on economic and cultural differences among the provinces and the autonomous regions. They wished to know, in particular, what the criteria were for minority representation in the National People's Congress, what the relationship was between the State Council and the executive organs of the autonomous areas, how the economic development of the areas occupied by minorities was carried out under the Constitution, to what extent education was given in the national languages of the minorities and whether integrationist multiracial organizations existed in China and received official

encouragement. It was also asked whether the relations between the majority Han group and the minorities were always harmonious or whether the historical disparities between the Han and the minority nationalities still caused members of the Han group to indulge in chauvinism, what the views of China were with respect to the term “nationality”, whether a distinction was made between the terms “nation” and “nationality”, what action was being taken to safeguard the rights of minority nationalities under article 2, paragraph 1 (c), of the Convention, what was the role played by the State in the backward regions, what percentage of the budget was allocated to development in those regions and whether modernization efforts, including voluntary assimilation, had led to a decrease in the size of any of the ethnic groups. In addition, information was requested on policies to accelerate development in Tibet, on the number of Tibetans occupied in administrative jobs and on measures to protect the Tibetan cultural heritage. It was asked, in particular, whether any account had been taken of Tibet’s special geographical situation in the laws recently promulgated with respect to that region.

468. As regards article 3 of the Convention, information was requested, in particular, on China’s efforts in condemning the apartheid régime of South Africa and on diplomatic, economic, and any other ties that China might have with that régime.

469. With reference to article 4 of the Convention, it was asked under what provisions of the penal legislation of China racial discrimination was prosecuted and what legal sanctions were applied, in particular, to those who contravened the legislation on State protection to minorities.

470. In connection with article 5 of the Convention, members of the Committee wished to know what measures had been taken in China to implement paragraphs (d) (i), (d) (ii), and (e) (ii) of that article. They also wished to know what the policy of the Chinese Government was on acquisition of Chinese citizenship by foreigners, what the status of Chinese citizens or migrant workers was in neighbouring socialist countries, whether they had been informed of their status in their home country and whether China had entered into any agreement with the host countries with regard to those people.

471. With respect to article 6 of the Convention, information was requested on the judicial system and the means of recourse available in China, on the interplay of the administrative and judicial powers of the regional assemblies and those of the State and on measures to resolve conflicts over jurisdiction and competence. It was also asked whether the Constitution allowed a complaint to be submitted to an institution other than that involved in the matter concerning which the complaint was made.

472. Replying to questions raised by members of the Committee, the representative of China clarified that ethnic minorities could be found throughout 50 to 60 per cent of the country, but they did not constitute the sole population of that area, which they in fact shared with the members of the Han nationality. China’s policy of establishing autonomous regions which were governed by members of the minority nationalities living there, was a response to that particular demographic feature. Moreover, representation of even the smallest minority group, which had slightly more than 1,000 members, was required by the Constitution. Chauvinism among the minority nationalities was discouraged and efforts were concentrated first and foremost on eliminating chauvinism among the majority Han group. The representative also pointed out that the Chinese Constitution contained

special provisions to protect the autonomy of the national minorities in the context of their development process. In addition, other legislation, such as article 36 of the Chinese Marriage Law and article 80 of the Penal Code, required that specific local social situations must be taken into consideration and respond to local customs. As regards the autonomous region of Tibet, the representative provided information and figures on the increase of the Zang population, which was at a higher rate than the Han nationality's increase, on the participation of different nationalities in the administration of the region and on its economic and cultural development.

473. With regard to article 4 of the Convention, the representative stated that, since 1951, the Government had issued directives aimed at eliminating all forms of discrimination which had persisted from pre-revolutionary society and that the Government also played a major role in supervising and monitoring the implementation of those provisions.

474. With reference to article 5 of the Convention, the representative referred to article 2 of China's Nationality Law, which ensured that persons belonging to all nationalities enjoyed Chinese citizenship. He also provided information on 10 Nationalities Institutes, established to promote the educational advancement of those groups which had historically been given only limited opportunities for education.

475. The representative of China finally assured the Committee that his Government would provide more comprehensive information in the next periodic report.

## **CERD A/42/18 (1987)**

329. The second periodic report of China (CERD/C/126/Add.1) was considered by the Committee at its 767<sup>th</sup> to 769<sup>th</sup> meetings on 14 and 17 March 1986 (CERD/C/SR.767-SR.769).

330. The report was introduced by the representative of China, who referred to the policies, principles, decrees, and regulations formulated by the Government with a view to eliminating all vestiges of national oppression and discrimination and putting an end to economic and cultural backwardness in minority areas. As a result of the Government's sustained efforts, a new relationship of equality, unity, and mutual assistance had been forged among the various nationalities in China. In the first half of 1985, the value of gross industrial and agricultural output of the five national autonomous regions had increased by 22.2 per cent, compared with that of the same period in 1984. The population growth of minorities in China was noticeably higher than that of the Han people. In recent years, China had co-operated actively with the Office of the United Nations High Commissioner for Refugees and had provided massive financial and material assistance to the large number of Indo-Chinese refugees who had entered China.

331. Members of the Committee commended China for its comprehensive report prepared in compliance with the Committee's guidelines (CERD/C/70/Rev.1) and submitted on time. They welcomed the extensive information provided on the country's ethnic composition and pointed out that the implementation of the Convention by China was of great significance. They noted the Government's determination to preserve unity and to integrate its 56 nationalities and commended efforts to protect the rights of minorities scattered throughout the country. Clarifications were requested, however, regarding the figure of 879,201 Chinese citizens who belonged to "unknown nationalities" indicated in the report. It was pointed out that comparative population figures for all nationalities at different points in time would give the Committee a better understanding of how the situation had improved for the various nationalities. Relevant information for each of the five regions and three provinces was requested separately to show compliance with articles 2 to 7.

332. With regard to the implementation of article 2 of the Convention, members of the Committee commended the reporting State for applying its planning policies more flexibly to minority populations. Additional information and clarification was requested in that respect with regard to the Tibetan autonomous region. It was asked whether the measures on behalf of national minorities might not be viewed as giving preferential treatment to minorities, rather than ensuring the equality of all citizens. Concerning the regional autonomy policy followed by the Government, members asked how the Chinese authorities interpreted the principle of self-determination, what criteria were used in establishing autonomous institutions, what mandate the special organs responsible for handling the nationalities' affairs at both the national and local levels, how regional administrations were elected, whether there were any quotas for minority representation, and whether there were any initiatives aimed at decentralizing the decision-making process. Clarifications were requested regarding the recent establishment of several autonomous countries in the provinces and about the areas in which the Tibetan-Burman language group was located. It was asked whether the members of that group had only language in common or whether they shared the same cultural traditions. Members also asked on what basis nationality townships had been established and whether their establishment had anything to do with agrarian reform or economic viability, what proportion of the

population of the newly-established townships must belong to a minority nationality in order for the township to be categorized as being a particular nationality, and how the people's congresses of the national autonomous areas worked under articles 19 and 20 of the Act relating to Regional Autonomy for Minority Nationalities of 1984. Members of the Committee also requested further information regarding the isolated and backward territories, the results obtained through financial measures applied to national autonomous areas and the repercussions of the Cultural Revolution.

333. Members of the Committee indicated that China's unreserved implementation of article 3 was a valuable contribution to the world-wide struggle against apartheid.

334. Regarding the implementation of article 4 of the Convention, members noted the measures taken by the Government to combat Han chauvinism, but asked whether any legal provisions had also been adopted to punish persons who discriminated against minority nationalities. They wished to know whether there were provisions in the Criminal Code with respect to discrimination on account of race and requested that the texts of the relevant legislation relating to the implementation of article 4 be included in future reports.

335. In relation to the enjoyment of civil and political rights under article 5 of the Convention, members requested information regarding the local election system, the participation of any national minorities in the central Government, freedom of movement internally and the right to leave China and return. In that connection, it was asked how many Tibetans had returned to their homeland as a result of the Government's promotion of the migration of the Kazakh people, what provisions ensured freedom of opinion and freedom of religion and particularly, whether persons who practiced any of the religions mentioned in the report were permitted to participate in the various spheres of public life, including the Communist Party. Clarification was requested about what was meant by the term "primitive religions" mentioned in the report.

336. With regard to economic, social, and cultural rights under article 5 of the Convention, members of the Committee requested further information about the Government's language policy and the measures taken to implement it. They wished to know whether the Government's objective was to teach each individual his local or regional language as well as putonghua and the Han written language, whether putonghua was compulsory for predominantly minority nationality schoolchildren, whether public services outside the region were open only to citizens who were proficient in putonghua, whether the government gave special attention to minority groups which were not proficient in that language to enable them to participate fully in the political, economic, and social life of the country, and whether the minority populations were educated about history. It was asked whether the provisions described in the report applied only to the five autonomous regions or whether they extended to other areas. Additional statistics were requested on employment, housing, income, health, education and agricultural policies in order to assess the progress achieved. Further information was also requested on the allocation of resources to restore and repair the monasteries and other cultural monuments of the Tibetan people which had been destroyed.

337. Members of the Committee requested additional information concerning the implementation of article 6. They were interested in knowing what role the courts played in connection with article 41 of China's Constitution and what remedies were available to victims having complaints against private individuals. It was asked whether any legal provision established what constituted

“fabrication or distortion of facts” under article 41 of the Constitution. Information was requested on judicial and administrative penalties applicable to violations of instructions banning derogatory references to national minorities.

338. It was asked whether China would consider the possibility of making the optional declaration provided for in article 14 of the Convention.

339. In reply to questions raised and observations made by members of the Committee, the representative of China said that the policy on the autonomous regions had been formulated in the light of a specific historical background. The purpose of the autonomous system for the minority region was to guarantee the rights of the minorities in those regions and enable them to handle their own internal affairs. The autonomous regions had more extensive rights than the other regions of China. Within a given autonomous region, there might be a certain number of Hans or other minorities. China had drawn up a new Constitution, together with new legislation for the autonomous regions, following the Cultural Revolution. It was specified that autonomous organs had the right to control the region’s financial, economic, cultural, and educational affairs. Measures designed to promote the economic development of the minorities had been adopted and had proved extremely successful, for example, in Tibet. The constitution also specified that high-level posts in the regions, states, districts, and counties should be occupied by members of the appropriate minority group.

340. The nationalities that used the languages of the Tibetan-Burman group were scattered over south-western China; those languages had been classified by linguists on the basis of similar origin and structure. Of course, nationalities that shared the same language were closely linked. However, each group had its own dialect and most groups considered themselves to be unique. The Government therefore recognized them as being different nationalities.

341. In connection with the implementation of article 3, the representative emphasized that the Chinese Government had consistently condemned the racist policies pursued by the Government of South Africa and always supported the just struggle waged by the people of South Africa against racial discrimination and apartheid.

342. He said that the Constitution guaranteed the minorities equal legal rights. Moreover, the Chinese Criminal Code provided that members of all nationality groups were entitled to have their own language used in court proceedings. So far, the courts had not dealt with any cases of racial discrimination because such problems were solved at an early stage through conciliation procedures at the local level. The Government was carrying out an educational campaign to combat chauvinism by promoting equality, unity, and prosperity for all. It was monitoring the implementation of national policies to counteract both Han chauvinism and nationalist tendencies.

343. In reply to the question concerning the return of a group of Kazakh people to their homeland in Xinjiang, the representative of China explained that the people in question had been reluctant to mingle with other Tibetans and had asked to be sent back to Xinjiang. The Government had helped them to return there. Tibetans currently residing overseas could return to their motherland, if they wished to do so, and the Government would welcome them and take care of them or, if they wished to leave, would allow them to do so.

344. With regard to the use of the putonghua language, he said that the Constitution gave all minorities the right to develop their own languages and dialects. The autonomous organs were required to teach those local languages, and Han cadres were requested to learn them. After government documents were published in Han, they were translated into minority languages; moreover, at the meetings of the National People's Congress, simultaneous interpretation into the local languages and dialects was provided. Radio programmes and many publications also existed in the minority languages. If a member of a minority nationality worked for the central Government, he was not required to learn putonghua; however, many workers did so for their own convenience.

345. Appropriate measures had been adopted with a view to promoting the development of minorities in the areas of culture and education. Considerable sums of money had been spent on restoring the Tibetan temples and monasteries that had been damaged during the Cultural Revolution.

346. With regard to the question concerning primitive religions, he said that in both south-western and north-eastern China there were certain nationalities that had retained beliefs such as animism and totemism, but that there was no derogatory connotation in the Government's use of the term "primitive religions". He added that further information on the implementation of the Convention would be provided in the next periodic report.

## **CERD A/45/18 (1990)**

111. The third and fourth periodic reports of China (CERD/C/153/Add.2 and CERD/C/179/Add.1) were considered by the Committee at its 868<sup>th</sup>, 869<sup>th</sup> and 871<sup>st</sup> meetings, on 9 and 10 August 1990 (CERD/C/SR.868, SR.869, AND SR.871).

112. The reports were introduced by the representative of the State party, who outlined their different chapters and referred to a recent statement by his Government's Prime Minister concerning the guarantees of equality and unity for all the nationalities of China, and of respect for their freedom of religious belief and for their traditions and customs. The representative drew attention to the economic measures which had been taken by the Chinese Government in order to promote the development of the country's different regions and national minorities. Since 1989 the central Government had approved the establishment of nine national autonomous areas, which had brought the total number of areas to 159, and during 1990 it had pursued its efforts in the fields of education, culture, science and health for the benefit of national minorities. The Government was also encouraging assistance and mutual respect among citizens in the multinational areas and it was continuing, at the international level, its policy of elimination of discrimination and racial segregation.

113. Members of the Committee took note with satisfaction of the reports of China, which provided a balanced overall picture of the situation regarding the implementation of the Convention and valuable new information about the status of the various nationalities in the country, and which were consistent with the Committee's general guidelines. It was observed, however, that although the report stated that the political and legal situation in China guaranteed equality, non-discrimination, regional autonomy, harmony, solidarity and mutual assistance, there had apparently been racial attacks on African students and that a number of questions nevertheless remained to be answered, particularly regarding the practical problems encountered by various minorities in the country.

114. Members of the Committee referred to the provisions of article 2 of the Convention and requested comparative statistics giving the circumstances and size of the various ethnic groups and those of the Han Chinese majority. They also asked what action the Chinese Government had taken to bring its own policies into line with article 2, paragraph 1 (c), of the Convention and see what concrete measures it had adopted in the social, economic, cultural and other fields to ensure the adequate development and protection of minority groups, autonomous areas and minority poverty areas, in accordance with article 2, paragraph 2, of the Convention. In addition, detailed information was requested on the most important laws adopted by each autonomous area as well as the measures taken to implement them. It was also asked what the criteria and procedure were for the formation of autonomous areas, to what extent there was for the national minority population's right to establish territorial demarcation of such areas, to what extent minority groups effectively participated in running them, and in the adoption of their laws through the popular assemblies of the areas. It was further inquired what measures the Chinese Government had taken to encourage integrationist, multiracial organizations and to eliminate barriers between races. Members also requested statistics for each of the minority provinces relating to elementary education and public health.

115. In connection with article 3 of the Convention, members of the Committee expressed their recognition to the People's Republic of China for the constant policy it had pursued in the fight against apartheid in South Africa, and for the support it had given other African peoples in their struggle against apartheid.

116. In respect of article 4 of the Convention, members of the Committee observed that the measures referred to in the report did not seem adequate and recalled that States parties must enact special legislation or widen their penal codes, specifically to prohibit the dissemination of doctrines based on racial superiority and incitement to racial discrimination. Further information was also requested as to the membership of the State Nationality Affairs Commission and regarding the actual application of family planning policies in China which, according to various sources of information, had given rise to threats and violence by public officials and to discrimination based on ethnic origin. It was pointed out that since some of the minorities were quite small, the family planning policy might have a different, and probably detrimental, effect upon them.

117. Turning to article 5 of the Convention, members of the Committee wished to receive detailed information about the current standards of living of the principal minority groups in China compared with that of the Han Chinese, including statistics related to income, employment, education, health and access to public services. It was asked, in particular, what specific institutions had been established to enable minorities to exercise their powers under the 1984 Law of the People's Republic of China on Regional National Autonomy; what links existed between those institutions and the Communist Party; and how associations for the protection of the legitimate rights of social groups were constituted and administered. Additionally, questions were raised concerning China's policy towards refugees and displaced persons and concerning the controls established by the authorities over migration, labour mobility and freedom of movement. It was also asked whether freedom of religious activities and the economic self-reliance of temples and monasteries had been restored in China; what the situation of Islamic believers was in the country with regard to their right to freedom of religion and movement; what were the causes of recent clashes between them and the population in one of the provinces of China; and what action was being taken to return the situation to normal and to prohibit segregation of the Muslim population in so far as housing, education, employment and health care were concerned. Further information was also sought on the percentage of illiteracy in the minorities' areas and about the teaching of languages in schools and higher educational establishments in the autonomous regions and throughout China as a whole.

118. Great concern was expressed about the situation of the people of the Autonomous Region of Tibet. It was observed that information received from various sources, including non-governmental organizations, indicated that discrimination was practised against Tibetans in respect of the rights covered by article 5 of the Convention and that the Chinese Government had not given an exhaustive account of the situation. It appeared that the large-scale movement of Chinese settlers to Tibet was a deliberate policy of the Government and that the settlers were given special privileges, resulting in the creation of two unequal and distinct communities. In that connection, detailed information was requested on the present population of Tibet, including the number of Tibetans, the number of temporary and permanent Chinese residents and on how those figures had changed over recent years. Detailed information was also requested concerning the exploitation of national resources in Tibet by the central Government and to what extent the exploitation of those resources directly benefited the Tibetan national minority; and concerning the export of Tibetan art; Tibetan literacy and

unemployment; the restriction of freedom of movement and residence for Tibetans; the limitations applied to their freedom of thought, conscience and religion, as well as to freedom of opinion and expression; and the situation of Tibetan national minority in relation to the Han majority living in Tibet, in connection with the right to work, housing and health. Members wished to know whether the reopening of temples and monasteries also permitted the restoration of their economic base.

119. Members expressed anxiety about the manner in which the Government's family planning policy was being implemented in Tibet.

120. In respect of article 6 of the Convention, members of the Committee wished to know what legal redress and compensation were available in practice to persons who had suffered racial discrimination; whether there had been any proceedings in people's courts involving administrative restriction of freedom of movement, enforced closure detention and freezing of assets, and administrative violations of personal or property rights; and whether any cases had been brought under article 68 of the Law of Administrative Proceedings.

121. Members doubted the Chinese Government's account of riots in Lhasa. The actions of separatists might be part of an explanation, but riots were complex phenomena. It had to be asked why substantial sections of the population should join in riotous behaviour. Popular perceptions of racial discrimination in Tibet might well be part of an explanation. Persons arrested as a result of demonstrations in Lhasa had reportedly been held for periods varying from days to months and their relatives denied visiting rights. Although China's Code of Criminal Procedure specifically prohibited the use of torture, there were grounds for believing it had been regularly employed against detained demonstrators.

122. Replying to questions raised and observations made by members of the Committee, the representative of China, referring to articles 2 and 5 of the Convention, recalled that his country had a population of 1.4 billion, including 56 nationalities. Principal legal instruments regulating ethnic relations in China were the Self-Government Laws of Nationality Regions. National autonomous areas and provinces with large minority populations complied with the provisions of those laws. Each minority area, including provinces with dispersed minority populations, formulated its own self-government regulations. Under the Constitution, all citizens enjoyed an equal status whatever their nationality. In accordance with the law, autonomous regions, prefectures or counties were established where one or more minority nationalities lived in a concentrated community. The organs of self-government of national autonomous areas worked out the policies and plans for economic development in the light of local characteristics and needs. However, as a result of differences in economic and social development, the situation of various national minorities in the country as a whole was uneven. The representative also stated that any kind of discrimination or any restriction by a civil servant of the exercise of freedom of religion was subject to punishment. With regard to education, he stated that in 1988 minority students enrolled in higher educational institutions had accounted for 6.1 per cent of the total, whereas in 1950 they were only 0.93 per cent. All minority nationalities had the right to use their own language in courts of law and the State placed great emphasis on health care in minority areas.

123. With reference to article 5 of the Convention, the representative stated that, in border districts of China, the State did not press family planning and couples were free to make their own decisions.

124. Turning to the subject of Tibet, the representative pointed out that Tibetans had the right to self-government and that almost all senior officials of the administration of the Autonomous Region are Tibetans. He also provided information and figures concerning the development in Tibet of the economy, the educational system, health facilities, and the publication of newspapers and books in the Tibetan language. With regard to the composition of the population in Tibet, the representative stated that, by 1989, the proportion of Tibetans in the population had risen to 95.5 per cent, while that of the Han Chinese had dropped to 3.76 per cent. Technicians and other workers went to Tibet to help with the modernization programme but they did not settle in the region. Furthermore, the central Government's family planning policy was not implemented in the agricultural areas of Tibet. Families in those areas received education and advice to improve the health of mothers and children but there was no limit on the size of the family. The representative denied any form of exploitation of economic or natural resources of Tibet by the Chinese Government and any discrimination in housing and employment. He stressed that the majority of the employees and workers in the region were of Tibetan ethnic origin and that the salaries, benefits and employment protections afforded to Tibetans and Han Chinese were equal. Despite measures taken to facilitate access to school, the illiteracy rate in Tibet was 60 per cent, which was much higher than in the rest of China. The Tibetan and Han Chinese languages were taught together in school and in June 1990 the People's Congress of the Autonomous Region of Tibet had decided that the Tibetan language should be used in primary schools. Referring to the riots that had taken place in Lhasa between September 1987 and March 1989, the representative stated that demonstrators, incited by a small number of separatists, had perpetrated violent acts and propagated ideas against both the law and the Constitution of the country. The central Government had been obliged to impose martial law from 8 March 1989 to 30 April 1990. The situation in Tibet had been stable since.

125. In conclusion, the representative of China stated that he would transmit to his Government the requests made by members of the Committee for additional information and that their suggestions would be taken into account when the next periodic report was prepared.

## **CERD A/51/18 (1996)**

391. The Committee examined the fifth, sixth and seventh periodic reports of the People's Republic of China, which were submitted in a single document (CERD/C/275/Add.2), at its 1163<sup>rd</sup> and 1164<sup>th</sup> meetings, held on 8 and 9 August 1996 (see CERD/C/SR.1163-1164). In the light of the examination of the report and the observations made by the members of the Committee, the Committee, at its 1179<sup>th</sup> meeting, on 20 August 1996, adopted the following concluding observations.

### **A. Introduction**

392. The Committee welcomes the submission of the combined periodic report of the State Party and the resumption of dialogue. The Committee regrets that the report contained insufficient data on health, education, welfare and other social and economic conditions of life of the different minority groups, which made it difficult to assess properly the implementation of the Convention in the State Party. However, it expresses its satisfaction with the additional oral and written information provided by the delegation representing the State Party and with the constructive nature of the dialogue between the delegation and the Committee which, due to a restrictive timetable, could unfortunately not be prolonged.

393. The Committee notes that the State Party has not made the declaration provided for in article 14 of the Convention; some members requested the State Party to consider the possibility of making such a declaration.

### **B. Factors and difficulties affecting the implementation of the Convention**

394. Note is taken of the large number of minorities which, according to the State Party, include 55 nationalities. Since a significant percentage of these nationalities do not reside in the autonomous minority areas, it is difficult to assess their living conditions with precision. Note is also taken of the difficulties in standardizing essential services throughout the vast territory of China.

### **C. Positive aspects**

395. The strong economic growth experienced in recent years by the State Party is a positive factor and should provide greater possibilities for public investment in areas that require urgent attention. In particular, indications by the State Party that minority areas are granted public investment on a priority basis are viewed with great satisfaction.

396. Satisfaction is expressed that the living standards of minority peoples have improved in recent years, particularly with respect to preferential treatment with regard to marriages, family planning, university admissions, employment, etc.

397. Satisfaction is expressed at the efforts to preserve the linguistic heritage of the minority nationalities. Such efforts include the provision of textbooks, the development of school curricula and the publication of newspapers and literary works in the minority languages.

398. The State's policy of largely exempting members of minority nationalities from the birth control regulations which generally apply in China is welcomed.

399. The promulgation of laws and regulations at the various administrative levels covering many aspects of the lives of members of minorities is an indication that a policy of promoting the status of minorities is being pursued.

400. With respect to the autonomous areas, it is noted with appreciation that the law on regional autonomy for minority nationalities guarantees that a proportion of local government officials is drawn from local nationalities.

#### D. Principal subjects of concern

401. Concern is expressed at the lack of protective legal provisions for minority groups that are scattered throughout China. The absence of information regarding these minorities' enjoyment of rights enumerated in the Convention is noted with regret.

402. Further information regarding the ban on domestic organizations that propagate racial discrimination or the superiority of any people would be necessary to make a proper assessment of the implementation of article 4.

403. Concern is expressed with respect to reports concerning incentives granted to members of the Han nationality to settle in autonomous areas, as this may result in substantial changes in the demographic composition and in the character of the local society of those areas.

404. Taking into consideration that a distinctive religion is essential to the identity of several minority nationalities, concern is expressed with regard to the actual enjoyment of the right to freedom of religion in the State, particularly in the Muslim parts of Xinjiang and in Tibet, including the preservation of places of worship and the exercise of religious rights by members of all ethnic groups.

405. Concern is expressed at reported cases of violation in the autonomous regions of Xinjiang and Tibet of the right to security of person and protection against violence or bodily harm, as contained in article 5 (b) of the Convention. With regard to prison facilities, it is regretted that limited information is contained in the report on the percentage of persons imprisoned who are of minority origin relative to the total prison population in the State as a whole, the types of violations they have been charged with and the prison conditions under which they serve their sentences.

406. Concern is expressed at the underrepresentation in business in some areas of persons of minority groups, which may be indicative of structural obstacles to their enjoyment of increases in economic prosperity. Concern is also expressed with regard to allegations that members of minority nationalities may not enjoy the same working conditions as persons of Han origin.

407. With respect to article 5 (e) (v) of the Convention, concern is expressed that at the secondary school and university levels children from minority nationalities are underrepresented. Moreover, concern is expressed that the instruction provided in the curricula on the history and culture of

minority nationalities is not adequate as compared to the education provided concerning the history and culture of persons of the Han nationality.

408. Concern is expressed at the disparities in access to economic, social and cultural benefits by different ethnic groups. While the difficulties in providing such benefits to regions far removed from the capital and developed economic regions are appreciated, the effects of the differing levels of economic development of different regions and their impact on different communities are of concern, as they may generate racial discrimination towards disadvantaged groups. In addition, efforts with respect to economic development and national modernization should not deprive members of such ethnic groups of their right to their own culture, in particular their traditional ways of life.

409. With respect to article 7, concern is expressed about whether the efforts in teaching and education to combat prejudices which lead to racial discrimination are sufficient.

410. Concern is expressed about the content and implementation of the law of 1995 on mother and child health care and its impact on minority nationalities.

#### E. Suggestions and recommendations

411. The Committee recommends that the Government make all acts of racial discrimination, as specified in article 4 of the Convention, punishable by law. In this respect, it notes with satisfaction indications that the Government would welcome technical assistance from the technical cooperation services of the Centre for Human Rights of the United Nations.

412. The Committee recommends that with respect to article 4 more detailed information regarding the ban on domestic organizations that propagate racial discrimination or the superiority of any people be submitted in the State Party's next report.

413. The Committee recommends that comprehensive information regarding the composition of the population, the geographic areas where minority nationalities are concentrated, their standard of living and other educational and social indices be included in the next report. Such information should be provided not only with respect to minority nationalities living in the autonomous areas, but also as far as possible with respect to those dispersed in various regions. With regard to the latter groups, the Committee would appreciate information regarding the legal protection available to dispersed minorities relative to the rights provided for in the Convention.

414. The Committee recommends that consideration be given to the inclusion of more members of minority nationalities in positions of leadership, not only in the Government but also in the Party and other institutions at both the national and local levels.

415. The Committee recommends that the elaboration and adoption of autonomy regulations for the five autonomous regions, which were envisioned in the 1984 Law on Autonomous Regions, be expedited.

416. The Committee recommends that any policies or practices that may result in a substantial

alteration of the demographic composition of autonomous areas be reviewed.

417. The Committee recommends that information and clarification be provided in the next periodic report on allegations of destruction by the State of mosques, Buddhist and Lama temples and other places of worship of the minority nationalities. It encourages the Government to avoid any restriction on the exercise of religious rights of the members of minority nationalities.

418. The Committee recommends that in relation to respect for article 5 (b) of the Convention information be provided in the next report concerning the number and percentage of persons detained who are of minority origin relative to the total prison population of the State Party and the types of violations with which they have been charged.

419. The Committee recommends that further necessary legal, administrative or other appropriate measures be taken to ensure that there is no discrimination against members of minority nationalities, in either the public service or private employment, with respect to the right to just and favourable conditions of work and the right to just and favourable remuneration.

420. With respect to article 5 (e) (v) of the Convention concerning the right to education, the Committee recommends that the State Party ensure access by members of minority nationalities to education at all levels and that, in autonomous areas, instruction on the history and culture of the relevant minority nationalities be included in the school curricula.

421. The Committee recommends that special attention be paid to any adverse effect that economic development and national modernization may have on the enjoyment of the right to culture, particularly of minority nationalities.

422. With respect to article 6 of the Convention, the Committee recommends that the State Party provide in its next periodic report information and statistics on complaints filed and judgements passed on acts of racial discrimination.

423. The Committee recommends that the State Party consider how it may implement the provisions of article 7 and incorporate in the school curricula and the training of persons working in the public service, appropriate instruction effectively to combat prejudice and promote tolerance.

424. The Committee recommends that the text of the Convention, the State report and the present concluding observations of the Committee be widely disseminated and made available in national languages, particularly those spoken in autonomous areas.

425. The Committee recommends that the State Party ratify at its earliest convenience the amendments to article 8, paragraph 6, of the Convention, adopted by the fourteenth meeting of States Parties.

426. The Committee recommends that the State Party's next periodic report, due on 28 January 1997, be updating in character and that it address all the points raised in these concluding observations.

## **CERD A/56/18 (2001)**

231. The Committee considered the eighth and ninth periodic reports of China (CERD/C/357/Add.4, Parts I, II and III), which were due on 28 January 1997 and 28 January 1999, respectively, submitted as one document, at its 1468th and 1469th meetings (CERD/C/SR.1468 and 1469), on 31 July and 1 August 2001. The eighth and ninth periodic reports of China consist of three separate parts. Part I covers the whole of China, with the exception of the Hong Kong and Macau Special Administrative Regions, which are covered by Part II and Part III respectively. At its 1480th and 1481st meetings (CERD/C/SR.1480 and 1481), on 8 and 9 August 2001, it adopted the following concluding observations.

### **A. Introduction**

232. The Committee welcomes the opportunity to continue its dialogue with the State party, including with representatives from the Hong Kong and Macau Special Administrative Regions. The Committee was encouraged by the attendance of a large delegation representing important governmental departments as well as the Hong Kong and Macau Special Administrative Regions.

233. The Committee welcomes the detailed and comprehensive report submitted by the State party, the contents of which correspond with the Committee's guidelines for the preparation of reports. The additional oral information provided by the delegation in response to the wide range of questions asked by Committee members is also appreciated.

234. In view of the dialogue held, the Committee wishes to emphasize that irrespective of the relationship between the central authorities and the special administrative regions, and the principle "One Country, Two Systems", the People's Republic of China, as the State party to the Convention, has the responsibility to ensure its implementation on its entire territory.

235. The Committee acknowledges the difficulties inherent in policy-making and administration, including the standardization of essential services, of a territory as vast as China with more than 1.2 billion inhabitants, including 55 minority nationalities.

### **B. Positive aspects**

236. The Committee welcomes the efforts made by the State party to promote economic and social development in economically backward regions inhabited largely by minority populations, including Inner Mongolia, Guangxi, Tibet, Xinjiang, Guizhou, Yunnan and Qinhai. The Committee notes in particular the investments in infrastructure development and the creation of poverty alleviation projects financing the construction of primary schools in western China.

237. The Committee notes with interest the existence and functions of the State Ethnic Affairs Commission created under the State Council as the department in charge of ethnic affairs as well as the fact that the Commission should be headed by a person belonging to an ethnic minority.

238. The Committee notes that as a result of its previously expressed concerns and

recommendations, the recently conducted 2001 Population Census in the Hong Kong Special Administrative Region included questions which would help to determine the ethnic and racial composition of the region and allow for the identification of minority groups and an analysis of their political, economic and social situation.

239. The Committee welcomes the extensive consultation with civil society in the preparation of, in particular, the part of the State party's report pertaining to the Hong Kong Special Administrative Region and the indication by the delegation that projects are already under way in that region to address some of the problems identified by non-governmental organizations during those consultations, such as the provision of language training for immigrants, mainly of Nepalese, Pakistani and Bangladeshi origin.

240. The Committee notes article 25 of the Basic Law of the Special Administrative Region of Macau, giving a constitutional right to all Macau residents to be free from discrimination, irrespective of, inter alia, their nationality, descent, race, sex, language or religion.

### C. Concerns and recommendations

241. With regard to the interpretation of the definition of racial discrimination, the Committee notes that according to article 4 of the Constitution "all nationalities in the People's Republic of China are equal. The State protects the lawful rights and interests of the minority nationalities ...". In view of this provision, the Committee seeks clarification with regard to existing guarantees against discrimination on all grounds referred to in article 1 of the Convention, i.e. race, colour, descent, or national or ethnic origin, and recommends that the State party review its legislation to ensure the adoption of a definition of discrimination in accordance with the Convention.

242. With regard to the implementation of articles 2 and 4 of the Convention, the Committee notes the prohibition of the "incitement of national enmity or discrimination" by any organization or individual provided by articles 149 and 250 of the 1997 Criminal Law of the People's Republic of China. However, the Committee recalls that the stipulated requisites of serious or flagrant circumstances or consequences are not in accordance with the Convention. Regarding the prohibition of racial discrimination in general, the Committee recommends that the State party consider giving full effect to the provisions of the Convention in its domestic legal order and ensure the penalization of racial discrimination, as well as access to effective protection and remedies through the competent national tribunals or other State institutions against all acts of racial discrimination.

243. The Committee notes that economic development in minority regions does not, ipso facto, entail the equal enjoyment of economic, social and cultural rights in accordance with article 5 (e) of the Convention. The State party is requested to provide further information on the enjoyment of economic, social and cultural rights by all nationalities of China and regarding steps taken to ensure that the minority population benefits from the general economic growth. In this context, the State party is requested to take all appropriate measures to ensure that the local and regional cultures and traditions are also promoted and the rights of the populations fully respected.

244. While noting the State party's information in this regard, some members of the Committee

remain concerned with regard to the actual enjoyment of the right to freedom of religion by people belonging to national minorities in the State party, particularly in the Muslim part of Xinjiang and in Tibet. The Committee recalls that a distinctive religion is integral to the identity of several minorities and urges the State party to review legislation and practices that may restrict the right of persons belonging to minorities to freedom of religion.

245. While recognizing efforts made, which have resulted in an increased number of schools and a decrease of illiteracy in minority regions, the Committee is concerned about continuous reports of discrimination with regard to the right to education in minority regions, with particular emphasis on Tibet, and recommends that the State party urgently ensure that children in all minority areas have the right to develop knowledge about their own language and culture as well as the Chinese, and that they are guaranteed equal opportunities, particularly with regard to access to higher education.

246. While noting the State party's efforts to facilitate integration and naturalization of Indo-Chinese refugees in mainland China, the Committee is concerned that different standards of treatment are applied to Indo-Chinese asylum-seekers, on the one hand, and asylum-seekers of other national origins on the other, notably with regard to the right to work and education. Particular concern is expressed regarding the treatment of asylum-seekers from the People's Democratic Republic of Korea, who are reportedly systematically refused asylum and returned, even in cases when they have been considered to be refugees by UNHCR. The Committee recommends that the State party take the necessary measures to ensure that all refugees and asylum-seekers receive equal treatment. To this end, the Committee recommends that the State party consider pursuing the adoption of formal legislative or administrative provisions in order to implement objective criteria for the determination of refugee status.

247. With reference to article 2, paragraph 1 (d), of the Convention, the Committee takes note of ongoing consultations, but reiterates its concern about the continued absence in the Hong Kong Special Administrative Region of legal provisions protecting persons from racial discrimination to which they may be subjected by private persons, groups or organizations. The Committee does not accept the argument put forward for not initiating such legislation, i.e. that such legislation would not be supported by the society as a whole. It is recommended that the Government of the State party and the local authorities of the Hong Kong Special Administrative Region review the existing unsatisfactory situation thoroughly and that appropriate legislation be adopted to provide appropriate legal remedies and prohibit discrimination based on race, colour, descent, or national or ethnic origin, as has been done with regard to discrimination on the grounds of gender and disability.

248. The Committee reiterates its concern regarding the situation of foreign domestic workers in the Hong Kong Special Administrative Region, mainly from the Philippines, Indonesia and Thailand, and the existence of certain rules and practices, such as the so-called "two-weeks rule", which may be discriminatory in effect.

249. The Committee requests the State party to provide in subsequent reports, *inter alia*, detailed information on judicial cases relating specifically to violations of the Convention, including in the Hong Kong and Macau Special Administrative Regions, with special reference to the granting by courts of adequate reparation for such violations.

250. The Committee recommends that the next State party report contain socio-economic data, disaggregated by national and ethnic group, and information on measures taken to prevent gender-related racial discrimination, including in the area of trafficking and reproductive health. The Committee also wishes to receive statistics, disaggregated by nationality and region, relating to detention, imprisonment, alleged, investigated and prosecuted cases of torture, death sentences and executions.

251. The State party is also invited to provide in its next report further information on the powers of the State Ethnic Affairs Commission and the impact of activities undertaken by it.

252. It is noted that the State party has not made the optional declaration provided for in article 14 of the Convention, and the Committee recommends that the possibility of such a declaration be considered.

253. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

254. The Committee recommends that the State party's reports continue to be made readily available to the public from the time they are submitted and that the Committee's observations on them be similarly publicized.

255. The Committee recommends that the State party submit its tenth periodic report jointly with its eleventh periodic report, due on 28 January 2003, and that it address all points raised in the present observations.