



Téléfax: (41-22) 917 90 08
Télégrammes: UNATIONS, GENEVE
Téléx: 41 29 62
Téléphone: (41-22) 9179193
Internet www.ohchr.org
E-mail: ghahatom@ohchr.org



Address:
Palais des Nations
CH-1211 GENEVE 10

REFERENCE: GH/eb

2 September 2011

Excellency,

I wish to inform you that the Committee on the Elimination of All Forms of Racial Discrimination, in the course of its 79th session, considered the follow-up report submitted by the Government of China, pursuant to Rule 65(1) of the Rules of Procedure of the Committee.

The Committee welcomes the timely submission of China's follow-up report, in response to its request to receive information within one year on the implementation of the recommendations contained in paragraphs 12, 15, 19 and 30 of the Concluding Observations (CERD/C/CHN/CO/10-13), adopted following the consideration of the State party's 10th to 13th periodic reports in August 2009. The Committee appreciates the opportunity provided to continue its dialogue with the State party, and would like to draw the State party's attention to the observations mentioned below. The Committee requests that comments and responses on actions taken China on these issues be included in its 14th to 16th periodic reports to be submitted in a single document by 28 January 2013.

Paragraph 12 of the Concluding Observations. The Committee thanks the State party for the information provided. It notes that China did not supply the Committee with information on the specific protections for ethnic minorities that exist within the National Human Rights Action Plan (the Plan) or on the integration of specific provisions on the elimination of racial discrimination.

The Committee requests that the State party submit updated information on the final evaluation of the National Human Rights Action Plan in its next periodic report as well as information on the current protection of the rights of ethnic minorities.

The Committee welcomes information on the advancement on economic and social development achieved during the Plan's period, but notes that in the same period, requests to visit Tibet by the United Nations High Commissioner for Human Rights and six United Nations Special Rapporteurs were refused. It also notes that not enough information was made available to the Committee to evaluate the results and impact of the key goals of the Plan.

J..

H.E. Mr. HE Yafei
Ambassador, Permanent Representative of China
Permanent Mission of China
Case Postale 85
1213 Petit-Lancy 2
Geneva
Fax 022 793 70 14

The Committee notes information that the drafting of the second National Human Rights Action Plan for 2012-2015 is underway and encourages China to develop this plan as a meaningful tool for protecting and promoting human rights for the people of China, in accordance to its international human rights obligations, including ICERD. It welcomes the broad participatory process through which the National Human Rights Action Plan 2009-2010 was developed and encourages the process to be expanded, to include the expertise of United Nations' Office of the High Commissioner for Human Rights and its Special Rapporteurs in achieving its goals.

Paragraph 15 of the Concluding Observations. The Committee thanks the State party for the information provided but notes that specific information, including statistics, on these punishments being applied to ethnic minorities was not presented.

The Committee requests additional information on the implementation and monitoring of the implementation of the laws mentioned and asks for clarification on: 1. the nature of the serious administrative violations punished by administrative detention; 2. on the situations where discretion is allowed, as well as 3. on the implementation, in practice, of the judicial control of these two punishments. It encourages China to consider the complete abolition of these administrative punishments and to take effective measures to ensure that their application is used restrictively and subject to full judicial control.

The Committee notes that the State party is making an effort to build a democratic legal system, and that it has been considering reforming and improving the re-education through labour system. It expresses its full encouragement for China to consider the phasing out of its system of administrative detention, including the re-education through labour system. The Committee requests China to include updated information on the progress of the drafts studied in its next periodic report.

Paragraph 19 of the Concluding Observations. The Committee thanks the State party for the information provided but it requests additional information on how lawyers can exercise their profession freely, in practice.

The Committee notes the State party's assurance that no instance of harassment, intimidation or other impeding of the work of any lawyers who practice in accordance with the law exists but remains concerned by persistent reports that indicate otherwise. The Committee reiterates its recommendation in full that the State party take the appropriate measures to ensure that lawyers can exercise their profession freely, in law and in practice, and to investigate promptly and impartially all allegations of harassment. It encourages the State party to take all necessary steps to ensure that all persons, including those monitoring human rights, are protected from any intimidation or violence as a result of their activities and exercise of human rights guarantees. It also encourages that China ensure the prompt, impartial and effective investigation of such acts. Furthermore, the Committee encourages the State party to accept the request of the Special Rapporteur on the situation of human rights defenders to visit the country, issued in 2008.

Finally, the Committee notes that China did not address the issue of existing inconsistencies between some of its laws and regulations and the Lawyers' Law and international standards, and requests the State party to provide information on this issue in its next periodic report.

Paragraph 30 of the Concluding Observations. The Committee thanks the State party for the information provided but notes that further clarification on how the enforcement of labour laws and employment conditions is ensured, in practice, without discrimination against migrant workers, was not available.

The Committee notes that the State party's response does not directly address any effective measure taken to repeal the "two weeks rule" or to adopt a more flexible approach to domestic migrant workers. It also encourages the State party to take into account its General Recommendation No. 30 (2004) on non-citizens, in particular, when monitoring the "two weeks rule" and the live-in requirements. The Committee recalls its General Recommendation No. 30 stipulates that State parties should "*take measures to eliminate discrimination against non-citizen in relation to working conditions and work requirements, including employment rules and practices with discriminatory purposes or effects*". The Committee encourages China to monitor the impact of its laws and their accordance to international standards. In particular, the Committee reiterates its request to the State party to consider the repeal of the "two weeks rule" and the adoption of a more flexible approach to domestic migrant workers. It calls upon the State party to provide information on these issues in its next periodic report.

Rest assured, Excellency, that the Committee looks forward to continuing its constructive dialogue with the Government of China, with a view to providing it with assistance in its efforts to ensure the effective implementation of the Convention.

Yours sincerely,



Anwar Kemal

Chairperson of the Committee
on the Elimination of Racial Discrimination