

stipulates equality before the law, inviolability of home, the right to own lawfully earned income, savings, houses and other property, the inviolability of personal dignity, freedom of speech, the press, assembly and association, freedom of religion or belief, the duty as well as the right to receive an education, the right to lodge complaints and lay charges against state organs and their personnel, the right to compensation, and the right of every nationality to use and develop its own language and script.

#### **Economic, Social and Cultural Rights**

On the transfer by the U.K. of Hong Kong to China, 1 July 1997, China assumed reporting obligations under the ICESCR for Hong Kong. China's reporting schedule has not yet been confirmed.

#### **Civil and Political Rights**

On the transfer by the U.K. of Hong Kong to China, 1 July 1997, China assumed reporting obligations under the ICCPR for Hong Kong. China's reporting schedule has not yet been confirmed.

#### **Racial Discrimination**

Acceded: 29 December 1981.

China's eighth periodic report was due 28 January 1997.

*Reservations and Declarations:* Article 22.

#### **Discrimination against Women**

Signed: 17 July 1980; ratified: 4 November 1980.

China's third and fourth periodic reports were submitted as one document (CEDAW/C/CHN/3-4) which has not yet been scheduled for consideration by the Committee; the fifth periodic report is due 3 September 1998.

*Reservations and Declarations:* Paragraph 1 of article 29.

#### **Torture**

Signed: 12 December 1986; ratified: 4 October 1988.

China's third periodic report was due 2 November 1997.

*Reservations and Declarations:* Paragraph 3 of article 30.

#### **Rights of the Child**

Signed: 29 August 1990; ratified: 2 March 1992.

China's second periodic report is due 31 March 1999.

*Reservations and Declarations:* Article 6.

### **COMMISSION ON HUMAN RIGHTS**

At its 1997 session, the Commission considered a draft resolution on the situation in China (E/CN.4/1997/L.91).

The main elements in the text: welcomed China's economic progress; noted the references in the reports of the Commission's various thematic mechanisms; welcomed the government's interest in acceding to the ICESCR and ICCPR; expressed concern at violations related to the rights of assembly, association, expression, religion, due process and fair trial; expressed concern at continued restrictions on cultural, religious and other freedoms of Tibetans and the case of eleventh Panchen Lama; called on the government to improve the impartial administration of justice, release political prisoners, preserve and protect the cultural, linguistic and religious identity of Tibetans and others; called on the government to strengthen bilateral dialogues in order to achieve additional positive developments affecting human rights before the 1998 session of the Commission; called on the government to

cooperate fully with all thematic mechanisms and engage in a dialogue with the High Commissioner for Human Rights; and, requested the High Commissioner for Human Rights to report to the 1998 session of the Commission on any progress made in the dialogue with the Chinese government.

As has been case for a number of years, the government proposed a motion to take no action on the draft text. Following debate, by roll call vote, the Commission decided to take no action with 27 states in favour of no action, 17 opposed and 9 abstentions.

### **THEMATIC REPORTS**

#### *Mechanisms of the Commission on Human Rights*

**Arbitrary detention, Working Group on:** (E/CN.4/1997/4, paras. 23-35)

A preliminary visit to China, from 14 to 21 July 1996, was made by the Chairman-Rapporteur of the Working Group (WG) on arbitrary detention, Mr. Louis Joinet, in preparation for a more extensive visit of the WG which was scheduled to take place after July 1997. It was felt that this would help the WG to: understand better certain constraints, political or technical (for example the problem of distances), facing such a visit; have a better understanding of Chinese law, in particular with regard to the difficulties entailed in bringing it into conformity with the international instruments on human rights; and, explain to the authorities the constraints to which the WG is subject, by the nature of its mandate, when it undertakes such visits.

During the visit a number of key areas related to arbitrary detention were explored in a preliminary way within the context of reforms currently under way in China. This included reforms concerning criminal and administrative procedures and the status of judges, prosecutors and lawyers. The government has abolished "shelter and investigation" (a provision which had permitted the police to detain a person administratively for 30 days without any supervision); now there is a requirement that any detention by the police be authorized by the Prosecutor's Office and take place under its supervision for specified, relatively short maximum periods. The lawyer, who was previously not allowed to see the detained person and the case file until seven days before the hearing, will henceforth be admitted as soon as the client is in police custody. The police will no longer have direct power to drop proceedings and close the case; in future this will be done under the supervision of the Prosecutor's Office. Remand in bail under financial guarantee is instituted. The provisions that made lawyers state officials have been abolished and lawyers can now practice in private chambers; the supervision of the profession, formerly exercised directly by the Ministry of Justice, will henceforth be entrusted to the National Association of Lawyers, with the State playing only an indirect role. Under the reformed rules for the conduct of hearings, the President's monopoly of the right to direct the proceedings has been reduced in favour of a more adversarial debate between Prosecutor and advocate; the latter is now able to present evidence and testimonies not yet entered in the file during the investigation phase. These are areas the Working Group will take up in more detail during the next visit.