

**M A C A U  
LAW JOURNAL**

**SPECIAL ISSUE**

**THE IMPLEMENTATION OF THE  
CONVENTION ON THE ELIMINATION  
OF ALL FORMS OF DISCRIMINATION  
AGAINST WOMEN IN MACAO**

**2 0 0 8**

M A C A U  
L A W J O U R N A L

S P E C I A L I S S U E

THE IMPLEMENTATION OF THE  
CONVENTION ON THE ELIMINATION  
OF ALL FORMS OF DISCRIMINATION  
AGAINST WOMEN IN MACAO

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## MACAU LAW JOURNAL

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## PREFACE

This third volume of the special edition of the Macau Law Journal focuses on the dissemination of the core international Human Rights instruments applicable to the Macao Special Administrative Region (Macao SAR), and is especially addressed to the Convention on the Elimination of All Forms of Discrimination against Women.

One of the aims of this edition is to provide information in a comprehensive and integrated manner about the monitoring reporting process regarding the application of the said instruments to the respective Monitoring Treaty-Bodies, *inter alia*, the information provided by the Macao SAR on the full enjoyment of human rights in the Region and the assessment of the Committee of experts on the subject-matter.

Apart from its role to the legal practitioners, and in particular in the academic field, it is our conviction that this special edition will allow a better understanding of Human Rights in general, namely in what concerns the principles, the rights *per se*, the full enjoyment of rights and their protection and monitoring mechanisms, building a human rights consciousness where human dignity is paramount.

The Executive-Director

Jorge Costa Oliveira



## **PART I**

### **The CEDAW and its application to Macao**



## CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN<sup>\* \*\*</sup>

### Preamble

The States Parties to the present Convention,

Noting that the Charter of the United Nations reaffirms faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women;

Noting that the Universal Declaration of Human Rights affirms the principle of the inadmissibility of discrimination and proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex;

Noting that the States Parties to the International Covenants on Human Rights have the obligation to ensure the equal rights of men and women to enjoy all economic, social, cultural, civil and political rights;

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\* Adopted at New York, on 18 December 1979.

\*\* Published in the Official Gazette of Macau, No. 37, I Series, 14 September 1998.

Considering the international conventions concluded under the auspices of the United Nations and the specialized agencies promoting equality of rights of men and women;

Concerned, however, that despite these various instruments extensive discrimination against women continues to exist;

Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity;

Concerned that in situations of poverty women have the least access to food, health, education, training and opportunities for employment and other needs;

Convinced that the establishment of the new international economic order based on equity and justice will contribute significantly towards the promotion of equality between men and women;

Emphasizing that the eradication of apartheid, all forms of racism, racial discrimination, colonialism, neo-colonialism, aggression, foreign occupation and domination and interference in the internal affairs of States is essential to the full enjoyment of the rights of men and women;

Affirming that the strengthening of international peace and security, the relaxation of international tension, mutual co-operation among all States irrespective of their social and economic systems, general and complete disarmament, in particular nuclear disarmament under strict and effective international control, the affirmation of the

principles of justice, equality and mutual benefit in relations among countries and the realization of the right of peoples under alien and colonial domination and foreign occupation to self-determination and independence, as well as respect for national sovereignty and territorial integrity, will promote social progress and development and as a consequence will contribute to the attainment of full equality between men and women;

Convinced that the full and complete development of a country, the welfare of the world and the cause of peace require the maximum participation of women on equal terms with men in all fields;

Bearing in mind the great contribution of women to the welfare of the family and to the development of society, so far not fully recognized, the social significance of maternity and the role of both parents in the family and in the upbringing of children, and aware that the role of women in procreation should not be a basis for discrimination but that the upbringing of children requires a sharing of responsibility between men and women and society as a whole;

Aware that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women;

Determined to implement the principles set forth in the Declaration on the Elimination of Discrimination against Women and, for that purpose, to adopt the measures required for the elimination of such discrimination in all its forms and manifestations:

Have agreed on the following:



## **PART I**

### **Article 1**

For the purpose of the present Convention, the term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

### **Article 2**

States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:

a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;

b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;

d) To refrain from engaging in any act or practice of discrimination

against women and to ensure that public authorities and institutions shall act in conformity with this obligation;

e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;

f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;

g) To repeal all national penal provisions which constitute discrimination against women.

### **Article 3**

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

### **Article 4**

1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting

maternity shall not be considered discriminatory.

## **Article 5**

States Parties shall take all appropriate measures:

a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;

b) To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

## **Article 6**

States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.

## **PART II**

## **Article 7**

States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;

b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;

c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.

## **Article 8**

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.

## **Article 9**

1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.

2. States Parties shall grant women equal rights with men respect to the nationality of their children.

## **PART III**

## **Article 10**

States Parties shall take all appropriate measures to eliminate

discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;

b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;

c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging coeducation and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;

d) The same opportunities to benefit from scholarships and other study grants;

e) The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;

f) The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;

g) The same opportunities to participate actively in sports and

physical education;

h) Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.

## **Article 11**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- a) The right to work as an inalienable right of all human beings;
- b) The right to the same employment opportunities, including the application of the same criteria for selection in matters of employment;
- c) The right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training;
- d) The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work;
- e) The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave;
- f) The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

a) To prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;

b) To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

c) To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

d) To provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

## **Article 12**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.

2. Notwithstanding the provisions of paragraph I of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.

**Article 13**

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

- a) The right to family benefits;
- b) The right to bank loans, mortgages and other forms of financial credit;
- c) The right to participate in recreational activities, sports and all aspects of cultural life.

**Article 14**

1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.

2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:

- a) To participate in the elaboration and implementation of development planning at all levels;
- b) To have access to adequate health care facilities, including information, counselling and services in family planning;



c) To benefit directly from social security programmes;

d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, *inter alia*, the benefit of all community and extension services, in order to increase their technical proficiency;

e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self-employment;

f) To participate in all community activities;

g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;

h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

## **PART IV**

### **Article 15**

1. States Parties shall accord to women equality with men before the law.

2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting

the legal capacity of women shall be deemed null and void.

4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.

## **Article 16**

1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:

- a) The same right to enter into marriage;
- b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
- c) The same rights and responsibilities during marriage and at its dissolution;
- d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;
- e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;
- f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;
- g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;

h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.

2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.

## **PART V**

### **Article 17**

1. For the purpose of considering the progress made in the implementation of the present Convention, there shall be established a Committee on the Elimination of Discrimination against Women (hereinafter referred to as the Committee) consisting, at the time of entry into force of the Convention, of eighteen and, after ratification of or accession to the Convention by the thirty-fifth State Party, of twenty-three experts of high moral standing and competence in the field covered by the Convention. The experts shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution and to the representation of the different forms of civilization as well as the principal legal systems.

2. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may nominate one person from among its own nationals.

3. The initial election shall be held six months after the date of the entry into force of the present Convention. At least three months before the date of each election the Secretary-General of the United Nations shall

address a letter to the States Parties inviting them to submit their nominations within two months. The Secretary-General shall prepare a list in alphabetical order of all persons thus nominated, indicating the States Parties which have nominated them, and shall submit it to the States Parties.

4. Elections of the members of the Committee shall be held at a meeting of States Parties convened by the Secretary-General at United Nations Headquarters. At that meeting, for which two thirds of the States Parties shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

5. The members of the Committee shall be elected for a term of four years. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election the names of these nine members shall be chosen by lot by the Chairman of the Committee.

6. The election of the five additional members of the Committee shall be held in accordance with the provisions of paragraphs 2, 3 and 4 of this article, following the thirty-fifth ratification or accession. The terms of two of the additional members elected on this occasion shall expire at the end of two years, the names of these two members having been chosen by lot by the Chairman of the Committee.

7. For the filling of casual vacancies, the State Party whose expert has ceased to function as a member of the Committee shall appoint another expert from among its nationals, subject to the approval of the Committee.

8. The members of the Committee shall, with the approval of the General Assembly, receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide, having regard to the importance of the Committee's responsibilities.

9. The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Convention.

### **Article 18**

1. States Parties undertake to submit to the Secretary-General of the United Nations, for consideration by the Committee, a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect:

- a) Within one year after the entry into force for the State concerned;
- b) Thereafter at least every four years and further whenever the Committee so requests.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Convention.

### **Article 19**

1. The Committee shall adopt its own rules of procedure.
2. The Committee shall elect its officers for a term of two years.

### **Article 20**

1. The Committee shall normally meet for a period of not more than two weeks annually in order to consider the reports submitted in accordance with article 18 of the present Convention.

2. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee (amendment, status of ratification).

**Article 21**

1. The Committee shall, through the Economic and Social Council, report annually to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of reports and information received from the States Parties. Such suggestions and general recommendations shall be included in the report of the Committee together with comments, if any, from States Parties.

2. The Secretary-General of the United Nations shall transmit the reports of the Committee on the Status of Women for its information.

**Article 22**

The specialized agencies shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their activities. The Committee may invite the specialized agencies to submit reports on the implementation of the Convention in areas falling within the scope of their activities.

**PART VI****Article 23**

Nothing in the present Convention shall affect any provisions that are more conducive to the achievement of equality between men and women which may be contained:

- a) In the legislation of a State Party; or
- b) In any other international convention, treaty or agreement in

force for that State.

## **Article 24**

States Parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized in the present Convention.

## **Article 25**

1. The present Convention shall be open for signature by all States.
2. The Secretary-General of the United Nations is designated as the depositary of the present Convention.
3. The present Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
4. The present Convention shall be open to accession by all States.

## **Article 26**

1. A request for the revision of the present Convention may be made at any time by any State Party by means of a notification in writing addressed to the Secretary-General of the United Nations.
2. The General Assembly of the United Nations shall decide upon the steps, if any, to be taken in respect of such a request.

## **Article 27**

1. The present Convention shall enter into force on the thirtieth day after the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.
2. For each State ratifying the present Convention or acceding to

it after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the date of the deposit of its own instrument of ratification or accession.

## **Article 28**

1. The Secretary-General of the United Nations shall receive and circulate to all States the text of reservations made by States at the time of ratification or accession.

2. A reservation incompatible with the object and purpose of the present Convention shall not be permitted.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General of the United Nations, who shall then inform all States thereof. Such notification shall take effect on the date on which it is received.

## **Article 29**

1. Any dispute between two or more States Parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for arbitration the Parties are unable to agree on the organization of the arbitration, any one of those Parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State Party may at the time of signature or ratification of the present Convention or accession thereto declare that it does not consider itself bound by paragraph 1 of this article. The other States Parties shall not be bound by that paragraph with respect to any State Party which



has made such a reservation.

3. Any State Party which has made a reservation in accordance with paragraph 2 of this article may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

### **Article 30**

The present Convention, the Arabic, Chinese, English, French, Russian and Spanish texts of which are equally authentic, shall be deposited with the Secretary-General of the United Nations.

## **PORTUGUESE PRESIDENT DECREE 25/98 CONCERNING THE APPLICATION OF THE CONVENTION TO MACAU \***

### **Portuguese President Decree 25/98**

In accordance and for the legal effects established in Articles 3 (2) and (3) and Articles 69 and 70 of the Organic Statute of Macau, I hereby decree the extension of the application to the territory of Macau of the International Convention on the Elimination of All Forms of Discrimination against Women, approved for ratification by Law 23/80, of 26 July, published in the Portuguese Official Gazette No. 171, I Series, of 26 July 1980, in the same terms to which the Portuguese Republic is internationally bound.

To publish in the Official Gazette of Macau, together with all the documents of approval and the text of the Convention.

Signed on 2 July 1998.

To publish.

The President of the Republic, Jorge Sampaio.

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\* Published in the Official Gazette of Macau, No. 37, I Series, 14 September 1998.



**NOTICE OF THE CHIEF EXECUTIVE 3/2001** \* \*\*

Considering that the People's Republic of China notified on 19 October 1999, the Secretary-General of the United Nations, in its capacity of depository entity of the International Convention on the Elimination of All Forms of Discrimination against Women, adopted at New York, on 18 December 1979, in respect to the continuation of the application of the referred Convention to the Macao Special Administrative Region.

The Chief Executive orders the publication, in accordance with Article 6 (1), of the Law 3/1999, 20 December, of the Macao Special Administrative Region, of the notification of the People's Republic of China in Chinese and English, as sent to the depositary, together with the respective Portuguese translation.

Enacted, 4 January 2001.

The Chief Executive, Ho Hau Wah.

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\* Published in the Macao SAR Official Gazette No. 2, II Series, 10 January 2001.

\*\* See Notice of the Chief Executive No. 12/2008, published in the Macao SAR Official Gazette No. 19, II Series, 7 May 2008.

## Notification

“(…) In accordance with the Joint Declaration of the Government of the People’s Republic of China and the Government of the Republic of Portugal on the Question of Macao (hereinafter referred to as the Joint Declaration), the Government of the People’s Republic of China will resume the exercise of sovereignty over Macao with effect from 20 December 1999. Macao will, with effect from that date, become a Special Administrative Region of the People’s Republic of China and will enjoy a high degree of autonomy, except in foreign and defence affairs which are the responsibilities of the Central People’s Government of the People’s Republic of China.

In this connection, I am instructed by the Minister of Foreign Affairs of the People’s Republic of China to inform Your Excellency of the following:

The Convention on the Elimination of All Forms of Discrimination against Women (hereinafter referred to as the “Convention”), to which the Government of the People’s Republic of China deposited the instrument of ratification on 4 November 1980, will apply to the Macao Special Administrative Region with effect from 20 December 1999. The Government of the People’s Republic of China also wishes to make the following declaration:

The reservation made by the Government of the People’s Republic of China to paragraph 1 of Article 29 of the Convention will also apply to the Macao Special Administrative Region.

The Government of the People’s Republic of China will assume the responsibility for the international rights and obligations arising from

the application of the Convention to the Macao Special Administrative Region. (...)”



## **PART II**

**Reports, written  
questions & answers**





**‘CORE DOCUMENT’ OF THE PR OF CHINA<sup>\*</sup>****(PART III)****MACAU SPECIAL ADMINISTRATIVE REGION****I. LAND AND PEOPLE****A. Geography and climate**

119. The Macau Special Administrative Region of the People’s Republic of China (hereinafter referred to as the MSAR) lies on the South-eastern China coast, in the Pearl River delta. It consists of the Peninsula of Macau and the Islands of Taipa and Coloane, covering a total surface area of 23.8 square kilometres (km<sup>2</sup>) (approximately 5.8 km<sup>2</sup> is land reclaimed from the sea). The total length of Macau’s coastline is 37,489 metres (m) (Peninsula: 11,350 m; Islands: 26,139 m).

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<sup>\*</sup> HRI/CORE/1/Add.21/Rev.2, 11 June 2001.

120. The minimum and maximum latitudes are: 22.° 06' 39" N — 22.° 13' 06" N. The minimum and maximum longitudes are: 113.° 31' 36" E — 113.° 35' 43" E. Macau's climate is sub-tropical tending towards temperate, with an annual average temperature of 21.° C and a rainfall of 2,160 mm, more than half of which falls between June and August. Winters are dry and sunny and summers are humid and rainy. The typhoon season is from May to October.

## **B. Demographic data and population**

121. On 31 December 1999 the population of MSAR was 437,455 — 206,563 men (47.2%) and 230,892 women (52.8%). The distribution of the population according to age group and as a percentage of the total population was the following: 101,338 between 0-14 years old (23.2%), 302,402 between 15-64 years old (69.1%) and 33,715 aged 65 years or more (7.7%).

122. The population density is 18,380 inhabitants per km<sup>2</sup>. The majority of the population (more than 95%) lives in urban areas. The annual growth of the population was 0.2 % in 1996, 1.5% in 1997, 2% in 1998 and 1.6% in 1999. The average annual growth was 1.5% for the period 1996-1999. This population growth is a result of a natural increase, i.e., a higher rate of births over deaths. Immigration is also a factor due to the constant rise in the number of people coming from the Inland China.

123. Regarding place of birth and according to the last By Census taken in 1996 ("Intercensus 96"), 44.1% were born in Macau, 47.1% in the Mainland, 3% in Hong Kong, 1.2% in the Philippines, 0.9% in Portugal, 0.2% in Thailand and 3.5% were born in other countries.

124. In the final quarter of 1999 there were 32,183 non-resident

workers in the MSAR, the vast majority of whom, 24,895, came from the Inland, 3,779 from the Philippines, 1,194 from Thailand and 2,315 from other countries and territories.

### *Languages*

125. According to the results of the “Intercensus 96”, the usual language spoken by 87.1% of the population was Cantonese, 7.8% other Chinese dialects, 1.8% Portuguese, 1.2% Mandarin, 0.8% English and 1.3% other languages.

### *Life expectancy (crude birth and crude mortality rates)*

126. Life expectancy in 1994-1997 was 75.3 years for men and 79.9 years for women. In 1994-1997 the average life expectancy was 76.8 years. The crude birth rate (live births per 1000 inhabitants) was 13.2‰ in 1996, 12‰ in 1997, 10.4‰ in 1998 and 9.6‰ in 1999. The crude mortality rate (deaths per 1000 inhabitants) was 3.4‰ in 1996, 3.1‰ in 1997, 3.2‰ in 1998 and 3.2‰ in 1999.

### *Infant mortality*

127. In 1999 infant mortality (deaths under one year old) reached 4.1‰ per 1000 live births. The infant mortality rate has maintained a low level in recent years and has developed thus: 4.8‰ in 1996, 5.4‰ in 1997 and 6.1‰ in 1998.

*Fertility rate*

128. In 1996 and in 1997 the fertility rate was 1.7% per woman of childbearing age, excluding the female foreign population. The 1998 rate was lower at 1.6% while in 1999 it reached 1.2%.

*Literacy rate*

129. According to the “Employment Survey” conducted in 1999, more than 90% of the adult population could perform daily reading and writing tasks.

130. The MSAR has 151 schools for regular education (including nursery, primary, secondary and higher education) and 124 schools for special education (12 schools covering special needs and 112 for adult education). During 1997/98, government subsidies for education amounted to 356,258,436 MOP.

*Religion*

131. According to the last General Population Census taken in 1991 (“Census 91”) 16.8% of the population were Buddhists, 6.7% Roman Catholics, 1.7% Protestants, 13.9% of other religions and 60.8% expressed no religious belief.

**C. Economy**

*Gross Domestic Product (GDP)*

132. The GDP per capita was 16,705 US dollars in 1996, 16,729 US dollars in 1997 and 15,311 US dollars in 1998. The MSAR government has not incurred any external debt.

*Employment and unemployment*

133. The proportion of active population in the population aged 14 and over was 66.7% in 1996, 65.8% in 1997, 65.3% in 1998 and 64.7% in 1999. The female labour force participation rate was 55.4% in 1996, 54.8% in 1997, 54.6% in 1998 and 55.6% in 1999. The proportion of women among employed people was 44.5% in 1996, 44.7% in 1997, 45.4% in 1998 and 47.5% in 1999. The proportion of unemployed people within the active population was 4.3% in 1996, 3.2% in 1997, 4.6% in 1998 and 6.4% in 1999.

*Inflation rate*

134. The inflation rate continued to decrease: +4.8% in 1996, +3.5% in 1997 and +0.2% in 1998 leading to 3.2% deflation in 1999.

**II. GENERAL POLITICAL STRUCTURE****A. The Basic Law**

135. The MSAR was established on 20 December 1999 in accordance with the provisions of Articles 31 and 62 (13) of the Constitution of the People's Republic of China by decision adopted by the first session of the eighth National People's Congress of the People's Republic of China (NPC) on 31 March 1993. At the same time and in the same session, complying with the above-mentioned Article 31 of the Constitution, the NPC also adopted the MSAR Basic Law. According to the NPC decisions the Basic Law was put into effect on the date of the establishment of the MSAR.

136. The Basic Law has constitutional value and therefore takes precedent over all the other laws. Its main focus is to set forth the general

principles and the explicit rules regarding the MSAR. In consistence with this aim, it stipulates a scale of norms necessary for determining not only the autonomy enjoyed by the MSAR, but also the extent of that autonomy.

137. The Basic Law enshrines several principles, policies and provisions under the principle of “*One country, Two systems*”. According to this principle, the socialist system and policies will not be practised in the MSAR, and the previous social and economic systems and way of life will remain unchanged for 50 years.

138. Another significant principle enshrined in the Basic Law is that the MSAR shall exercise a high degree of autonomy except in defence and foreign affairs and enjoy executive, legislative and independent judicial power, including that of final adjudication (Article 2 of the Basic Law).

139. It also guarantees that “Macau shall be ruled by its own people” by stipulating that the executive authorities and legislature of the Region shall be composed of MSAR permanent residents (Article 3 of the Basic Law).

140. Article 4 of the Basic Law stipulates that the rights and freedoms of the local residents and of other persons in the Region shall be safeguarded in accordance with law.

141. Local laws and other normative acts previously in force shall be maintained, except for any that contravenes the Basic Law, or subject to any amendment by the legislature or other relevant MSAR organs in accordance with legal procedures (Articles 8, 18 and 145 of the Basic Law).

142. National laws shall not be applied in the MSAR except for those listed in Annex III to the Basic Law and the Region shall apply the laws listed therein locally by way of promulgation or legislation. The Standing Committee of the NPC may add to or delete from the list of laws in Annex III after consulting the Committee for the Basic Law of the MSAR and the government of the Region. In any case, laws listed in

Annex III shall be confined to matters outside the limits of the autonomy of the MSAR (Article 18 (3) of the Basic Law).

143. The Basic Law starts by defining the relationship between the Central People's Government and the MSAR. Then it expressly guarantees the fundamental rights and duties of MSAR residents and sets out the political structure and the institutional framework of the Region.

144. It goes on to underline the Region's autonomy in a wide range of fields, such as economic, cultural and social affairs. The MSAR is entitled to decide and pursue its own economic and free trade policies safeguarding the free movement of capital, goods, intangible assets and convertible currency. It also formulates its own monetary and financial policies, issuing and managing its own currency and maintaining the free flow of capital. The MSAR remains a separate customs territory and a free port, determining its own taxation policy.

145. The Basic Law determines when and how the Region can negotiate and conclude certain international agreements on its own, or participate in certain international organisations. It allows the establishment of SAR official and semi-official economic and trade missions in foreign countries and sets up a special procedure for consultation with the Region's government regarding the application of international agreements to which the People's Republic of China is or will become a Party. It authorises the Region to issue, in accordance with the law, passports and other travel documents. Furthermore it also establishes the procedure for its own interpretation and amendment. Finally, it includes 3 Annexes concerning respectively the method for the selection of the Chief Executive (Annex I), the method for the formation of the Legislative Assembly (Annex II), and the list of national laws applicable in the Region (Annex III).



## B. Political and institutional structure

### *General structure*

146. The Chief Executive is simultaneously the highest-ranking officer of the MSAR and the head of the government of the Region. An Executive Council assists him in policy-making (Articles 45 and 61 of the Basic Law).

147. The government is the Executive body of the MSAR. The government must abide by the law and is accountable to the Legislative Assembly of the Region, implementing laws passed by the Assembly and already in force, presenting regular policy addresses to the Assembly and answering questions raised by members of the Assembly (Article 65 of the Basic Law).

148. The Legislative Assembly of the MSAR is the legislature of the Region — it enacts laws, controls public expenditure and raises questions on the work of the government. The method for the formation of the Legislative Assembly is stipulated in the Basic Law and the “Decision of the National People’s Congress on the Method for the Formation of the First Government, the First Legislative Assembly and the First Judiciary of the Macau Special Administrative Region” adopted at the first session of the eighth NPC on 31 March 1993. Law prescribes the method for the formation of the municipal organs.

149. The judicial power is exercised independently by the MSAR courts. They are subordinated to nothing but the law and are free from any interference. Functions and powers structure the system of courts by levels. There are primary courts, intermediate courts and a Court of Final Appeal, which is vested with the power of final adjudication. The appointment, removal from office, immunity from legal action in respect

of judicial functions and other guarantees of the independence of the members of the judiciary is exhaustively established by the Basic Law (Articles 82 to 94 of the Basic Law) and other specific ordinary law provisions.

*The Chief Executive of the MSAR*

150. The Basic Law provides that the Chief Executive shall be selected by election or through consultations held locally and appointed by the Central People's Government.

151. Annex I to the Basic Law contains a specific method for the Selection of the Chief Executive, which stipulates that the Chief Executive shall be elected by a broadly representative Election Committee in accordance with the Basic Law.

152. Under the terms of the above mentioned method, the delimitation of the various sectors, the organisations in each sector eligible to return Election Committee members and the number of such members returned by each of these organisations shall be prescribed by an electoral law. That law will be enacted by the MSAR in accordance with the principles of democracy and openness.

153. The Election Committee, comprising 300 members, shall, on the basis of the list of nominees, elect the Chief Executive designate by secret ballot on a one-person-one-vote basis. Members of the Election Committee shall vote in their individual capacities. The electoral law shall prescribe the specific election method.

154. Amendments to the relevant method for selecting the Chief Executive for the terms subsequent to the year 2009 may be made with the endorsement of a 2/3 majority of all the members of the Legislative Assembly and the Chief Executive's consent. Any such amendment is to

be reported to the Standing Committee of the NPC for approval (Annex I (7) to the Basic Law).

155. The first Chief Executive was selected in accordance with the “Decision of the National People’s Congress on the Method for the Formation of the First Government, the First Legislative Assembly and the First Judiciary of the Macau Special Administrative Region”. A Selection Committee was formed to recommend a candidate to the Central People’s Government for appointment. The Selection Committee comprised 200 members from various sectors of the community.

*The Executive Council of the MSAR*

156. Members of the Executive Council are appointed and removed by the Chief Executive. They are chosen from among the principal officials of the executive authorities, members of the Legislative Assembly and public figures. The Executive Council shall be composed of 7 to 11 persons. At present, there are 10 appointed members.

157. The Chief Executive consults the Executive Council before making important policy decisions, introducing bills to the Legislative Assembly, formulating administrative regulations, or dissolving the Legislative Assembly (Article 58 of the Basic Law). Members tender their advice on an individual basis, but the Council’s conclusions are presented as collective decisions. The Chief Executive presides over the meetings of the Executive Council, which generally are held once a week.

*The Government and the structure of the Administration of the MSAR*

158. The government of the MSAR is the executive authority of the Region (Article 61 of the Basic Law).

159. Notwithstanding other legislation, the government formulates and implements policies; conducts administrative affairs and external affairs as authorised by the Central People's Government; draws up and introduces budgets and final accounts; introduces bills and motions and drafts of administrative regulations; appoints officials to sit in on the meetings of the Legislative Assembly to hear opinions or speak on its behalf (Article 64 of the Basic Law).

160. The Chief Executive is the head of the MSAR government, which comprises general secretariats, directorates of services, departments and divisions.

161. The main posts of government are the Secretaries, the Commissioner against Corruption, the Commissioner of Audit and the heads of the Police Services and the Customs Services.

162. The Committee against Corruption and the Committee of Audit are independent bodies. They pursue their duties in strict accordance with the law with no interference from any person or entity. Their directors are accountable to the Chief Executive.

163. There are five Secretaries: the Secretary for Administration and Justice, the Secretary for Economy and Finance, the Secretary for Security, the Secretary for Social Affairs and Culture and the Secretary for Transport and Public Works.

164. If the Chief Executive is unable to discharge his duties for a short period, such duties will temporarily be assumed by the Secretary for Administration and Justice, the Secretary for Economy and Finance or the Secretary for Security, in that order of precedence.

165. The heads of government services and other administrative units answer to the Secretary of the relevant policy area.

*The Legislative Assembly of the MSAR*

166. The Legislative Assembly is composed of MSAR permanent residents, the majority of its members being elected. The method for forming the Legislative Assembly is prescribed in the “Method for the Formation of the Legislative Assembly of the Macau Special Administrative Region” (Annex II to the Basic Law).

167. The composition of the Legislative Assembly in its present and coming terms is as follows:

<b>Membership</b>	<b><u>A.</u> <u>First term</u> 20/12/99- -15/10/2001</b>	<b><u>B.</u> <u>Second</u> <u>term</u> 2001-2005</b>	<b><u>C.</u> <u>Third and subsequent</u> <u>terms</u> 2005-2009</b>
Directly elected	8	10	12
Indirectly elected by functional constituencies	8	10	10
Appointed by the Chief Executive	7	7	7
Total	23	27	29

168. If there is a need to change the method for forming the MSAR Legislative Assembly in or after 2009, such amendments must be made with the endorsement of a 2/3 majority of all its members and the consent of the Chief Executive. Any amendment has to be reported to the Standing Committee of the NPC for the record (Annex II (3) to the Basic Law).

169. The Legislative Assembly exercises the powers and functions of enactment, amendment, suspension or repeal of laws in accordance with the provisions of the Basic Law and legal procedures; examining and approving budgets introduced by the government; examining the report on audit introduced by the government; deciding on taxation according to government motions and approving debts to be undertaken by the

government; receiving and debating the policy addresses of the Chief Executive; debating any issue concerning public interests; receiving and handling complaints from Macau residents. The Legislative Assembly is also empowered to impeach the Chief Executive under certain prescribed circumstances (Article 71 of the Basic Law).

*Municipal organisations of the MSAR*

170. The Basic Law stipulates that municipal organisations, which are not organs of political power, may be established in the MSAR. Entrusted by the MSAR government, they shall provide services in such fields as culture, recreation and environmental sanitation, and shall be consulted by the government on those affairs (Article 95 of the Basic Law).

171. The functions, powers and structure of the municipal organisations shall be prescribed by law (Article 96 of the Basic Law).

172. The MSAR has presently two municipalities: the Macau Municipality and the Islands' Municipality.

173. Each of the Municipalities comprises two organs: a Municipal Assembly and a Municipal Council. The Municipal Assembly is the deliberative representative body and the Municipal Council is the executive body, and is financially autonomous.

*Provisional Municipal Councils and Provisional Municipal Assemblies*

174. In preparation for the establishment of the MSAR, on 29 August 1999, the MSAR Preparatory Committee decided that, prior to the establishment of municipal organisations without political power, the existing municipal organs should be reorganised into provisional municipal organs of the MSAR.

175. The provisional municipal organs exercise their functions through delegation from the Chief Executive and are answerable to him or, if he so delegates, to the Secretary for Administration and Justice.

176. The elected members of the municipal organs who expressly stated to the Chief Executive their willingness to remain in office, were confirmed in the same posts in the provisional municipal organs. The Chief Executive also retained the appointed members of the provisional municipal organs (Executive Order 6/1999 of 20 December). The term of office of all the members of municipal organs will end no later than 31 December 2001.

### III. GENERAL LEGAL FRAMEWORK WITHIN WHICH HUMAN RIGHTS ARE PROTECTED

#### A. Judicial, administrative and other bodies with jurisdiction over human rights

##### *1) The Judicial system of the MSAR*

##### *1.a) The Courts*

177. The Basic Law vests the MSAR with independent judicial power, including that of final adjudication. It also establishes the independence of the courts, their submission only to the law and their jurisdiction over all cases in the Region. There are exceptions to their jurisdiction imposed by the legal system and by the principles previously in force in Macau, which the Basic Law maintained. The courts of the MSAR also have no jurisdiction over acts of state such as defense and foreign affairs (Articles 19 and 82 to 94 of the Basic Law).

178. Article 84 (3) of the Basic Law stipulates that the structure,

powers and functions of the courts shall be prescribed by law. Pursuant to this, in 20 December 1999, Law 9/1999 approved the basis of the judiciary organisation and Law 10/1999 stipulated the legal “status” of the members of the judiciary.

179. Article 4 of Law 9/1999 states that the MSAR courts are responsible for assuring the legally protected rights and interests, preventing any breaches of legality and resolving conflicts between public and private interests.

180. The following courts are established in the MSAR: the Primary Court (with general jurisdiction at first instance, including the Criminal Instruction Tribunal), the Administrative Court (with jurisdiction at first instance in administrative disputes), the Court of Second Instance and the Court of Final Appeal (Articles 27 to 54 of Law 9/1999).

#### *1.b) The Judges*

181. The judges of the MSAR courts at all levels are appointed by the Chief Executive on the recommendation of an independent commission composed of local judges, lawyers and eminent persons from other sectors (Article 87 (1) of the Basic Law and Article 15 of Law 10/1999).

182. The judges are chosen on the basis of their professional qualifications (a law degree legally recognised in Macau and substantial knowledge of the Macau legal system being required in all cases) and must also meet the general requirements for public employees.

183. The independence of the courts is safeguarded by the irremovability of the judges and their non-subjection to any orders or guidance other than the duty to respect decisions made following appeal to higher courts (Article 87 (2) and Article 89 of the Basic Law, Article 5



(1) and (2) of Law 9/1999 and Article 4 of Law 10/1999).

184. Judges cannot be transferred, suspended, retired, dismissed or undergo a change in their situation of any kind unless provided for by the law (Article 5 (1) of Law 10/1999).

185. Judges are immune from legal action for discharging their judicial functions, which means that they may only be subject, in the exercise of their duties, to civil, criminal or disciplinary responsibility in cases stipulated by law (Article 89 (2) of the Basic Law and Article 6 of Law 10/1999).

186. Thus, all the conditions required for the independence of the judges are satisfied in the judicial organisation of the MSAR: irremovability, freedom from responsibility and non-subjection to orders or guidance.

## *2) The Procuratorate of the MSAR*

187. In the MSAR the Procurator, the Assistant-Procurators and the Deputies of the Procurator exercise the procuratorial functions. These functions, as vested by law, are carried out independently and free from any interference (Article 90 (1) of the Basic Law).

188. The Procurator is nominated by the Chief Executive and appointed by the Central People's Government. The Assistant-Procurators and the Deputies of the Procurator are nominated by the Procurator and appointed by the Chief Executive (Article 90 (2) and (3) of the Basic Law).

189. The Basic Law also states that the structure, powers and functions of the MSAR Procuratorate shall be prescribed by law. Pursuant to this, the above-mentioned Law 9/1999 defines the MSAR Procuratorate, in itself, as an independent autonomous judiciary organ, establishing that it carries out its powers and functions autonomously, and free from any

kind of interference. Law 10/1999 regulates in detail the legal status of its officers.

190. The autonomy of the MSAR Procuratorate is characterised by its subjection to the criteria of legality and objectivity and by the exclusive submission of the Procurator, the Assistant-Procurators and the Deputies of the Procurator to the law.

*3) The Committee Against Corruption of the MSAR*

191. The Committee Against Corruption (CAC) is a public entity endowed with total independence. It is not subordinate to any kind of administrative orders or instructions, fulfilling its mission according to the law. (Article 2 of Law 11/90/M, of 10 September, as modified by Law 2/97/M, of 31 March, and Article 14 of Law 1/1999, of 20 December).

192. The CAC has the following tasks:

- a) to promote all acts aimed at preventing corruption and fraud;
- b) to conduct preliminary investigations, which are not directly connected with fundamental rights, involving crimes of corruption and fraud, committed by employees of the public administration and its agencies, under the law of criminal procedure, and without prejudice to the powers conferred on other entities by this law;
- c) to conduct preliminary investigations, which are not directly connected with fundamental rights, involving crimes of electoral fraud committed by any person, under the law of criminal procedure, and without prejudice to the powers conferred on other entities by this law;
- d) to promote the protection of rights, freedoms, safeguards and the legitimate interests of individuals assuring, through informal means,

justice, legality and the efficiency of the public administration.

193. The Commissioner Against Corruption is the figurehead of the CAC and is nominated by the Chief Executive for appointment by the Central People's Government (Articles 50 (6) and 59 of the Basic Law).

194. In view of its complete independence from other organs of power in supervising the activities of the public authorities, and given its investigative powers in protecting the rights, freedoms, safeguards and the legitimate interests of the residents, the CAC Commissioner acts as MSAR's '*Ombudsman*'.

#### *4) The legal aid system*

195. In the MSAR everyone is entitled to have access to the law, to the courts, to legal advice in protecting their lawful rights and interests, and to judicial remedies. Justice cannot be denied on any grounds, namely lack of financial resources (Article 36 of the Basic Law and Article 6 (1) of Law 9/1999).

196. Legal aid is the joint responsibility of the government and the members of the legal profession.

### **B. Remedies available to individuals claiming a violation of their rights and systems of compensation and rehabilitation for victims**

#### *1. Remedies*

197. It falls essentially to the courts to monitor respect for human rights and punish any violations. There are, nevertheless, non-judicial procedures for the protection of human rights and freedoms.

##### *1.a) Non-judicial remedies*

198. The following describes the methods for reacting in the

event of any breach of rights or freedoms by administrative bodies:

*i) A complaint lodged with the Public Information and Assistance Centre*

199. The MSAR residents have the right to submit complaints to the Public Information and Assistance Centre concerning acts or omissions by public services relating to affairs affecting them directly, as well as the right to be informed of the result of the respective consideration (Decree-Law 23/91/M, of 9 May).

*ii) A complaint lodged with the Committee Against Corruption*

200. One of the powers of the CAC is that of defending the rights, freedoms, safeguards and legitimate interests of people, ensuring justice, legality and the efficiency of the public administration through informal means. It can address recommendations directly to the relevant organs with a view to correcting illegal or unfair administrative acts pertaining to facts of which it learns by any means whatsoever.

*iii) A complaint to the Legislative Assembly*

201. Article 71 (6) of the Basic Law enshrines the Legislative Assembly's power to receive and handle complaints submitted by MSAR residents. Article 9 (f) of the Legislative Assembly Regulations endows the Legislative Assembly Chairperson with the power to receive and forward to the relevant committees, petitions, submissions or complaints addressed to the Legislative Assembly.

*iv) An administrative complaint*

202. Under the Code of Administrative Procedure, if subjective rights or legally protected interests are damaged by an administrative act, a complaint against it can be filed to those responsible by the interested person, requesting its revocation or modification.

*v) Appeal for an administrative review*

203. An administrative appeal can be made against any

administrative act engaged in by organs subject to the hierarchical powers of another organ. Appeals can be made on the basis of illegality, failure to observe the principles of equality, proportionality, justice, impartiality or inconvenience of the act, according to the Code of Administrative Procedure.

*1.b) Judicial remedies*

*i) Appeal for a judicial review of an administrative action*

204. Administrative actions giving rise to litigation may be reviewed in the competent courts.

205. The Administrative Court is empowered with general jurisdiction to hear appeals against administrative acts of entities, organs and services, up to the level of Director (Law 9/1999). For lodging an appeal against acts of entities above the level of Director, the Court of Second Instance is competent.

*ii) Declaration of illegality*

206. Norms inserted in administrative regulations may be declared illegal by the courts in accordance with the Code of Procedure in Contentious Administrative Matters (Articles 88 *ff.*).

Following three illegality cases concerning the same norm, the decision of illegality may be declared with universal application and with effect from the date that the relevant administrative regulations entered into force.

*2) Compensation and rehabilitation for victims*

207. Whosoever intentionally or culpably illicitly violates a right of another person or any legal provision intended to protect another person's interests, shall have to compensate the damage arising from

such violation (Article 477 of the Civil Code).

208. In criminal procedure, requests for civil liability shall, as a rule, be included in the relevant case. However, if the request is not made, the judge can award an amount as compensation for damages if the plaintiff does not oppose this and there is sufficient evidence of the causes and amount to be awarded according to the general criteria of civil law.

209. Any defendant found guilty shall pay the victim compensation. Whenever he is unable to do so or cannot be located there are alternative mechanisms for compensation. Victims of violent crime enjoy protection in requesting various kinds of subsidies from the MSAR government in order to alleviate the effects of physical injury, inability to work or the right to family support in the event of death (Law 6/98/M).

210. Special law regulates the extra-contractual civil liability of the Administration, heads of government services and other civil servants, arising from acts of public management (Article 36 (2) of the Basic Law and Decree-Law 28/91/M, of 22 April).

*3) Extent to which decisions and jurisdictional appeals are binding and implemented*

211. In the MSAR legal system there is no doctrine of binding precedent. The court decisions are compulsory for all public and private entities and prevail upon the decisions taken by any other authorities. Laws of procedure regulate the terms under which court decisions affecting any authority are implemented, and specify the sanctions that should be applied in the event of non-compliance.

212. It should be noted that it is a fundamental principle of the MSAR legal system that a court cannot abstain from reaching a decision by invoking a default or obscurity of the law, or alleging an unresolvable

doubt about the facts in question (Article 7 of the Civil Code).

### **C. Protection of rights guaranteed under international human rights instruments**

#### *1) Fundamental rights guaranteed under the Basic Law*

213. The fundamental rights contained in Chapter III of the Basic Law are primarily rights to freedom, but some of the social and cultural rights also feature therein. Chapter III enumerates a list of fundamental rights and freedoms, also protected under various international instruments, but its provisions are not exclusive. Therefore the enumeration of Chapter III is not exhaustive. Other chapters of the Basic Law comprehend fundamental rights. For instance, basic economic rights are accommodated in Chapter V, which refers to the economy.

214. All persons, in addition to MSAR residents, enjoy the fundamental rights contained in the Basic Law, in accordance with the law (Article 43 of the Basic Law).

#### *1.a) Rights to freedom*

215. The Basic Law guarantees the freedom of the person and the inviolability of human dignity (Articles 28 and 30).

216. Its Article 30 (1), apart from establishing the inviolability of human dignity, enshrines the prohibition of humiliation, slander and false accusation against anyone in any form and the right to personal reputation and the privacy of private and family life.

217. Article 25 of the MSAR Basic Law stipulates the right to equal treatment before the law, freedom from discrimination, irrespective of nationality, descent, race, sex, language, religion, political or ideological

beliefs, educational level, economic status or social conditions.

218. Article 27 enshrines the freedom of speech, of the press and publication, freedom of association, of assembly, and procession and of demonstration.

219. Article 38 establishes the freedom of marriage and the right to form and raise a family.

220. Article 34 (1) and (2) assures the freedom of conscience, the freedom of religious belief, the freedom to preach and to conduct and participate in religious activities in public.

221. Consistent with the principle of religious freedom, Article 128 (1) states that the MSAR government shall not interfere in the internal affairs of religious organisations or in the efforts of the religious organisations and believers in Macau to maintain and develop relations with their counterparts outside Macau, or restrict religious activities which do not contravene the laws of the Region. Furthermore Article 128 (2) establishes that religious organisations may, in accordance with the law, run seminaries and other schools, hospitals and welfare institutions and provide other social services. Schools run by religious organisations may continue to provide religious education, including courses in religion. Religious organisations shall, in accordance with the law, enjoy the rights to acquire, use, dispose of and inherit property and the right to receive donations. Their previous property rights and interests shall be protected by law (paragraph 3 of the same Article).

222. The inviolability of the home and other premises, as well as the prohibition of arbitrary and unlawful search of, or intrusion into, anyone's home or other premises is established in Article 31. Freedom and privacy of communications is ensured in Article 32.

223. Article 28 (2) guarantees that no one shall be subjected to



arbitrary or unlawful arrest, detention or imprisonment and assures, in the event of arbitrary or unlawful arrest, detention or imprisonment, the right to apply to the court for the issuance of a writ of *habeas corpus*. Paragraph 3 of the same Article establishes the prohibition of unlawful search of the body or deprivation or restriction of freedom of the person and paragraph 4 forbids torture or inhumane treatment.

224. According to Article 29 (1) no one can be punish except for acts that constitute a crime under existing law and they shall be punished for it as expressly prescribed by law at that time. Paragraph 2 affirms that anyone charged with a criminal offence shall enjoy the right to an early court trial and shall be presumed innocent until convicted.

225. The right of abode of MSAR residents is specified on Article 24.

226. Article 33 guarantees freedom of movement within the MSAR and the freedom of emigration to other countries and regions. Article 35 ensures the freedom of choice of occupation and work.

227. Article 36 assures the right to resort to law and to have access to the courts, to legal counsel, to judicial remedies and the right to institute legal proceedings in the courts against the acts of the executive authorities and their personnel.

*1.b) Economic, social and cultural rights*

228. Article 6 ensures that the right of private ownership of property shall be protected by law and Article 103 states that the MSAR shall, in accordance with the law, protect the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property.

229. The right and freedom to form and join trade unions, and to strike is granted in Article 27.

230. Article 38 (2) and (3) affirms, respectively, the protection of the legitimate rights and interests of women and of minors, the aged and the disabled.

231. Article 39 enshrines the right to social welfare in accordance with the law.

232. Article 37 assures the freedom to engage in education, academic research, literary and artistic creation, and other cultural activities and Article 122 (1) attests that all educational institutions in the MSAR shall enjoy their autonomy and teaching and academic freedom in accordance with the law. Article 122 (2) stipulates that educational institutions of all kinds may continue to recruit staff and use materials from outside the MSAR and that students enjoy freedom of choice of educational institutions and freedom to pursue their education outside the Region.

233. Article 125 (2) declares that the MSAR government shall protect by law the achievements and the lawful rights and interests of authors in their literary, artistic and other creations.

## *2) Fundamental rights guaranteed under ordinary law*

234. The fundamental rights enshrined by the Basic Law and the human rights instruments are protected, developed and strengthened by the laws in force in the MSAR.

235. Article 39 (1) of the Criminal Code of Macau forbids the death penalty and imprisonment for life, or for an unlimited or unspecified period of time. The protection of life, the most important legal asset in the set of values enshrined by the MSAR criminal law, is provided by means of several norms, which expressly punish violations against human life. The rights to liberty and security and also the right not to be deprived thereof

except in accordance with the principles of fundamental justice are also guaranteed by the Criminal Code.

236. Under Article 237 (a) of the Code of Criminal Procedure, an individual held in detention by an organ of the criminal police for a maximum period of 48 hours shall be presented before the judge of criminal instruction for a summary hearing or for interrogation, or for a coercive measure to be applied. Furthermore, any person who is held on remand custody is entitled to be judged within the shortest time possible compatible with the rights of defence. Once the maximum periods for remand have expired, this measure can no longer be applied and the accused must be freed at once (Article 201 of the same Code). Various other rights, including the right to be secure against unreasonable search and seizure, rights on arrest or on being charged with an offence, the right not to be subjected to cruel or unusual treatment or punishment, and the right against self-incrimination are protected under the Code of Criminal Procedure.

237. Law 5/98/M of 3 August regulates freedom of religious belief and worship and of profession of faith. This law recognises and safeguards the freedom of religious belief and worship, ensuring that professions of religious faith and other religious entities are given the appropriate legal protection. It also establishes the inviolability of religious belief. It stipulates that no one can be the object of prejudice, persecution, or be deprived of his rights, exempted from obligations or civic duties for not professing a religious faith, or because of his religious beliefs or practices, except for the right to conscientious objection, under the terms of the law.

238. According to the same law, the MSAR does not profess any religious faith, and its relations with religious faiths are based on the principle of separation and neutrality. To this effect, Article 3 (3) states that the MSAR ‘does not interfere in the organisation of religious faiths

or the exercise of their activities and worship and does not make any comments on religious issues'. Similarly, paragraph 2 of the same Article mentions that religious faiths are free to organise themselves as they wish, and to carry out their activities and worship'. Article 4 reasserts the principle of equality of religious organisations before the law.

#### **D. Manner in which human rights instruments are made part of the MSAR legal system**

##### *1) Application of treaties in the MSAR*

239. The MSAR enjoys a high degree of autonomy except for defence and foreign affairs, which are the responsibilities of the Central People's Government. Notwithstanding the MSAR's non-sovereign status, the Basic Law stipulates that the Central People's Government can authorise the Region to conduct some external affairs. Furthermore, the MSAR can exercise, by itself, considerable powers regarding certain appropriate fields, including the economic, trade, financial and monetary, shipping, communications, tourism, cultural, science and technology and sports fields.

240. The application to the MSAR of international treaties to which the People's Republic of China is a Party is decided by the Central People's Government upon seeking the views of the MSAR government and according to the circumstances and the MSAR's needs (Article 138 (1) of the Basic Law). Previous treaties in force in Macau to which the People's Republic of China is not a Party may continue to apply in the MSAR (Article 138 (2) of the Basic Law).

241. In fact, one of the fundamental pillars of the Macau legal system, which is based on the continental Roman-Germanic family of law, is precisely that international and domestic laws are part of the same

general legal order operating simultaneously in regard to the same subject matter.

242. Another cornerstone of the Macau legal system is the principle of publication of laws. Pursuant to this, Articles 3 (6) and 5 (1) of Law 3/1999, of 20 December, established that international agreements applicable in the MSAR shall be published in the *Official Gazette*.

243. Once international treaties duly ratified or approved by the People's Republic of China, or in the case of the above mentioned appropriate fields by the Chief Executive, are published in the *Official Gazette*, they immediately and automatically become part of the MSAR legal order.

244. There is no need to incorporate international law into domestic law in order to effect its application. Nevertheless, reservations and declarations made at the time of the assumption of the international obligation or the wording of an international instrument may imply that one or more of its clauses can not be self-executing. In those cases, though the international provisions still entirely and directly effective, they must be implemented by means of domestic legislation. This is what happens, for example, with the provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and international labour conventions (Article 40 of the Basic Law).

245. In the event of a conflict between international and domestic law, international agreements applicable in the MSAR take precedence over domestic ordinary law (Article 1 (3) of the Civil Code).

*2) Can human rights instruments be directly invoked or enforced through the Courts and administrative machinery?*

246. As explained above, once the necessary requirements have been fulfilled, the international law automatically becomes a part of the MSAR legal order and therefore it is enforced in exactly the same manner as all the other laws. The available remedies, either non-judicial or judicial, are the same. All persons, natural or legal, are equally subject to the law. The administrative authorities, within the sphere of their own powers, are responsible for enforcing the law, and like anyone else, they can be liable for any eventual breaches. When someone has the necessary “*locus standi*” and invokes a provision of the law (international or domestic), it is ultimately for the courts to decide how and whether that law is enforced.

#### IV. INFORMATION AND PUBLICITY

##### **A. Government measures to promote the dissemination of human rights**

247. Over recent years, the international human rights treaties in force in Macau have been extensively publicised. The government and its departments have taken several measures to promote the information and dissemination of human rights in the local community. This has been done mainly through the media but also using contests, inquiries and interactive means as well as through the distribution of specially focused brochures and leaflets. Fundamental rights are also incorporated in the school curriculum in several disciplines.

248. Many of the actions undertaken to promote awareness of fundamental rights and duties are specially targeted, in close connection

with neighbourhood associations, towards workers' unions and educational centres. The Legal Translation Office also provides a service offering legal information on a daily basis in some of the largest Macau newspapers.

## **B. Report writing**

249. The Central People's Government is responsible for the submission of reports in respect of the MSAR under various human rights treaties. Continuing the practice followed prior to the establishment of the MSAR concerning the local application of the international Covenants, the draft reports are prepared by the MSAR government.

# **PR OF CHINA'S 2004 INITIAL REPORT UNDER ARTICLE 18 OF THE CONVENTION CONCERNING THE APPLICATION OF THE CEDAW TO MACAU \* \*\***

## **(PART III)**

### **MACAO SPECIAL ADMINISTRATIVE REGION**

#### **I. Introduction**

1. The present report is the first to be submitted, under the terms

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\* CEDAW/C/CHN/5-6/Add.2, 22 June 2004.

\*\* The present document is being issued without formal editing. The combined fifth and sixth periodic report of China was received by the Secretariat on 4 February 2004. For the initial report submitted by the Government of China, see CEDAW/C/5/Add.14, which was considered by the Committee at its third session. For the second periodic report submitted by the Government of China, see CEDAW/C/13/Add.26, which was considered by the Committee at its eleventh session. For the combined third and fourth periodic report submitted by the Government of China, see CEDAW/C/CHN/3-4 and CEDAW/C/CHN/3-4/Add.1 and Add.2, which was considered by the Committee at its twentieth session. For the fifth and sixth periodic report submitted by the Government of China, see CEDAW/C/CHN/5-6.



of Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women (hereinafter referred to as the Convention), by the People's Republic of China, with regard to the application of the Convention in its Macao Special Administrative Region (hereinafter referred to as the MSAR). It covers the period from 20 December 1999 to 31 January 2003.

2. The Convention was extended to Macao on 27 April 1999, with effect from 27 May 1999. Meanwhile the text of the Convention had been published in the *Macao Official Gazette*, No. 37, of 14 September 1998.

3. On 19 October 1999, the People's Republic of China notified the Secretary-General of the United Nations that it would assume responsibility for the international rights and obligations arising from the continuous application of the Convention in the MSAR, having then declared that the reservation to Article 29 (1) of the Convention made by the People's Republic of China would also apply to the MSAR.

4. This report, prepared in compliance with the Guidelines on the Form and Content of Reports to be submitted by States Parties to the Convention, adopted by the Committee on the Elimination of Discrimination Against Women (CEDAW/C/7/Rev.3, consolidated in document HRI/GEN/2/Rev.1), should be read jointly with Part III of the second revision of the Core Document of the People's Republic of China submitted to the Secretary-General of the United Nations (HRI/CORE/1/Add.21/Rev.2).

5. The information included in the former reports of China, with regard to the MSAR, on the application of the International Convention on the Elimination of all Forms of Racial Discrimination

(CERD/C/357/Add.4) and the International Convention on the Rights of the Child (CRC/C/83/Add.9 (Part II)) is still accurate and updated, and, as such, reference should be made to those reports where applicable to the issues in question.

## **PART I — BASIC FACTS AND FIGURES**

6. General information on the territory and the population, the political structure and the framework for the protection of human rights, within the legal system of the MSAR, is included, as mentioned above, in Part III of China's Core Document.

7. However, pursuant to the Census carried out in 2001 (the results of which were disclosed in the second semester of 2002), some statistical adjustments were registered. Therefore, the respective global results are hereby attached to this report, namely the publication of "Census 2001" as well as the Yearbooks of Statistics regarding the years 2000 and 2001, published by the Statistics and Census Department of the MSAR.

8. Furthermore, and with respect to each of the Articles of the Convention, the relevant information provided is updated.

## **PART II — IMPLEMENTATION OF THE PROVISIONS ESTABLISHED BY THE CONVENTION IN THE MSAR**

### **Articles 1 and 2: Legislative measures for the elimination of discrimination against women**

9. On 20 December 1999, the MSAR was established and its Basic Law was put into effect. In accordance with the principle "*One country, Two systems*", the various principles, policies and provisions to be applied to

the MSAR are established in this Law.

10. The Basic Law has constitutional value, thus prevailing over all the other laws. No law, decree, administrative regulations or normative acts of the MSAR may contravene it (Article 11 (2)).

11. Article 8 of the Basic Law provides for the maintenance of legislative, administrative and other normative acts, previously in force in Macao, except for those that contravene the Basic Law or that are subject to any amendment by the legislator or other competent organs of the MSAR. On the other hand, Article 18 determines that the laws in force in the MSAR are: the Basic Law, the laws previously in force in Macao, as provided for in its Article 8, as well as the laws enacted by the legislator of the MSAR (see also Article 145).

12. From the aforementioned provisions of the Basic Law results the maintenance under the referred terms of the legal system, which is a civil law system.

13. The Reunification Law, Law 1/1999, of 20 December, determined which laws and other normative acts previously in force were considered to contravene the Basic Law. These were consequently revoked. However, the Reunification Law admits that regarding some of the revoked legislative acts, and whilst the new legislation is not produced, the MSAR may deal with the subject matters therein regulated according to the principles included in the Basic Law, taking previous practices as reference.

14. It should be stressed that none of these revoked normative acts are in any way related to human rights.

15. One of the general principles of the Region itself, as stipulated in Article 4 of the Basic Law, is that the MSAR safeguards the rights and

freedoms of the residents of the MSAR and other persons in the Region, in accordance with law.

16. In Chapter III of the Basic Law, which is specifically dedicated to “*Fundamental Rights and Duties of the Residents*”, express provisions are made not only for the fundamental right to equality and non-discrimination based on nationality, descent, race, sex, language, religion, political persuasion or ideological belief, educational level, economic status or social conditions (Article 25), but also for several other fundamental rights and freedoms expressing corollaries of legal and social equality. This is the case, *inter alia*, of equality regarding:

- the right to vote and stand for election (Article 26);
- the freedom of speech, association and demonstration (Article 27);
- the guarantee of inviolability of personal freedom and the prohibition of arbitrary or unlawful arrest, detention or imprisonment, as well as the writ of *habeas corpus*, the prohibition of torture and inhuman treatment (Article 28);
- the freedom of movement (Article 33);
- the freedom of conscience and religious belief (Article 34);
- the freedom of choose occupation and work (Article 35);
- the guarantee to resort to Law, to access to the courts, to lawyers’ help for protection of lawful rights and interests, to judicial remedies, including against acts of the executive authorities and their personnel (Article 36);
- the freedom to engage in education, academic research, literary and artistic creation and other cultural activities (Article 37);

— the freedom of marriage and the right to form and raise a family freely (Article 38 (1)); and

— the right to social welfare in accordance with law (Article 39), *etc.*

17. In addition, it should be noted that Article 38 (2) of the Basic Law expressly provides for further special protection, at a constitutional level, for women's legitimate rights and interests. At the heart of this concept is the acknowledgement that differentiation of treatment is needed and legal, in order to compensate for the *de facto* discrimination and to achieve true equality.

18. Under Article 43 of the Basic Law, persons in the MSAR other than the residents of the MSAR enjoy, in accordance with Law, the rights and freedoms of the residents of the MSAR prescribed in its Chapter III. This means that some rights and freedoms, particularly those of a strictly political nature, are reserved to residents, specifically to permanent residents. However, this distinction is obviously not gender-based.

19. The fundamental rights established in the Basic Law, including the right to equality and non-discrimination, are only subject to the restrictions prescribed in Law. In fact, Article 40 (1) of the Basic Law makes provision for the application to the MSAR of the International Covenant on Civil and Politic Rights, the International Covenant on Economic, Social and Cultural Rights and international labour conventions. Article 40 (2) of the Basic Law determines that the rights and freedoms of the residents of the MSAR may not be restricted unless as prescribed in Law and that such restrictions cannot contravene what is provided for in those treaties.

20. In accordance with all the aforementioned provisions laid down by the Basic Law, any women's *capitis deminutio* is considered inadmissible, whether in public and political life, family life or in working life.

21. In fact, the right to equality and non-discrimination is not only expressly restated in several ordinary laws, but is also necessarily reflected at all levels of the legal system of the MSAR, not as an individual right, but as one of its fundamental principles.

22. Based on the social dignity of each and every person, the principle of equality is understood in a wide-reaching and actual way, since in addition to treating all persons equally before the law, it involves the obligation to compensate the lack of equal opportunities, arising from the *de facto* inequalities of social, economic and cultural nature. This implies the elimination or attenuation by the public authorities of such inequalities — legitimate differentiation — in order to guarantee the actual implementation of legal-material equality.

23. First of all, it should be noted that a law, when establishing a specific legal regime, often expressly indicates that it will be ruled by the principle of equality.

24. The way in which relations between the Public Administration and private individuals are conducted is a prime example of this concept. In relation to this, Article 5 (1) of the Administrative Procedure Code states that “*in its relations with private individuals, the Public Administration should comply with by the principle of equality, without favouring, benefiting, prejudicing or depriving of any right or exempt from any duty any of the administered individuals based on descent, gender, race, language, place of origin, religion, ideological or political belief, education, economic or social condition*”.

25. On the other hand, the material principle of equality comprises several manifestations and is materialised in multiple specific rights of equality, with varied scopes of protection, according to the different branches of Law.

26. In the field of Civil Law, it should be stated, firstly, that this principle is asserted with regard to the acquisition of legal personality and to the rights of personality.

27. All natural persons, due to the simple fact of being persons, have legal personality and enjoy legal capacity.

28. The legal personality is acquired at full birth, with life and only ceases with death (Articles 63 and 65 of the Civil Code).

29. On the other hand, legal capacity consists of each and every person's possibility, without any distinction, of being the subject of any legal relations, unless it is otherwise legally established. No person is allowed to waive, in whole or in part, his/her legal capacity (Articles 64 and 66 of the Civil Code).

30. There are no restrictions, whatsoever, to the legal capacity of women, as such, within the legal system of the MSAR.

31. In fact, the legally established restrictions to that capacity are within the scope of the exercise of rights and are justified by objective facts. Specifically, only minors, those who were interdicted or legally disabled are considered to be legally incapable to exercise their rights. Furthermore, only those that due to mental illness, deafness, dumbness or blindness reveal themselves as being incapable of managing properly their persons or property may be interdicted of exercising their rights. Moreover, only those suffering from mental illness, deafness, dumbness or blindness in such a degree, or those who due to their usual prodigality or addiction to alcohol or drugs reveal themselves as being incapable of managing properly their property may be considered as legally disabled (Articles 122 and 135 of the Civil Code). Both interdiction and legal disability have to be judicially declared.

32. The rights of personality are recognised to all natural persons, being protected against any kind of unjustified discrimination, particularly for reasons of nationality, place of residence, descent, race, ethnic group, colour, gender, language, religion, opinion, political or ideological belief, education and economic or social condition (Article 67 of the Civil Code).

33. Similar to Article 38 (1) of the Basic Law, which establishes the freedom of marriage and the right to form a family freely, the Legal Framework on Family Policy, Law 6/94/M, of 1 August, at the same time it elects the family as being a society's basic value, provides that everyone has the right to form a family and to marry freely and equally and guarantees equality regarding the protection of motherhood and fatherhood, the exercise of the rights of the holders of parental responsibility, as well as promotes favourable conditions for the foundation and development of families as fundamental human and social values that the Administration must respect and protect.

34. In what relates other aspects regarding equality and non-discrimination on the grounds of gender, particularly in the field of Civil Law, please refer to the sections regarding the respective Articles of the Convention.

35. It is also noteworthy the inexistence of discriminatory criminal provisions.

36. Furthermore, any person may use the existing judicial and non-judicial resources of the legal system of the MSAR, should there be any violation of any of his/her rights, including the right to equality and the right to non-discrimination.



**Article 3: Measures for the promotion and protection of the women's development**

37. The MSAR Government is strongly committed to the defence of fundamental rights and freedoms, as they are considered to be essential human and social values.

38. As previously mentioned, both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights are applicable to the MSAR.

39. However, the MSAR Government has not only adopted legislative measures, but has also been developing, through its departments in the most varied areas, numerous concrete actions in the field of the promotion and protection of women.

40. The dissemination of women's rights has been carried out by the Legal Affairs Department, whose main task is to disseminate the Law, by means of promoting discussions, publishing articles in the media and distributing brochures to the public.

41. In 1999, a specific discussion was held exclusively regarding the Convention. In 2000, 2001 and 2002, several discussions took place, regarding women's rights in general and the legal regime of marriage and divorce in particular.

42. In addition to that, in four daily papers of Macao, a weekly column is published under the general topic "*To know Macao's law*", which addresses a different specific issue every week. The establishment of maternity, the effects of divorce, the administration of the spouses' property, the division of the spouses' property, law applicable to maintenance obligations, the legal dispositions on marriage, on abortion, the legal regime

of the spouses' debts, among others, are some of the issues that have already been addressed.

43. On Mondays, Wednesdays and Fridays, a programme called "*Law Encyclopaedia*" is broadcasted on the radio, addressing, in a way accessible to most of the population, legal issues, such as the safety of pregnant workers, prostitution and facilitation of prostitution.

44. Another weekly programme called "*Questions and Answers*" dedicated to Law is broadcasted on television, where various matters are discussed in a clear and more interactive way. Such matters as the guarantees of pregnant workers and the legal regime of divorce and marriage have been addressed in this programme.

45. On the other hand, the Education and Youth Affairs Department has invited couples to participate in several workshops and seminars to promote the common responsibility of both men and women regarding the education of their children. Among them, we point out: "*Understanding Children's Development*" and "*Building Good Relationship with Children*".

46. Furthermore, the Education and Youth Affairs Department often organizes and promotes conferences in schools. Within this scope, several seminars addressing sex education were held in primary schools in 2001 and 2002, among which we stress the following: "*Sexual Education for Children*", "*Seminar on Sexual Education*" and "*How to answer Children's questions about sex*", the latter of which aimed at parents.

#### **Article 4: Temporary and special measures**

47. There are no temporary measures in the legal system of the MSAR, as understood by Article 4 (1) of the Convention.

48. However, as mentioned regarding the actual concept of the principle of equality, several cases of special measures are recorded throughout the legal system of the MSAR. Examples of this are the aforementioned Legal Framework on Family Policy, Decree-Law 52/95/M, of 9 October, Law 4/98/M, of 27 July, Decree-Law 87/89/M, of 21 December, and Decree-Law 24/89/M, of 3 April.

49. The Legal Framework on Family Policy establishes that female workers have the right to a period of leave from work before and after child delivery, without any loss of benefits and salary, and that women's work during pregnancy and after child delivery, as well as the work of minors should be subject to special regulation in order to guarantee the efficient protection of their rights (Articles 7 and 17).

50. With regard to Decree-Law 52/95/M, of 9 October, Law on Equal Opportunities and Equal Treatment, it stipulates in Article 4 (2) that the measures establishing a preference on the basis of gender required by the need to correct a *de facto* inequality or to protect maternity as a social value are not considered to be discriminatory measures and forbids, in Article 8, that tasks involving actual or potential risks for the genetic function are attributed to women. That includes both the risks arising from those tasks, as well as those deriving from the work's location or environment.

51. Furthermore, Law 4/98/M, of 27 July, which approves the Legal Framework on Employment and Labour Rights, guarantees a special protection for female workers, particularly during pregnancy and after child delivery, under the terms of its Article 5 (2).

52. As far as the public sector is concerned, the Statute of the Public Administration's Employees (SPAЕ), approved by Decree-Law 87/89/M,

of 21 December, which has undergone several changes throughout the years, makes provision for a series of special rights regarding pregnant workers.

53. Public Administration female workers have the right to a 90-day-period of maternity leave. From this period of leave, 60 days must be enjoyed compulsorily and immediately after the delivery, and the remaining 30 may be enjoyed, in whole or in part, before or immediately after the compulsory period of leave. Absences due to maternity interrupt or suspend the holiday period according to the interests of the female worker (Articles 92 (1), (2) and (3)).

54. In the event of a spontaneous, eugenic or therapeutic abortion, death of a live-birth or delivery of a still-born, the period of leave following the occurrence of this incident is from 7 to 30 consecutive days. The attending doctor will be responsible for regulating the period of work interruption according to the woman's health conditions (Article 92 (4)).

55. In the event of the child or the mother's hospitalisation following the delivery, maternity leave is suspended, provided the mother so requires, up to the date when the hospitalisation ends, and resumed then up to the end of the mentioned period (Article 92 (5)).

56. The mother who breastfeeds the child also has the right to be released one hour for each day of work until the child is one year old (Article 92 (7)).

57. Public Administration workers of the MSAR, regardless of gender, have the right, under the terms of Article 214 of SPAE, to a benefit at the time of a child's birth. The amount of the benefit is MOP 2,300.00.

58. As far as the private sector is concerned, it must comply with the provisions of Decree-Law 24/89/M, of 3 April, which establishes a set of rules that regulates Labour Relations in Macao. Article 34 (3) provides

that temporary measures resulting in a preference based on gender, required by the need to correct a *de facto* inequality or to protect maternity as a social value, are not considered to be discriminatory measures.

59. This law prohibits or conditions the performance of services by women that by their own nature or by the respective environment may involve any actual or potential risks for the genetic function. During pregnancy and up to 3 months after delivery, women should not carry out tasks that are not advisable for their condition (Article 35).

60. Pregnant women have the right to a 35-day-period of maternity leave with pay, up to a limit of 3 deliveries for each female worker. Of these 35 days of maternity leave, 30 are compulsory and immediately enjoyed after child delivery and the remaining 5 days may be enjoyed, in whole or in part, before or after child delivery (Article 37).

61. In principle, the employer is forbidden to dismiss a female worker during pregnancy and up to 3 months after child delivery. The employer who does not comply with this prohibition from dismissing female workers is obliged to pay the dismissed female worker compensation equivalent to 35 days of salary, notwithstanding any other compensation that are due to her (Article 37).

62. Female workers that are beneficiaries of the Social Security Fund are entitled to a maternity benefit, currently in the amount of MOP 1,000.00, under the terms and conditions established in Order 39/GM/97, of 30 June. For detailed information on the Social Security Fund operation, see the description of this report regarding Article 11 of the Convention.

63. At this moment, both public and private sector labour laws are being revised. The purpose is to adapt them to the new conditions defined

by the Basic Law and to improve them, particularly as far as rights and social benefits of workers are concerned.

64. In what concerns the reform of labour law in the private sector, it should be noted that the MSAR Government has proposed, *inter alia*, the elimination of the limit of three deliveries as a requirement for the granting of maternity leave and the increase of the number of days of leave.

65. Finally, it should be mentioned that medical assistance before, during and after delivery are completely free for any female residents of the MSAR as well as medical assistance to children (Articles 3 (2) (c), 8 (1) (a) and (b) and 9 (2) of Decree-Law 24/86/M, of 15 March, with the amendments introduced by Decree-Law 68/89/M, of 9 October). More detailed information on this matter may be found in this report regarding Article 12 of the Convention.

### **Article 5: Elimination of stereotyped roles**

66. The MSAR Government, through its several departments, has been adopting concrete measures aiming at changing men and women's socio-cultural behaviour schemes and models and at suppressing the prejudices and practices based on the idea of the inferiority or the superiority of either of the genders or on stereotyped roles for men and women.

67. Another concern has been to ensure that family education contributes to a correct understanding of maternity as a social role and to the acknowledgment of men and women's common responsibility for their children's education and development.

68. Therefore, apart from the previously mentioned measures undertaken by the Education and Youth Affairs Department, the Social

Welfare Institute also organised, in 2000, a group for the exchange of experiences among women aiming at promoting their self-esteem and carried out, in 2001, a workshop addressed to social workers and to all the personnel working in the area of social services, in order to develop their knowledge and skills in respect of the work with women and families victims of domestic violence.

69. In fact, one of the problems that the MSAR Government has been strongly committed to tackle is domestic violence, the increase of which, albeit not dramatic, is considered worrying.

70. Although the actual causes of this phenomenon are unknown, it is suspected that economic recession is one of the factors that has most influenced it. It is not possible to present statistics in this field, as the data is not collected according to the gender of the offended, but according to types of crime. Estimates based on police records are as follows:

#### **Estimates regarding domestic violence**

<b>Year</b>	<b>No. of crimes against life</b>	<b>No. of crimes against physical integrity</b>	<b>Annual total no. of both types of crimes</b>	<b>No. of crimes reported as a result of domestic violence</b>
1999	42	1,146	1,188	127
2000	22	1,240	1,262	177
2001	16	1,310	1,326	225
2002	3	1,485	1,488	273

*Source: Office for Security Co-ordination*

71. In legislative terms, besides the traditional types of crimes against life and physical integrity, Article 146 of the Criminal Code of Macao provides for, and in the scope of these crimes, the specific crime of ill treatment of minors or spouse.

72. In fact, Article 146 (2) stipulates that he who physically and psychologically abuses the spouse, or the person bearing a similar situation to that, shall be punished with a penalty of 1 to 5 years of imprisonment, the criminal proceedings of which depend on a complaint being lodged. Numbers 3 and 4 of the same Article establish aggravations of the penalty in accordance with the results: serious offence to physical integrity (2 to 8 years of imprisonment) or death (5 to 15 years of imprisonment). In these cases, criminal proceedings no longer depend on a complaint being lodged.

73. Regarding practical aspects resulting from the problem of domestic violence, it is considered to be indispensable, along with the population awareness and education campaigns, to provide the victims of violence — mostly women — with conditions that allow them to recover and regain their own place in society.

74. For this purpose, the Social Welfare Institute runs a special unit, the Family Action Bureau, which comprises psychologists, jurists and social workers, providing multidisciplinary services to families at risk, particularly to women and their children who are victims of domestic violence.

75. In addition to this, the Social Welfare Institute has 5 Social Work Centres throughout the MSAR, which handle these cases *in loco*, providing support services to the courts and to urgent cases on a daily and continuous basis.

76. According to the Law, the Social Welfare Institute maintains a close relationship with private social solidarity institutions and other entities with similar objectives granting them support and cooperating with them (Article 18 (1) (j) of Decree-Law 24/99/M, of 21 June).

77. There are two shelters in the MSAR for women who are victims of domestic violence, *Bom Pastor Centre* and the *Oi Chi Ká Temporary Women*



*Care Centre*, both operated by private social solidarity institutions. The Social Welfare Institute has been granting subsidies to the “*Bom Pastor Centre*” since 1978. Initially, this centre was only intended for young women but subsequently its services were broadened and it became a shelter also for women who are victims of domestic violence.

78. In 2001, the Social Welfare Institute began granting subsidies to an “outreaching service”, within that same centre, intended for women and children who have already left the centre and aimed at helping them to achieve their full insertion within their community. In the scope of this “outreaching service”, counselling is provided and group activities are organised, through which women and children are supposed to create their own mutual support network. The table below shows the number of cases handled by the *Bom Pastor Centre* as for care and the number of persons that were involved and have actually been sheltered.

**Persons sheltered at the *Bom Pastor Centre*, supported by the  
subsidies of the MSAR Government**

Year	No. of cases	Adults	Minors	Total no. of persons
1999	21	21	21	42
2000	25	25	26	51
2001	35	35	26	61
2002	30	30	20	50

*Source: Social Welfare Institute*

79. The Social Welfare Institute also sponsors seminars and workshops on domestic violence. Two seminars of this kind were held by a private social solidarity institution in March and April 2002.

80. It is noteworthy that, in 2000, 43 cases involving domestic violence were reported to the Family Action Bureau, and, in 2001, 54

help-request cases were handled (involving a total number of 200 people). Among these 54 cases, 27 concerned domestic violence problems, although some of them included more than just one problem. Almost all these cases were transferred by the 5 Social Works Centres.

81. Still in 2001, the Family Action Bureau carried out 723 interviews, that is, about 60 per month. The interviews' contents mainly concerned problems regarding marriage, relationships between parents and children and emotional ones. Furthermore, 245 visits to families, about 20 per month, were carried out.

82. As far as the legal advice service is concerned, the Family Action Bureau carried out, in 2001, 73 interviews with users and 10 interviews with the workers of the Social Work Centres, supplied legal information to users via telephone in 15 occasions, as well as legal advice services via telephone in 150 occasions to workers of the Social Work Centres and to other units of the Social Welfare Institute, accounting for 248 legal consultations in respect of problems dealing mainly with divorce, the exercise of parental responsibility and guardianship.

83. The Social Welfare Institute is preparing a campaign to be launched in 2003, dedicated to women's emancipation, which will include a series of conferences on the most varied topics — health, legal problems, employment, etc. — as well as the distribution of pamphlets, bookmarks, souvenirs and the broadcast of advertisements on TV and on radio.

84. In the current year of 2003, the Social Welfare Institute will also start a programme to promote the eradication of domestic violence, which will include the creation of a new shelter and a telephone line for abused women. Both services will be operating 24 hours a day.

85. There are examples of concrete measures demonstrative of the policy followed by the MSAR Government, with a view to reducing/eliminating several social problems, the genesis of which is in the existing schemes and models of stereotyped social and cultural behaviour. Actual improvement of the *de facto* situation as a result of such a line of action is expected.

86. Nevertheless, it is worth stressing that the recognition of a woman's role in society has been improving positively in the MSAR. Although this is more evident among the higher social groups, the progress achieved should not be minimized, since this is undoubtedly a dynamic factor spurring the evolution to be implemented among other population groups.

87. As a matter of fact, the growing importance of the social role of women in the MSAR is shown by the increasing number of women involved in its legislative (Legislative Assembly), executive (General Secretariats, Directorates of Services, Departments and Divisions) and judicial (courts and Procuratorate) bodies, as well as the number of women working in Public Administration.

88. Thus, the Legislative Assembly of the MSAR comprises 27 members, 5 of which are female, including its President. From the 27 members, 16 are elected, 4 of which are female. It is noteworthy that the President, the Secretary-General and the Deputy Secretary-General of the Legislative Assembly are female.

89. The Government is the executive body of the MSAR (the head of which is the Chief Executive) and it comprises General Secretariats (there are 5 Secretaries), Directorates of Services, Departments and Divisions.

90. The MSAR also has a Committee against Corruption and a Committee of Audit, that operate as independent bodies and the 2 Commissioners are accountable to the Chief Executive.

91. Among the above-mentioned main positions, 2 of them are carried out by women, more precisely, the Secretary for Administration and Justice — the second most important member of the MSAR Government — and the Commissioner of Audit.

92. In 2001, women accounted for 34.6% of all Public Administration workers. In that same year, and regarding the Public Administration's management and leadership positions, of a total number of 633 positions, women occupied 261, which corresponds to approximately 41.23%.

### **Distribution of Public Administration's management and leadership positions by gender**

Positions	1999		2000		2001	
	M	F	M	F	M	F
Director / equivalent post	39	7	38	37	14	12
Deputy director / equivalent post	35	17	28	32	24	23
Department chief / equivalent post	79	47	78	79	53	51
Head of division / equivalent post	139	98	142	144	102	102
Head of sector / equivalent post	22	19	24	24	14	13
Head of section	53	53	56	45	49	52
Other positions	23	5	20	11	5	5
TOTAL	390	246	386	372	261	258

*Source: "Public Administration Human Resources" in 1999, 2000 and 2001, Public Administration and Civil Department.*

93. As far as judicial power is concerned, and although the proportion of the number of men that occupy the position of magistrates, whether judicial or within the Procuratorate, has been markedly stable, there

are some expectations as to a change in this trend, since from the 10 trainee magistrates that were admitted to the Judicial Training Centre in the year of 2002, 6 are female.

### Judicial and Procuratorate Magistrates by gender

2000			2001			2002		
M	F	MF	M	F	MF	M	F	MF
29	13	42	29	13	42	31	14	45

*Source: "Public Administration Human Resources" in 1999, 2000 and 2001, Public Administration and Civil Department.*

94. In the private sector, progress has been slower. However, women have achieved more and better means of education in recent years, and, at the present moment, the proportion of men and women in top positions is more equitable than in unskilled jobs, compared with the situation of some years ago.

### Employed population, according to the work situation, by occupation and gender (10<sup>3</sup>)

Profession and occupation	Gender	1999	2000	2001	2002
Total	MF	196.1	195.3	202.8	200.6
	M	104.2	103.2	106.7	104.1
	F	91.9	92.1	9.1	96.5
Members of the legislative body, public administration and associations senior officials, directors and company managers	MF	11.9	12.0	10.6	12.0
	M	9.7	9.7	8.4	9.3
	F	2.2	2.3	2.2	2.8
Specialists of intellectual and scientific professions	MF	5.9	6.1	6.1	6.8
	M	3.4	3.5	3.5	3.9
	F	2.4	2.6	2.5	2.8
Technicians and associate professionals	MF	17.2	16.8	17.2	18.4
	M	8.8	9.1	9.1	9.8
	F	8.4	7.8	8.1	8.6

Profession and occupation	Gender	1999	2000	2001	2002
Clerks	MF	35.5	37.4	36.9	35.3
	M	13.2	12.7	13.9	12.3
	F	22.3	24.6	23.0	22.9
Service and sales workers	MF	39.2	39.4	40.3	42.4
	M	22.5	21.9	22.3	23.8
	F	16.7	17.6	18.0	18.6
Skilled workers in agriculture and fishery	MF	1.2	1.3	1.3	1.3
	M	1.2	1.0	1.1	1.0
	F	0.1	0.3	0.2	0.2
Craft and similar workers	MF	24.5	24.0	24.8	22.5
	M	20.3	19.9	20.2	18.1
	F	4.2	4.1	4.6	4.4
Plant and machine operators, drivers and assemblers	MF	28.8	24.9	29.6	27.0
	M	10.7	10.7	11.0	10.1
	F	18.0	14.2	18.6	16.9
Unskilled workers	MF	32.0	33.3	36.1	34.9
	M	14.3	14.8	17.2	15.8
	F	17.7	18.5	18.9	19.1

*Source: Statistic and Census Department*

## **Article 6: Eradication of traffic in women and forced prostitution**

95. The traffic in persons, especially in women, is one of the major problems that has ravaged, in recent decades, particularly in Southeast Asia.

96. In Macao, the evident connections between the traffic in persons and organised crime led the authorities to wage an integrated fight against these phenomena since the end of the nineties. After the Reunification, this fight has been strengthened, particularly in the form of an effective international and regional cooperation.

97. Regarding this situation, it should be referred that several international treaties with the purpose of fighting slavery and similar

practices as well as traffic in persons are applicable to the MSAR, in particular: the Slavery Convention of 25th September 1926; Convention No. 29 of the International Labour Organisation (ILO) concerning Forced or Compulsory Labour, of 28 June 1930; the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, of 2 December 1949; the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 7 September 1956; Convention No. 105 of the ILO concerning the Abolition of Forced Labour of 25 June 1957; and the International Covenant on Civil and Political Rights of 16 December 1966.

98. One of the questions underlying the traffic in persons is human dignity, as a fundamental and inviolable value. This value is expressly established in Article 30 (1) of the Basic Law.

99. In fact, the traffic in persons, as understood in this Convention, is largely related to forced labour, in particular forced prostitution. In the legal system of the MSAR, not only the traffic in persons constitutes a specific criminal offence but also several other conducts against personal freedom and sexual freedom and self-determination.

100. Another important aspect concerning the Criminal Law is the fact that it considers that minors do not enjoy the freedom to make decisions as far as sexual relationships are concerned; therefore crimes involving minors are autonomous and separately configured, not as crimes against sexual freedom, but only as crimes against sexual self-determination. In the legal types of those crimes, by rule, it is not necessary for coercion to have taken place.

101. Obviously, the Criminal Code of Macao provides for and punishes several crimes that are specifically related to the protection of personal freedom, sexual freedom and self-determination, which

consequently function, both directly and indirectly, as mechanisms susceptible of being used in the fight against traffic in persons and exploitation of forced prostitution. However, in the present report, references will only be made to those crimes considered more relevant. Crimes against minors shall be excluded since this subject is described in detail in the part of China's report concerning the application of the Convention on the Rights of the Child to the MSAR.

102. Thus, in the domain of crimes against personal freedom, the most noted is slavery, provided for in Article 153 of the Criminal Code of Macao, that consists of the sale, transfer or purchase of a person made with the intention to reduce that person to the status or condition of slave. This crime, notwithstanding the fact it does not imply economic or sexual exploitation, covers all situations of the reduction of a person to a "thing" that the offender uses as its property, in particular, servitude in lieu of debt, feudal serfdom, and the alienation or acquisition, at any title, of the rights of total disposal over a person. Due to its seriousness it is punished with a penalty of 10 to 20 years of imprisonment.

103. Also, kidnapping with the intention to commit a crime against sexual liberty or self-determination is punished with a penalty of 3 to 10 years of imprisonment (Article 154 (1) (b) of the Criminal Code of Macao).

104. In what concerns the criminal provisions that aim at protecting sexual liberty, the specific crime of international traffic in persons is contemplated in Article 7 of Law 6/97/M, of 30 of July, law on organized crime. The penalty applicable is of 2 to 8 years of imprisonment. However, if the victim is a minor under 14 years old, the penalty is of 5 to 15 years of imprisonment; in case of a minor between 14 and 18 years old, the penalty



of 2 to 8 years of imprisonment is increased by one third in its minimum and maximum limits.

105. Although prostitution is not a crime in the MSAR, the activities of exploitation of prostitution are typified under various autonomous crimes.

106. An example is the crime of procurement, that consists of instigating, favouring or facilitating the practice of prostitution or of relevant sexual acts by another person, exploiting their state of abandonment or necessity, for the purposes of profit or as a way of life. The penalty foreseen is of 1 to 5 years of imprisonment (Article 163 of the Criminal Code of Macao). If the offender uses violence, serious threat, trick or fraudulent manoeuvre, or takes advantage of the mental incapacity of the victim, it constitutes another crime — aggravated procurement and the penalty is of 2 to 8 years of imprisonment (Article 164 of the Criminal Code of Macao).

107. The same applies to the crime of exploitation of prostitution provided for in Article 8 of the aforementioned Law 6/97/M that includes soliciting, luring or deviating another person, even with his/her consent, for the purpose of prostitution, as well as exploiting another person's prostitution activity, even with his/her consent. The penalty is of 1 to 3 years of imprisonment. Article 8 (2) also provides for and punishes as a crime the activity of recruiting clients for persons that prostitute themselves, as well as favouring or facilitating prostitution, by any means. The penalty for this crime is of up to 3 years of imprisonment.

108. Also concerning the protection of sexual liberty, it should be noted that rape includes both the copula with a woman, by means of violence, as well as coercion of a woman to copulate with a third person. The penalty is of 3 to 12 years of imprisonment. The same penalty is applicable to the person that, by means of violence, practises anal coitus

with another person or coerces he/she to have it with a third person (Article 157 of the Criminal Code of Macao).

109. Reference should also be made to the crime of sexual coercion, that is, the coercion of another person, by means of violence, serious threat, or making the victim unconscious, or putting the victim in a position in which he/she may not offer resistance, to endure or practise, with the offender or a third person, a relevant sexual act. The penalty for this crime is of 2 to 8 years of imprisonment (Article 158 of the Criminal Code of Macao).

110. Other activities that are usually associated with the traffic in persons and forced prostitution are also considered crimes in the legal system of the MSAR, for instance, crimes of extortion under the pretext of protection and unlawful retention of documents (respectively, Articles 3 and 6 of the aforementioned Law 6/97/M).

111. It is also important to remind that, as prostitution is not a crime, the fact that the victim is or is not a prostitute is irrelevant for the enforcement of Criminal Law.

112. The MSAR Government, aware that traffic in persons involves cross-border activities which means that it must be fought not only internally but also through cooperation with other regions and States, has been making the best endeavours in that direction.

113. In order to increase police efficiency, a working group with the neighbouring regions of Hong Kong and Guangdong was created, in which information exchanges on criminal investigations as well as specific training are carried out. Among these, the meetings on cross-border prostitution and criminality are noteworthy.

114. Representatives of the MSAR have been taking part in several international meetings concerning the traffic in persons and illegal

immigration, such as the meetings held within the scope of the “*Asian Regional Initiative against Trafficking in Women and Children (ARLAT)*”, and of the V Session on “*Illegal Migration and the Trafficking in Women and Children*” of the “*International Law Enforcement Academy (ILEA)*”.

115. In regard to the *de facto* situation, no traffic in women of the residents of the MSAR into other countries or regions was detected. In what concerns the traffic in women from other regions and countries into the MSAR, the situation of traffic in women is approximately the one presented in the table below.

#### Crimes against sexual liberty

	1999	2000	2001	2002	Total
<b>Rape</b>	7	6	9	13	35
<b>Procurement</b>	9	23	20	22	74
<b>Sexual Coercion</b>	2	0	2	1	5
<b>Others</b>	0	2	3	0	5

*Source: Office for Security Co-ordination.*

116. Within the medical protection and assistance plan, since November 1992, the Health Department has been implementing an HIV/AIDS infections control and prevention programme specifically targeted at entertainment industry workers, especially those that are non-residents. The objective is to control and prevent the spreading of the disease. This programme includes not only blood analysis (repeated every 4 months) but also distribution of condoms, as well as several information, education and counselling measures, in particular about forms of transmission and prevention of sexually transmissible diseases, video shows, discussions groups, etc.

### Article 7: Participation of women in public and political life

117. As explained, any type of negative discrimination, particularly gender-based, is not allowed in the MSAR. Women have the same political and public status as men.

118. Article 26 of the Basic Law guarantees all permanent residents of the MSAR the right to vote and the right to stand for election in accordance with Law.

119. Regarding ordinary legislation, in both Law 12/2000, of 18 December, Law on the Registration of Voters, and Law 3/2001, of 3 May, Electoral Law for the Legislative Assembly, gender is not a factor in determining, whether a person is eligible to vote or to stand for election.

120. The first elections, after the Reunification, for the Legislative Assembly of the MSAR were held on 23 September 2001.

121. Without prejudice to the electoral campaign, the MSAR Government, through its competent departments, carried out several public awareness campaigns for the purpose of promoting the registration of voters and the conscious and active participation of the people in the elections.

122. Presently, in a universe of 160, 189 voters, 78,054 are women, which corresponds to 48.73% of the voters as presented in the table below.

**Age and sex of registered voters**

Ages	Male		Female		Total
	No.	%	No.	%	No.
18-19	812	51.59	762	48.41	1,574
20-24	5,265	51.57	4,945	48.43	10,210
25-29	6,810	51.95	6,298	48.05	13,108
30-34	6,566	49.93	6,585	50.07	13,151
35-39	9,045	47.42	10,028	52.58	19,073
40-44	14,178	50.46	13,921	49.54	28,099

Ages	Male		Female		Total
	No.	%	No.	%	No.
45-49	13,523	53.44	11,780	46.56	25,303
50-54	9,238	55.77	7,326	44.23	16,564
55-59	5,639	57.17	4,225	42.83	9,864
60-64	3,222	55.31	2,603	44.69	5,825
65-69	2,763	50.66	2,691	49.33	5,454
70-74	2,260	45.48	2,709	54.52	4,969
> 74	2,814	40.23	4,181	59.77	6,995
<b>Total</b>	82,135	51.27	78,054	48.73	160,189

*Source: Public Administration and Civil Department, September 2002.*

123. As mentioned above, women occupy some of the most important political and public positions in the MSAR.

124. Regarding other types of access to and participation in public life, in particular access to and exercise of other public functions, besides the fundamental right to equality and non-discrimination guaranteed by the Basic Law, ordinary legislation also expressly establishes equality of conditions and opportunities to all candidates to public services and equality concerning the right to promotion in Public Administration. More detailed information on this subject is supplied in this report in the section concerning Article 11 of the Convention.

125. Regarding freedom of speech in its several components, it should be stressed that Article 27 of the Basic Law enshrines this fundamental liberty in a broad way by stating that “*Macao residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike*”.

126. Law 2/99/M, of 9 August, that establishes the regime of the right of association, determines the right to constitute associations and the freedom to participate in them (Articles 2 and 4).

127. There are presently 25 women associations in the MSAR, including 1 association of public administration female workers.

### **Article 8: Participation of women in international affairs**

128. The Central People's Government shall be responsible for the foreign affairs concerning the MSAR. However, it authorizes the MSAR to conduct relevant external affairs on its own, in accordance with the Basic Law (Articles 13 (1) and (3) of the Basic Law).

129. The participation of the representatives of the MSAR in international organizations, whether as members of governmental delegations of China, or autonomously, in the appropriate domains, is determined by objective criteria based on competence and merit.

### **Article 9: Children and women nationality**

130. According to Article 18 and Annex III of the Basic Law, one of the national laws applicable to the MSAR is the Nationality Law of the People's Republic of China.

131. Considering the specific situation of the MSAR, the Standing Committee of the National People's Congress of the People's Republic of China provided several clarifications regarding the application to Macao of the mentioned Nationality Law, which were adopted on 29 December 1998, by the Sixth Session of the Standing Committee of the Ninth Legislation of the National People's Congress.

132. There is no negative discrimination based on gender concerning the acquisition or loss of nationality.

133. Likewise, Law 7/1999 and Law 8/1999, both dated 20 December 1999, that approve, respectively, the Regulation on the

Requirements regarding the Nationality of the Residents of the MSAR and the regime concerning Permanent Residents and the Residence Right in the MSAR, do not establish any type of discrimination based on gender.

**Article 10: Equality of rights between men and women in education and sport**

134. Article 37 of the Basic Law guarantees that the residents of the MSAR enjoy the freedom to engage in education, academic research, literary and artistic creation and other cultural activities. Teaching and academic freedom are restated and developed in Article 122 of the Basic Law. In paragraph 2 of that same Article, it is foreseen an important corollary, the freedom of students to choose an educational institution and to pursue their education outside the Region.

135. The combination of these provisions with the aforementioned Article 25 of the Basic Law makes it unequivocal that all the residents of the MSAR, regardless of gender, have equal rights in the areas of education and culture.

136. Furthermore, the MSAR Government, under the terms of Articles 121, 124, 125, and 127 of the Basic Law, defines by itself, not only the education policy, but also science, technology, culture, and sport policies. It is the duty of the MSAR to promote compulsory education under the terms of the law (Article 121 (2) of the Basic Law).

137. Regarding the protection of equality of both genders in areas of education and culture, in addition to the mentioned International Covenant on Economic, Social and Cultural Rights, it is also applicable to the MSAR the Paris Convention against Discrimination in Education, of 14 December 1960.

138. Concerning ordinary legislation, it should be mentioned in the first place Law 11/91/M, of 29 August, which establishes the legal framework on educational system.

139. In this law, it is reasserted, as a general principle, the right of everyone to education, which comprises equal opportunities in school access and school achievement. The Administration must promote and develop adequate mechanisms for effective opportunity equality. Specifically in what regards access to education, this law guarantees the respect for the freedom to learn and teach in accordance with the legally determined principles. Therefore, it is stipulated, on one hand, the inadmissibility of the Administration to ascribe itself the right to programme education according to any philosophical, aesthetic, political, ideological, or religious guideline, and on the other hand, the private institutions' obligation, whose free creation and existence are foreseen, to comply with the principles determined by law when defining their educational projects.

140. Law 11/91/M imposes, therefore, a concept of the educational system with reference to the necessities and characteristics of Macao's social reality, detailing that it should have a sufficiently flexible and diversified expression that allows the integration of its different communities and meets the concrete conditions of insertion in the original and international context.

141. Consequently, several objectives of the educational system are determined by law, *inter alia*, to promote the development of civic awareness, of democratic and pluralist spirit, respectful of others and their ideas, open to dialogue and to the free exchange of opinion, educating persons capable of judging with critic spirit and of intervening creatively in the society problems; to contribute to the harmonious and full development



of the individual's personality, stimulating the education of free, responsible, autonomous and jointly responsible persons; as well as to contribute to the reinforcement of the friendship relationships with all the peoples of the world (Article 3 of Law 11/91/M).

142. The educational system comprises pre-school education, the preparatory year for primary school, primary school, secondary school (general secondary school and complementary secondary school), higher education, special education, education for adults and technical and professional education (Article 4 of Law 11/91/M).

143. In development of the aforementioned law, Decree-Law 42/99/M, of 16 August, establishes that all children and young people between 5 and 15 years old are obliged to attend the preparatory year for primary school, primary school, and general secondary school, in public or private education institutions (Article 1).

144. Men and women have the same conditions regarding vocational guidance, access to education and obtaining diplomas in education institutions of all categories, as well as to access to the same curriculum, to the same exams, to a teaching personnel with qualifications of the same level, to schools and equipment with the same quality.

145. The curriculum takes into account the necessity to provide information on health, sexual education and family planning. These matters are included in such subjects as "*Social and Individual Development*", "*Natural Sciences*" and "*Health and Hygiene*".

146. The *de facto* situation in education demonstrates that the efforts made by the MSAR Government to allow women to access to all levels of education are attaining positive results.

**Students per education level (2001/2002 school year)**

Education level	Students Total number	Male		Female	
		No.	%	No.	%
Preparatory year	13,620	7,133	52.4	6,487	47.6
Primary school	43,724	23,075	52.8	20,649	47.2
Secondary school	41,534	20,684	49.8	20,850	50.2
Special education	644	424	65.8	220	34.2
Recurrent education	468	234	50.0	234	50.0
Total	99,990	51,550	51.6	48,440	48.4

*Source: Education and Youth Affairs Department*

**School drop out per education level (2001/2002 school year) <sup>(1)</sup>**

Education level	Students Total number	Male		Female	
		No.	%	No.	%
Preparatory year	285	146	51.23	139	48.77
Primary school	1,004	640	63.75	364	36.25
Secondary school	2,936	1,821	62.02	1,115	37.98
Total	4,223	2,607	61.70	1,618	38.30

*Source: Education and Youth Affairs Department*

*Note: <sup>(1)</sup> The data include emigrant children as well as those that are studying outside the MSAR.*

147. The total percentage of female students in the various education levels is of 48.4%, the female drop out percentage being 38.3% against 51.6% percentage of male students and 61.7% drop out percentage among those same male students.

148. Regarding higher education, it should be mentioned that in the University of Macao, during the 2001/2002 school year, 2,488 of the 4,148 students were females.

149. Also, in the Macao Polytechnic Institute, the majority of students in the 2001/2002 school year were female. Of a total of 2,237 students, 1,333 were female.

150. There is no specific programme for women that dropped out of school prematurely, since the fact of being a woman is not considered in the MSAR as a reason of school drop out.

151. According to the principle of equal opportunities in school access and success, the existence of educational compensation activities, psycho-pedagogical assistance and educational and professional guidance is guaranteed, as well as social assistance in schools to students with educational needs (Articles 19, 20, 21 and 22 of Law 11/91/M).

152. The educational compensation activities are aimed at students of all educational levels except for higher education and can be presented as supplementary classes, individual or group assistance activities, alternative curriculum and study rooms with teaching assistance (Article 6 of Order 7/SAAEJ/92, of 13 July).

153. Regarding psycho-pedagogical assistance and educational and professional guidance, under the terms of Article 21 of Law 11/91/M, it is the MSAR Government's duty to guarantee, directly or by means of support given to non-official institutions, the existence of such services.

154. The assistance and guidance service to students in private schools are guaranteed directly by personnel appointed by the Education and Youth Affairs Department or indirectly through personnel provided by voluntary associations financed by this Department.

155. Social assistance in schools, governed by Decree-Law 62/94/M, of 19 December, comprises all levels of education, consisting of a diversified series of economic supports and supplementary assistance

services to students and schools, that include scholarships, subsidies for tuition fees and subsidies to buy educational material.

156. Women do not constitute a disadvantageous group within the educational system of the MSAR, therefore, there are no subsidies or scholarships specifically for women, with the exception of the *International Ladies Club of Macao's* scholarship (private association), that is attributed exclusively every year to 2 women.

157. Nevertheless, the statistical data on this subject shows that women have tended to benefit the most from educational assistance in general.

### Educational Assistance

Type of action		1999/2000		2000/2001		2001/2002	
		M	F	M	F	M	F
Subsidies <sup>(1)</sup>	No.	1,181	1,647	1,212	1,695	1,232	1,730
	%	40.7	56.7	39.9	55.8	40.3	56.5
	Total	2,905 <sup>(3)</sup>		3,040 <sup>(3)</sup>		3,060 <sup>(3)</sup>	
Financial aid from the Social Action Fund <sup>(2)</sup>	No.	5,914	6,970	6,998	8,585	7,492	9,044
	%	45.9	54.1	44.9	55.1	45.3	54.7
	Total	12,884		15,583		16,536	
Financial aid from the Education and Youth Affairs Department	No.	6,252	8,745	5,678	8,397	4,911	8,052
	%	41.7	58.3	40.3	59.7	37.9	62.1
	Total	14,997		14,075		12,963	
Food Services <sup>(2)</sup>	No.	729	825	753	828	767	856
	%	46.9	53.1	47.6	52.4	47.3	52.7
	Total	1,554		1,581		1,623	

*Source: Education and Youth Affairs Department.*

*Notes: <sup>(1)</sup> Regarding students attending university inside or outside the MSAR.*

*<sup>(2)</sup> Regarding students from primary and secondary schools, both public and private, in the MSAR.*

*<sup>(3)</sup> Due to the incorrect introduction of some data, the information on the gender of some of the beneficiaries is not available.*

### Scholarships granted during the 2001/2002 school year

Scholarship	M	F	Total
Direct Admission Scheme for the University of Macao scholarship	20	64	84
Macao Foundation scholarship	23	20	43
BNU scholarship	9	17	26
Vodatel scholarship	3	3	6
Sir Run Run Shaw scholarship	2	11	13
Monetary Authority from Macao scholarship	1	4	5
Lisboa Holdings scholarship	1	2	3
Hong Kong & Shanghai Banking Corporation Ltd. scholarship	2	4	6
ILCM scholarship	0	2	2
P & G Tai Sang Lei scholarship	2	1	3
CTM scholarship	5	0	5
Smartone scholarship	3	2	5
Fundação AIA scholarship	1	1	2
UEAGCAA scholarship	0	2	2
Chen Xiang Mei scholarship	0	3	3
Wong Seng Hong scholarship	1	0	1

*Source: University of Macao.*

158. Also regarding continuing education programmes, including adult and functional literacy programmes, there is equal access between men and women to these kinds of programmes.

159. It is noteworthy the existence of a specific educational programme for adults in the female prison establishment, which although voluntary, has in the current school year of 2002/2003 the participation of 26 students.

160. Regarding sports and physical education, there are, in the educational system, mandatory curricular activities as well as supplementary activities with optional attendance, which include sports. Both genders have access to them without any type of distinction (1 and 2 of Decision 18/SAAEJ/93, of 26 July).

161. Special importance is given to physical education since it is considered desirable to practice sports in school. Sports in school aims not only at promoting student's physical condition, but also at understanding sports as a actual factor in order to stimulate solidarity, cooperation, autonomy and creativity.

162. All sports programmes, both professional and recreational, are conceived regardless of gender.

163. In the MSAR, there are women athletes, referees, and presidents of sports clubs. Statistics show that the percentage of women athletes reaches almost 30%, representing 7,245 women in 39 different types of sports. The percentage of women coaches is 20%, which is similar to the percentage of women referees.

164. The number of men and women representing the MSAR at international sports has been similar. In October 2002, the delegation representing the MSAR in the "*Busan Asian Games*" consisted of 38 women, 20 athletes and 18 officials.

## **Article 11: Equality of rights between men and women in work**

165. The Basic Law enshrines the freedom of choice of occupation and work and guarantees the right to welfare benefits in accordance with Law (respectively, Articles 35 and 39).

166. Several important ILO conventions regarding equal rights between men and women in work are applicable to the MSAR, namely, the ILO Convention No. 81 concerning Labour Inspection in Industry and Commerce, of 11 July 1947; ILO Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, of

29 June 1951; ILO Convention No. 111 concerning Discrimination in respect of Employment and Occupation, of 25 June 1958, and ILO Convention No. 122 concerning Employment Policy, of 9 July 1964.

167. Article 4 of Law 4/98/M, of 27 July, that approves the Legal Framework on Employment and Labour Rights, establishes the general principles of prohibition of any discriminatory restriction to equal access to work and to equal opportunities of promotion, subject only to seniority and individual skills.

168. The Law on Equal Opportunities and Equal Treatment is more specific by stipulating expressly the principles of equal access to employment, of equal opportunities and access to vocational training, equal payment, equal access to the career, equal treatment concerning social welfare and equal opportunities for the exercise of independent activities (Articles 5, 6, 9, 10, 11 and 12 of Decree-Law 52/95/M).

169. In the private sector, Decree-Law 24/89/M, of 3 April, that establishes a set of rules that regulates labour relations in Macao, determines, in Article 4, that all workers have the right to equal opportunities and treatment in work, regardless of their race, gender, religion, association membership, political opinion or ideological belief, economic status or social conditions, as a consequence of the right to work provided for all. Furthermore, Article 34 (1) of that same Decree-Law stipulates that the right to work and the principle of equality established in Article 4 imply the inexistence of discrimination, direct or indirect, based on gender, in particular with reference to marital status or family situation and Article 34 (2) guarantees expressly equal opportunities and treatment between men and women in work and employment.

170. Article 36 of the same Decree-Law guarantees equal payment between male and female workers for equal work or work of equal value. In the cases where salary is determined by piece or production output, the basic-unit of calculation must be the same for men and women for equal work or work of equal value.

171. It is forbidden or conditioned to ask women to perform tasks that due to their nature or their location may involve actual or potential risks of genetic function, regarding the protection of the reproductive function. During pregnancy and up to 3 months after child delivery, women cannot perform tasks that are not advisable for their condition (Article 35).

172. The reproductive function is also protected in the Law on Equal Opportunities and Equal Treatment that forbids the attribution to women of tasks that involve actual or potential risks of genetic function (Article 8 of Decree-Law 52/95/M).

173. It should also be mentioned that Article 152 of Decree-Law 57/82/M, of 22 October, that approves the regulation on health and safety in industrial work sites, prohibits pregnant women to work with machinery, tools or dangerous substances and also establishes the obligation to prevent pregnant women to access to places where any toxic, asphyxiating, infectious, corrosive, explosive, or in any way susceptible of provoking dangerous reaction substances or toxic mixtures are made, stored, used or released.

174. The same idea is reasserted in Decree-Law 37/89/M, of 22 May, that approves the regulation on health and safety in commercial establishments, offices and services. Article 22 (2) of this Decree-Law



prohibits the manipulation or use, by pregnant women, of dangerous products that may put their health at risk.

175. It is forbidden to dismiss a female worker due to pregnancy, the enjoyment of her maternity leave period or her marital status (Articles 37 (7) and (8) of Decree-Law 24/89/M and Article 4 (1) conjugated with Article 14 (1), both from Decree-Law 52/95/M).

176. Similarly, it is also expressly forbidden for an employer to dismiss, to apply sanctions or to damage by any other form the female worker's interests due to her claim of discrimination. Violation of this prohibition gives the female worker the right to be compensated under the terms of the law regulating labour in case of termination of contract by the employer without a justified reason or previous notice (Article 14 (2) of Decree-Law 52/95/M).

177. Women have the right to a period of maternity leave with pay, after delivery, with the guarantee that their job positions will be maintained, as it has already been mentioned in the present report regarding Article 4 of the Convention.

178. The legal labour regime of the public sector does not contain any negative discriminatory rules. Public Administration female workers enjoy full equality of rights, in particular the right to have the same conditions to access to work, the same conditions and opportunities in work, equal payment, access to training and equal treatment in the social welfare system.

179. The recruitment criteria of Public Administration workers must comply with the principles of freedom of application, equal conditions and opportunities for all applicants, information on the selection methods, programmes and grading systems that will be used, the application of

objective methods of selection, and the right to complain and appeal (Article 46 of the SPAE).

180. For what concerns the right to a period of maternity leave and the prohibition of dismissal due to pregnancy, please refer to the information already provided in the present report concerning Article 4 of the Convention.

181. In the MSAR, the social welfare systems differ in the private and public sectors.

182. In the private sector, the Social Security Fund guarantees the social welfare system. According to what is established in Decree-Law 58/93/M, of 18 October, workers residents of the MSAR, including workers hired to perform specific, casual or seasonal tasks, are obliged to register in the Social Security Fund as beneficiaries. Employers that have at their workers are also obliged to register themselves in that same Fund, as contributors. Both registration are the responsibility of the employer (Articles 3, 4 and 40 (1)).

183. The Social Security Fund grants old-age benefits, unemployment benefits, invalidity benefits, social assistance benefits, maternity benefits, marriage benefits and funeral benefits.

184. In Public Administration, workers have the right to several benefits according to their family situation, in particular, housing allowance family benefits, marriage benefits, maternity benefits, holiday allowance, Christmas bonus, and shift work benefit. They also have the right to other benefits such as death allowance and funeral benefit.

185. The retirement system is an autonomous system, where the amount of the retirement pension depends on the number of years working in Public Administration and on the salary received according to the

worker's category at the date of retirement (Article 258 and following Articles of the SPAE).

186. In what concerns the provision of the necessary means to allow parents to conciliate their family obligations with their professional responsibilities, it is worth nothing that the MSAR Government has the duty to promote the creation and functioning of a network of nurseries (Article 8 (3) of Law 6/94/M, of 1 August).

187. The nurseries are institutions with the objective of receiving children with ages ranging from 3 months to 3 years, that provide them with adequate conditions for their development, as a means of support to their families during working hours or in other situations that do not allow parents to keep their children within the family unit for a certain period of time (Article 3 (1) (a), of Decree-Law 90/88/M, of 27 September).

188. Until September 2002, the total number of children in the 51 nurseries in the MSAR was 3,673. Three of these nurseries are public and 26 receive Government subsidies.

189. As to women's *de facto* situation regarding work, it should be noted that the employment survey results regarding the periods prior to 2002 were adjusted according to the revision of the population estimates, which was carried out following the disclosure of the 2001 Census results. It is possible to infer this situation from the tables below.

### Employed population by gender (10<sup>3</sup>)

Gender		Total				Employed				Unemployed			
		1999	2000	2001	2002	1999	2000	2001	2002	1999	2000	2001	2002
Total	MF	209,4	209,5	216,7	214,0	196,1	195,3	202,8	200,6	13,2	14,2	13,9	13,4
	M	113,2	113,0	116,2	112,9	104,2	103,2	106,7	104,1	9,1	9,8	9,4	8,9
	F	96,1	96,5	100,5	101,0	91,9	92,1	96,1	96,5	4,2	4,4	4,4	4,5

*Source: Statistic and Census Department.*

**Employment, unemployment and underemployment rates by  
gender (%)**

Gender		Activity Rate				Unemployment Rate				Underemployment Rate			
		1999	2000	2001	2002	1999	2000	2001	2002	1999	2000	2001	2002
Total	MF	65.5	64.3	64.8	62.3	6.3	6.8	6.4	6.3	1.3	3.0	3.6	3.4
	M	76.4	74.6	74.7	70.6	8.0	8.6	8.1	7.9	1.6	3.4	4.3	4.2
	F	56.1	55.3	56.2	55.1	4.4	4.6	4.4	4.5	0.9	2.4	2.7	2.6

*Source: Statistic and Census Department.*

190. It is a well-known fact that there are still differences regarding salaries between the two genders, especially in unskilled jobs. The average monthly salary earned by men in unskilled jobs in 2001 was approximately MOP 5,567.00, whereas that earned by women was MOP 3,695.00.

**Article 12: Equality of rights between men and women in health**

191. In the MSAR, there is no discrimination against women concerning health matters.

192. In fact, one of principles, which the health system is based on, expressly established in Decree-Law 24/86/M, of 15 March, that regulates the access of the population of the MSAR to health care services, is precisely the free and universal right to health care.

193. The MSAR Health Department guarantees the right to health care to all the population of the MSAR.

194. As to what concerns public health establishments, apart from a public hospital (the *Centro Hospitalar Conde São Januário*), there are also 15 public health centres, which provide health care to the population of the respective areas of the Region. Apart from this, there is also a private

hospital (the *Kiang Wu* Hospital) and 350 private health centres (including clinics and consultation offices).

195. The public health centres provide general health care for disease prevention and health promotion, prenatal care, postpartum care and vaccination, as well as personalised care, *inter alia*, ambulatory medical care, health information and education. Medication for primary health care, included in a list of essential medicines, is also supplied.

196. Health care costs are totally or partially supported by the budget of the MSAR, depending on the circumstances, in particular on the type of disease and on the patient's social and economical situations (Article 3 of Decree-Law 24/86/M as amended by Decree-Law 68/89/M, of 9 October).

197. Medication and medical assistance are free in the context of family planning, for those who are suffering or suspected of suffering from infections diseases, for drug addicts, for cancer patients, for psychiatric patients, for risk groups — such as pregnant and parturient women, children up to 10 years of age, primary and secondary school students, and persons older than 65 years of age (inclusively) — for prisoners, for Public Administration workers and for persons or families that are in a social rupture situation that determines their economic incapacity. Furthermore, health care in public hospital emergency services is also free.

198. Specifically in what concerns maternity, the MSAR Health Department provides a programme for the protection of maternity, which includes health care before, during and after delivery, all totally free.

199. The above-mentioned programme includes information and services on family planning, prevention of sexually transmissible and infections diseases, a minimum of 6 medical consultations during pregnancy,

advice on nutrition and diet, detection and follow-up of postpartum complications both of the mother and of the child, breastfeeding incentive and treatment of breastfeeding problems, detection and prevention of neonatal infections and child vaccination.

200. In 2001, this programme was used by 72.8% of the female population in reproductive age. There was an average of 8 medical consultations per pregnant woman in public health centres.

201. Prisoners who are pregnant, who have recently given birth or who have suffered an interruption of pregnancy are assisted and treated by physicians of the suitable medical field. The child that remains in prison with his/her mother has the right to undergo medical examinations to diagnose any disease that might endanger his/her normal physical and mental development (Article 43 of Decree-Law 40/94/M, of 25 July, which approves the system for the execution of freedom deprivation measures).

202. As to family planning, it is worth noting that the MSAR Government is legally obliged to create and support, in cooperation with the families, capable means of promoting proper training and family planning to guarantee free, responsible and conscious paternity and maternity (Article 10 (1) of Law 6/94/M).

203. The aim of family planning is to improve family health and well being, by allowing persons or couples to be able to decide, in a free and responsible way, how many children they wish to have and when they wish to have them. More precisely, family planning includes pre-nuptial and genetic counselling, information on birth control methods, infertility treatment and prevention of genetic and sexually transmissible diseases.

204. Therefore, public health centres not only provide counseling services on family planning, but also distribute freely different contraceptive methods (I.U.D., pill and condoms), according to each specific case.

205. As to abortion, although it is considered a crime under Article 136 of the Criminal Code of Macao (abortion without the consent of the pregnant woman) and under Article 1 of Decree-Law 59/95/M, of 27 November (abortion with the consent of the pregnant woman), in certain cases, the latter, which rules voluntary interruption of pregnancy, excludes criminal responsibility.

206. That is, according to Article 3 of the above-mentioned Decree-Law 59/95/M, the interruption of pregnancy is not punishable when it is carried out by or under the guidance of a physician in an official or officially recognised health establishment and with the consent of the pregnant woman when, according to medical knowledge and expertise:

- (i) it is the only means of removing death risk or serious and irreversible damage for the body or for the physical or mental health of the pregnant woman;
- (ii) it is proven to be the appropriate way to avoid death risk or serious and permanent damage to the body or physical and mental health of the pregnant woman and is carried out in the first 12 weeks of pregnancy;
- (iii) it can be foreseen with certainty that the future child will suffer in an incurable way from a serious disease or malformation and is carried out in the first 16 weeks of pregnancy; or
- (iv) there are serious reasons to believe that the pregnancy is the result of a crime against sexual freedom or self-

determination and is carried out in the first 12 weeks of pregnancy.

207. The MSAR Government also pays special attention to the issue of groups of vulnerable women.

208. Consequently, health centres have serious specially directed to more vulnerable women, such as home assistance to elderly women.

209. Besides, the MSAR Government, through the Social Welfare Institute, supports financially and technically institutions and day care centre for the physically handicapped and mentally ill, including women. These institutions and centres provide, among others, home assistance, lessons on social relations skills, personal counselling and group activities. There are 10 institutions of this kind, two of them being exclusively for women, which currently shelter a total of 109 women.

210. Health professionals are trained on the treatment process for sexually abused victims. There is a special procedure when treating a victim of sexual violence. According to this procedure, the victim must be examined by at least two physicians, be informed about the examination she will undergo and must consent to it. In case the victim's testimony (her story, the place where the incident took place, the causes and duration, ect.). This medical examination includes a series of analyses and specific tests, in particular to the hymen, prevention of venereal diseases and prevention of pregnancy.

211. In the MSAR, a programme for HIV/AIDS control and prevention has been carrying out since 1986 by the Health Department. Its essential strategy is the mandatory, but confidential, notification of the HIV/AIDS cases, diagnosis, medical treatment and counselling, totally free,



free supply of “safe” blood and the monitoring of all the blood donated in the Region.

212. In the scope of this programme, campaigns, workshops and seminars specifically for women are systematically carried out including discussions of matters such as sex and sexuality, the use of condoms, the “negotiation” of safe sex with husbands or boyfriends, an HIV hotline, psychological support to women suffering from HIV, the distribution of pamphlets and posters, etc. On the other hand, focused on certain specific risk groups, the programme includes the periodical and systematic performance of tests aimed at specific risk groups, such as blood donors, tuberculosis patients, prisoners, pregnant women, drug addicts and entertainment industry workers.

### **Article 13: Equality of rights between men and women in the areas of finance and culture**

213. In the MSAR, women also enjoy the same rights as men in the areas of finance and culture, in particular in family benefits, bank loans, mortgage loans and other types of financial credit. The same may be said in what concerns equality regarding the participation in leisure activities, in sports and in all other aspects of cultural life.

214. As previously mentioned, Article 37 of the Basic Law enshrines the freedom to engage in education, academic research, literary and artistic creation and other cultural activities. As to equal rights between men and women in culture and sports, as well as family benefits, please refer to what has been stated, respectively, about Articles 10 and 11 of the Convention.

215. As to bank loans, mortgage loans and other types of financial credit, issues that are related to legal personality and capacity, it is worth noting that, as previously mentioned, the legislation of the MSAR does not allow any kind of distinction based on gender.

216. Article 1545 of the Civil Code states that both husband and wife, regardless of the matrimonial property regime (which may be freely established by the spouses and, if not it will be the regime of participation of acquisition), are free to make bank deposits in their own names and to make movements in bank accounts. Article 1557 of the Civil Code also foresees that both husband and wife have the right to conclude contracts and assume debts without the consent of the other.

217. There is no record of the existence of any discriminatory practice as to bank loans, mortgage loans and other forms of financial credit. As previously explained, such practices would constitute a blatant violation of the fundamental right to equality, totally illicit, which may be invoked by the concerned person before a court and, as such, susceptible of generating civil liability.

#### **Article 14: Rural women**

218. Agriculture activities have no expression in the MSAR and, therefore, the distinction between rural and urban women does not exist.

219. The whole Region is equipped with sophisticated basic infrastructures and there is no gender-based discrimination in the access to them.

#### **Article 15: Equal treatment as to legal capacity and choice of domicile**

220. As thoroughly explained, in the MSAR, all human beings are considered equal before the Law.

221. Article 6 of the Basic Law assures the right to private ownership and Article 103 foresees the protection, in accordance with Law, of the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property, as well as their right to compensation for lawful deprivation of their property.

222. On the other hand, Article 33 of the Basic Law guarantees the residents the freedom of movement and of settlement in any part of the Region, as well as the freedom of emigration to other countries or regions.

223. According to what was previously mentioned on Articles 1, 2 and 13 of the Convention, there is no legal limitation to the legal capacity of women as such. No person is allowed to waive, in whole or in part, his/her legal capacity and any legal relations contrary to Law are considered void (Articles 64, 66 and 273 of the Civil Code).

224. Therefore, men and women enjoy equal rights in what concerns entering into any form of contract and administering property. It does not even exist, in the legal system of the MSAR, the concept of the head of the family.

225. As also previously mentioned, both spouses are equal and hold the administration of their own property, as well as of their income from work and are free to practise any profession or activity without the previous consent of the other spouse (Articles 1543 (1) and (2) (a) and Article 1542 of the Civil Code).

226. In what regards equal treatment in all stages of procedure in courts and tribunals, it is worth mentioning that Article 36 of the Basic Law assures to all persons, as a fundamental right, to resort to Law and to have access to the courts, to lawyers' help for protection of their lawful rights and interests and to judicial remedies.

227. Regarding ordinary law, as negative discrimination is inadmissible in any domain, there is also no difference between persons at the level of Procedural Law (be it civil procedure, administrative procedure or the criminal procedure), whatever the status of the person may be (author, witness, defendant, etc.).

228. Therefore, the requirements foreseen by Law for attaining legal assistance are also not based on the gender of the applicant but mostly with the economical needs of the applicant.

**Article 16: Equality of rights between men and women in all matters related to marriage and family relations**

229. Equality between men and women in all matters related to marriage and family relations is totally assured in the MSAR.

230. Men and women have the same right to marry on their own free will and freely choose their spouse (Article 38 of the Basic Law and Article 1 of the previously mentioned Law 6/94/M).

231. Polygamy is not allowed. In fact, marriage is understood as the contract between two people of opposite sex who aim at raising a family through a common life. The existence of a previous non-dissolved marriage is susceptible of generating the annulment of the second marriage (Articles 1462, 1479 (c) and 1504 (a) of the Civil Code).

232. Both spouses enjoy the same rights and have the same responsibilities in marriage, as well as in its dissolution (Articles 1532, 1533, 1643 of the Civil Code and Article 2 of Law 6/94/M).

233. One of the duties of both husband and wife is to provide for and contribute to family expenses according to each one's possibilities. This duty, which may subsist in case of *de facto* separation and even after the

dissolution of matrimony as maintenance obligation, although with different regimes depending on the spouse to whom the separation or divorce is ascribable, is reciprocal and regardless of gender (Articles 1536, 1537, 1556 and 1857 and following Articles of the Civil Code).

234. *De facto* marriage is recognised in the legal system of the MSAR, as the relationship between two persons who voluntarily live together in conditions similar to a married couple (Article 1471 of the Civil Code). However, the *de facto* marriage is only relevant for those over 18 years of age, that do not have any of the impediments foreseen for the celebration of marriage and that have been living in conditions similar to a married couple for at least 2 years. For the counting of these 2 years, if cohabitation started when one or both of the couple of the *de facto* marriage was a minor, the period will only start counting as from the date when the youngest has become an adult and, if any of the two has ever been married, the period will only start counting as from the date of his/her *de facto* separation (Article 1472 of the Civil Code).

235. As parents, men and women have the same rights and responsibilities, regardless their marital status, and the best interests of the child stand above any other considerations.

236. As a matter of fact, in marriage, the exercise of parental responsibility belongs jointly to both spouses (Article 1756 (1) of the Civil Code).

237. In case of divorce, *de facto* separation or marriage annulment, the child's custody, the maintenance obligations due to him/her and the way it is paid are ruled by an agreement between both parents subject to court approval. The approval is refused if the agreement does not correspond to the best interests of the child. In the absence of an agreement, the court will

decide according to the child's best interests. The custody of the child may be given to any of the parents or, in case of risk of the child's security, health, moral formation or education, to a third person or to an institution (Article 1760 of the Civil Code).

238. In the cases where filiations are established to both parents and they did not marry after the child's birth, the exercise of parental responsibility belongs to the one who holds the child's custody and it is presumed that the mother has the custody of the child. This presumption is only judicially refutable (Articles 1765 (1) and (2) of the Civil Code).

239. In case the parents are living in a *de facto* marriage, the exercise of parental responsibility belongs to both when they declare so to the civil registry. In the absence of such an agreement, it is the responsibility of the court to decide and the best interests of the child are the criteria (Article 1765 (3) of the Civil Code).

240. For the concrete actions taken by the MSAR Government in the scope of family planning, please refer to the aforementioned information in this report regarding Article 12 of the Convention.

241. Men and women enjoy the same rights and responsibilities in terms of guardianship and adoption of children.

242. Minors whose parents have deceased, have been withdrawn their parental responsibility in taking any decisions concerning their child, have been forbidden to exercise their right to parental responsibility for over six months or are unknown, are legally subject to guardianship (Article 1778 of the Civil Code).

243. The guardian will be the person chosen by the parents, subject to court approval, or the person designated by the court. Gender is not a determinant nor impeditive factor for being a guardian, nor does it

make any difference in the determination of the responsibilities to which the guardian is subject to (Articles 1784, 1789 and 1791 of the Civil Code).

244. As to adoption, being a woman does not imply any kind of discrimination, both in the establishment of the adoption relation and in the responsibilities arising from that relation (Articles 1828, 1830, 1831 and 1838 of the Civil Code).

245. Husband and wife enjoy the same personal rights, including the choice of family name, profession and occupation.

246. Regarding family name, Article 1538 of the Civil Code foresees that husband and wife keep their own surnames, and may, according to their will, add their spouse's surnames up to a number of two. The right to add the spouse's surnames cannot be exercised by the spouse that maintains surnames from a previous marriage.

247. The child will have the surnames of the father and the mother or of only one of them. The choice of the first name and surnames of the child is decided by the parents and when they fail to do so, the judge will decide according to the best interests of the child (Article 1730 of the Civil Code).

248. According to Article 35 of the Basic Law, Article 1542 of the Civil Code states that each spouse may practise any profession or activity without the other's consent.

249. As previously mentioned, both spouses have the same rights regarding ownership, acquisition, management, administration, enjoyment and disposition of property.

250. The only differences result from the matrimonial property regime, which is chosen by the spouses on their own free will (if not established by the spouses it will be the regime of participation of

acquisitions). The other matrimonial property regimes are separate property, community of acquisitions and community property. The definition of what is considered to be common property or not depends on which type of matrimonial property regime was chosen. Notwithstanding what is considered to be common property or not according to the matrimonial property regime, Article 1543 of the Civil Code stipulates that each spouse has the administration of their own property, as well as of:

- i) his/her income from work;
- ii) his/her intellectual property;
- iii) the common property he/she took into the marriage or freely acquired after the marriage, as well as those subrogated in their place;
- iv) the property which has been donated to or inherited by both spouses with the exclusion of the administration of the other spouse, except if it is the case of property donated or inherited as the other spouse's legitimate portion;
- v) the movable property, common or not, exclusively used by him/her as a work instrument;
- vi) the common property or the property belonging to the other spouse, if he/she is unable to administer them for being in a distant or unknown location or for any other reason (and provided that a procuration for the administration of this property has not been given to another person); and
- vii) the common property or the property belonging to the other spouse if he/she grants him/her that power.



251. As to the disposition or burden of movable property, when it is common property whose administration is the responsibility of both spouses, the disposition or burden needs the agreement of both spouses, except if it is an act of ordinary administration (Article 1547 (1) of the Civil Code).

252. Regarding movable property, common or not, over which one of the spouses has the administration, each one of the spouses can dispose or burden without the consent of the other, except if it is movable property used by both in their family life, or as a common work instrument, or if it is movable property belonging exclusively to the spouse who does not administer them, except in this latter case if it is an act of ordinary administration (Article 1547 (2) and (3) of the Civil Code).

253. In what regards real estate property, the disposition, burden, renting or constitution of other rights *in rem* over the common real estate property or business, requires the consent of both spouses. Each spouse may freely dispose, burden, rent or constitute other rights *in rem* over his/her real property (Article 1548 of the Civil Code).

254. Disposition, burden, renting or constitution of rights *in rem* over the family house always needs, regardless the matrimonial property regime, the consent of both spouses (Article 1548 of the Civil Code).

255. Under the terms of Article 1550 of the Civil Code, none of the spouses needs the other's consent to accept donations, inheritances or legacies, nor to refuse inheritances and legacies, except if, as far as a refusal is concerned, the marriage is ruled by the regime of common property.

256. In the same way, both husband and wife have the right to conclude contracts and to assume debts without the other's consent (Article 1557 of the Civil Code).

257. The minimum age to marry is 18, when a person becomes an adult (Article 118 of the Civil Code).

258. However, a minor with age ranging from 16 to 18 may marry, given he/she has the consent of his/her parents, who exercise their parental responsibility, or of his/her guardian. The court may, however, supersede the absence of consent if there are ponderous reasons that justify the celebration of the marriage and the minor proves to be sufficiently mature both physically and psychologically (Article 1487 of the Civil Code).

259. Under the terms of Article 120 of the Civil Code, the minor is emancipated by marriage.

260. Marriage celebrated by a minor of age between 16 and 18 with no consent from the parents (or guardian) or the court has as a consequence the non-emancipation of the minor as to the administration of property that he/she brings to the marriage or that he/she latter acquires freely until he/she becomes an adult. He/she is, nevertheless, given the necessary means for his/her survival (Article 1521 of the Civil Code).

261. The marriage of a 16-year-old minor (minor under the legal age of marriage) may be annulled. This annulled marriage may however be considered valid if, before the judicial decision of annulment acquires the effect of *res judicata*, the minor becomes an adult and confirms the marriage (respectively, Article 1479 (a), conjugated with Article 1504 (a) and Article 1506(1) (a) of the Civil Code).

262. Marriages that have taken place in the MSAR have to be registered and all marriages that do not contravene the public order of the MSAR are also admitted to register, upon requirement (Article 1523 of the Civil Code and Article 1 (1) (d) of the Civil Registration Code).

263. When marriages are not registered, they cannot be invoked by the spouses or their heirs, or by a third person, until its registration. Its civil effects retroact to the date of the marriage as soon as it is registered (Articles 1530 and 1531 of the Civil Code).

## ANNEX I — QUOTED LEGISLATION

1. Basic Law of the Macao Special Administrative Region of the People's Republic of China;
2. Civil Code;
3. Criminal Code of Macao;
4. Administrative Procedure Code;
5. Civil Registration Code;
6. Decree-Law 57/82/M, of 22 October, which approves the Regulation on Health and Safety in Industrial Work Sites;
7. Decree-Law 24/86/M, of 15 March, as amended by Decree-Law 68/89/M, of 9 October, which regulates the access of the Macao's population to health care services;
8. Decree-Law 90/88/M, of 27 September, which establishes the general conditions which the social equipment is subject to, as licensed by the Social Welfare Institute;
9. Decree-Law 24/89/M, of 3 April, which establishes a set of rules that regulates labour relations in Macao;
10. Decree-Law 37/89/M, of 22 May, which approves the Regulation on Health and Safety in Commercial Establishments, Offices and Services;
11. Decree-Law 87/89/M, of 21 December, as last amended by Law 24/96/M, of 19 August, which approves the Statute of the Public Administration's Employees (SPAÉ);
12. Law 11/91/M, of 29 August, which establishes the legal framework on educational system;
13. Order 7/SAAEJ/92, of 13 July, which defines the conditions in which the educational compensation actions, in Portuguese schools and in Chinese schools, are carried out — revokes Order 36/85/ECT;
14. Order 18/SAAEJ/93, of 26 July, which approves the rules concerning

the development of extra-curricular activities;

15. Decree-Law 58/93/M, of 18 October, which approves the social security regime — revocations;
16. Decree-Law 40/94/M, of 25 July, which approves the regime for carrying out the measures of deprivation of liberty — revocations;
17. Law 6/94/M, of 1 August, which approves the legal framework on family policy;
18. Decree-Law 62/94/M, of 19 December, which approves the social security fund for education/educational purposes and social educational support — revokes Decree-Laws 17 and 18/90/M, of 14 May;
19. Decree-Law 52/95/M, 9 October, which sets the rules for labour relations to guarantee equal opportunities and treatment for workers of both genders — revokes;
20. Decree-Law 59/95/M, of 27 November, which rules the interruption of pregnancy;
21. Order 39/GM/97, of 30 June, which rules the conditions on which Social Security Fund beneficiaries may benefit from maternity benefits as well as its amount;
22. Law 6/97/M, of 30 July, which establishes the legal regime against organised crime;
23. Law 4/98/M, of 27 July, which approves the legal framework on employment and labour rights;
24. Decree-Law 24/99/M, of 21 June, which restructures the Macao Social Welfare Institute, including the Bureau for the Prevention and Treatment of Drug Addiction — revocations;
25. Law 2/99/M, of 9 August, which establishes the regime of the right of association;
26. Decree-Law 42/99/M, of 16 August, which establishes the compulsory

- education system and young persons between the ages of 5 and 15;
27. Law 1/1999, 20 December, which approves the Reunification Law;
  28. Law 7/1999, 20 December, which approves the Regulation on the Requirements regarding the Nationality of residents of the MSAR;
  29. Law 8/1999, 20 December, which approves the regime on Permanent Residents and the Residence Right in the MSAR;
  30. Law 12/2000, 18 December, which approves the Law on Registration of Voters;
  31. Law 3/2001, 3 May, which approves the Electoral Law for Legislative Assembly.

#### ANNEX II — QUOTED MULTILATERAL TREATIES

1. Slavery Convention, signed at Geneva on 25 September 1926;
2. Convention No. 29 concerning Forced or Compulsory Labour, adopted at Geneva on 28 June 1930;
3. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of others, adopted at Lake Success, New York on 2 December 1949;
4. Convention No. 81 concerning Labour Inspection in Industry and Commerce, adopted at Geneva on 11 July 1947;
5. Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, adopted at Geneva on 29 June 1951;
6. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, done at Geneva on 7 September 1956;
7. Convention No. 105 concerning the Abolition of Forced Labour, adopted at Geneva on 25 June 1957;

8. Convention No. 111 concerning Discrimination in Respect of Employment and Occupation, adopted at Geneva on 25 June 1958;
9. Convention Against Discrimination in Education, adopted at Paris on 14 December 1960;
10. Convention No. 122 concerning Employment Policy, adopted at Geneva on 9 July 1964;
11. International Covenant on Civil and Political Rights, adopted at New York on 16 December 1966;
12. International Covenant on Economic, Social and Cultural Rights, adopted at New York on 16 December 1966.

**WRITTEN QUESTIONS & ANSWERS TO THE LIST  
OF ISSUES FOR TAKEN INTO CONSIDERATION  
OF THE COMBINED FIFTH AND SIXTH PERIODIC  
REPORT OF CHINA CONCERNING THE RIGHTS  
COVERED IN THE CEDAW<sup>\* \*\*</sup>**

**(PART III)**

**MACAO SPECIAL ADMINISTRATIVE REGION**

**General**

**29. Please provide information on the process of preparing the report. This information should indicate which Government departments and institutions were involved and the nature and extent of their participation, whether consultations were held with non-**

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<sup>\*</sup> CEDAW/C/CHN/Q/6, 21 February 2006.

<sup>\*\*</sup> The present document corresponds to the version sent by the State Party in relation to Macao SAR. Minor editing differences exist between this version and the one made available online by the Committee — CEDAW/C/CHN/Q/6/Add.1, 8 June 2006.



**-governmental organizations and whether the report was presented to the Assembly.**

In the Macao Special Administrative Region (MSAR), the preparation of reports under international treaties falls within the competence of the MSAR Executive.

Nevertheless, reports are always a product of collective work involving several entities and bodies from all sectors of the society, depending upon their object and/or purpose.

In the specific case of this report, although it was drafted by the International Law Office under the supervision of the MSAR Secretary for Administration and Justice, its preparation involved all the Government departments and institutions, which are competent in each one of the subject matters within the scope of the relevant provisions of the Convention. Comments and opinions were also requested to other entities, such as the Office of the President of the Court of Final Appeal, Public Prosecutors Office and Macao Foundation. Moreover, it is worthwhile to stress that the MSAR Legislative Assembly was also involved in its preparation as it kindly accepted to give its contribution.

Another aspect is that of the concrete way of preparing it. Actually, the first step consisted of the divulgation of the Convention to the general public (which takes place continuously). Secondly, opinions, data, and statistical information were collected from the relevant sources. Then, the report was drafted and, after its submission to the United Nations, posted on the MSAR Government *website*.

The entities of the MSAR Government involved in the preparation of the report as described were: the Cultural Institute, Economic Services Department, Education and Youth Affairs Department, Health Department, Identification Department, International Law Office,

Judicial and Legal Training Centre, Labour Affairs Department, Legal Affairs Department, Macao Polytechnic Institute, Macao Sports Development Board, Macao Trade and Investment Promotion Institute, Office for Security Co-ordination, Public Administration and Civil Service Department, Social Welfare Institute, Statistic and Census Department, Students Welfare Fund, Tertiary Education Services Office, Unitary Police Service and University of Macau.

**30. Please indicate what mechanisms, such as a national machinery for the advancement of women, are in place in Macao Special Administrative Region to promote gender equality and the implementation of the Convention?**

Notwithstanding that the MSAR law expressly guarantees at all levels gender equality as referred in the report and that its application does not raise many problems, it is a fact that gender inequalities still exist.

Cultural and social factors are at the genesis of the persistence of gender disparities. The MSAR Government, recognizing that education and public awareness can be an important means of improving the situation and aiming to enhance the well being of the population, has been systematically launching public campaigns on human rights, including women's rights.

Based on the idea of community responsibility and partnership, the MSAR Government financially supports most of the existing private centres, shelters, schools, associations, etc., working in the field of the protection of women and children. It also grants, as appropriate, public political support to those entities and/or activities carried out by them.

For instance, in November 2003, a public event "Say Goodbye to All Forms of Discrimination against Women" was organized by the

Legal Affairs Department and the Public Administration and Civil Services Department in conjunction with the Women's Association of Macao, comprising lectures on gender inequalities and ways of preventing them. The President of the Women's Association of Macao and the Secretary for Administration and Justice pledged to work together in order to contribute to a more just and harmonious society, with equality between men and women and mutual respect and support. Shortly after the event, the Association established an SOS hotline in its delegation in the northern part of Macao to help women with problems. In February 2004, representatives of several women's associations participated in a regional conference organized by the *All-China Women's Federation* to discuss solutions for domestic violence and poverty.

On 23 May 2005, the Consultative Commission for Women's Affairs was established (Administrative Regulation 6/2005). Its main purposes are to promote women's rights and interests and the improvement of their conditions of life, to promote effective sharing of responsibilities at the political, economical, cultural, social, professional and family levels, to contribute to the realization of opportunities, of rights and of dignity of women and to encourage the full participation of women in the development of the MSAR.

## **Violence against women**

**31. Please provide detailed data on violence against women, including domestic and sexual violence. Please specify, out of the total number of reported incidents, the percentage of cases (i) investigated by the police, (ii) brought to Court and (iii) having led to a conviction.**

The only available data relates to complaints lodged with the

Police is as follows:

Crimes against sexual liberty				
	2003	2004	2005	Total
<b>Rape</b>	13	16	18	47
<b>Procurement</b>	18	20	37	75
<b>Sexual Coercion</b>	1	2	5	8
<b>Others</b>	0	1	0	1

*Source: Office for Security Co-ordination*

Estimates regarding domestic violence				
Year	No. of crimes against life	No. of crimes against physical integrity	Annual total no. of both types of crimes	No. of crimes reported as a result of domestic violence
<b>2003</b>	13	1,684	1,697	347
<b>2004</b>	10	1,697	1,707	333
<b>2005</b>	7	1,707	1,714	326

*Source: Office for Security Co-ordination*

### Stereotypes and education

**32. Please provide detailed information on the measures taken by the Government to modify social and cultural patterns of behaviour that lead to stereotyping and reinforce the idea of the inferiority of women (CEDAW/C/CHN/5-6/Add.2, para. 66). Indicate in particular any strategies in place to eradicate stereotypes through the education system.**

Please refer to the response to question 30.

Decree-law 52/95/M, on the rules and policy guarantee that in the work relationship, the principles of non-discrimination, equal opportunities, equality of remuneration, equality of access to job careers, and equality of treatment in terms of social security was one of the first

concrete measures taken towards fighting/eradicating stereotypes. Each government department, within its field of competences, must comply with the mentioned principles. In this way, whatever the activities, it is a legal obligation to enhance equality.

Furthermore, the MSAR Government has adopted a policy of supporting education at all levels, in particular, through the allocation of financial assistance to schools and students. As a result, some improvements were attained. Statistics show that women are slowly progressing in society, especially at the level of the young generation, as can be seen from the facts that numbers of female and male students at the various education levels are similar, that the rate of success in school is similar, etc.

The education system is based on the principle that everyone has the right to education and it is orientated to favour the global development of the personality, the social progress and the democratization of the society. Article 122 (1) of the Basic Law guarantees that all educational institutions in the MSAR shall enjoy their autonomy and teaching and academic freedom in accordance with law. Therefore, the Government has to respect the autonomy of private schools and does not interfere with their programmes of education but, by law, it is compulsory to obey by the principle of equality of opportunities in the access to and achievement in education. To eliminate stereotyped roles, the Education and Youth Affairs Department often organizes workshops and seminars, inviting parents and teachers within the general programme of parents education. And several schools promote elimination of gender stereotyping by means of seminars, projects, programmes, workshops, conferences, surveys, etc. on the subjects of sexual education and personal and social development.

## Employment

**33. The report indicates that public and private sector labour laws are under revision (ibid., para. 63), and that, as regards to reform of labour law in the private sector (ibid., para. 64), the MSAR has proposed the elimination of the limit of three deliveries and the increase of the number of days of leave. Please provide information on the status of the revision of labour laws.**

The revision of the labour law is not yet finished. Regarding the elimination of the limit of deliveries and the increase of the number of days of leave, it should be noted that the MSAR Government has introduced these as a part of the revision of the labour law.

However, a new Labour Procedure Code, applicable to the private sector, was adopted whereby some of the procedures were simplified in order to make it easier for the workers to enforce their rights. There is also a study on a new project of law on the social security framework of the public sector.

**34. The report indicates that there are still differences between women and men regarding salaries, particularly in unskilled jobs (ibid., para. 190). Please provide information on the measures taken to remedy this situation.**

Regarding paragraph 190 of the report, it should be clarified that there are no statistics in the MSAR of remuneration by one's gender, quantity, nature and quality of work. The existing statistics are only the median monthly employment income by industry and sex. The figures shown in the referred paragraph are overall medians reflecting differences between the salaries of males and females, which are due to several reasons, such as nature of industry, size of company or number of year of

experience of the worker, etc. Nevertheless, they indicate that there are differences between the salaries of males and females.

## **PART III**

# **CONCLUDING OBSERVATIONS OF THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN**





## 2006 CONCLUDING COMMENTS OF THE CEDAW IN RELATION TO MACAO SAR \* \*\* \*\*\*

### China

1. The Committee considered the combined fifth and sixth periodic reports of China (CEDAW/C/CHN/5-6 and Add. 1 and 2) at its 743<sup>rd</sup> and 744<sup>th</sup> meetings, on 10 August 2006 (see CEDAW/C/SR.743 and 744). Addendum 1 to the combined fifth and sixth periodic reports covered the implementation of the Convention by the Government of the Hong Kong Special Administrative Region, over which the Government of China resumed the exercise of sovereignty on 1 July 1997. Addendum 2 covered the implementation of the Convention by the Government of the Macao Special Administrative Region, over which the Government of China resumed the exercise of sovereignty on 20 December 1999. The Committee's list of issues and questions is contained in document CEDAW/C/CHN/Q/6 and the responses of China are contained in document CEDAW/C/CHN/Q/6/Add.1.

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\* CEDAW/C/CHC/CO/6, 25 August 2006.

\*\* Consideration of reports submitted by States Parties under Article 18 of the Convention.

\*\*\* The present are extracts of the CEDAW comments which are relevant to Macau SAR.

## Introduction

2. The Committee commends the State party for submitting its combined fifth and sixth periodic reports and addenda, which followed the Committee's guidelines for the preparation of periodic reports and have taken into account the Committee's previous concluding comments. It regrets, however, that the report was overdue and did not state whether the Committee's general recommendations had been taken into account. The Committee further regrets that the report fails to provide sufficient statistical data disaggregated by sex as well as analytical information on the *de facto* situation of women in China.

3. The Committee expresses appreciation to the State party for the written replies to the list of issues and questions of the pre-session working group and for the oral presentation and further clarification offered in response to the questions posed orally by the Committee.

4. The Committee commends the State party for having sent a large and high-level delegation, headed by the Executive Vice-Chairperson of the National Working Committee on Women and Children of the State Council, which included representatives of the central Government and of the Hong Kong Special Administrative Region and the Macao Special Administrative Region. It expresses appreciation that the delegation included specialists from different ministries and departments of the central Government, including the Ministries of Foreign Affairs, Education, Civil Affairs, Health, Labour and Social Security, and Personnel, and the National Population and Family Planning Commission, the Supreme Court, and the State Ethnic Affairs Commission, as well as from the Hong Kong Special Administrative Region and the Macao Special Administrative Region. The Committee appreciates the frank and constructive dialogue that took place between the delegation and the members of the Committee.

### **Positive aspects**

5. [...].

6. [...].

7. The Committee commends the State party for the continuing applicability of the Convention to the Macao Special Administrative Region following resumption of Chinese sovereignty over Macao on 20 December 1999 under the principle of “one country, two systems”.

[...].

### **Principal areas of concern and recommendations pertaining to the Macao Special Administrative Region**

45. The Committee notes with concern the increase, in recent years, in the number of rape, procurement and domestic violence cases in the Macao Special Administrative Region. It also expresses concern at the absence of specific legislation to address sexual harassment in the workplace.

46. The Committee urges the State party to give priority to putting in place preventive measures to address all forms of violence against women, in accordance with its general recommendation 19. It recommends that research be conducted on the prevalence, causes and consequences of all forms of violence against women, including domestic violence, to serve as the basis for comprehensive and targeted intervention and to include the results in its next periodic report. It recommends that the Government of the Macao Special Administrative Region ensure that women and girls who are victims of violence have access to immediate means of redress and protection and that perpetrators are prosecuted and punished. Moreover, it encourages the State party to see to the provision of shelters and counselling

services for victims of violence. The Committee further urges the Government of the Macao Special Administrative Region to specifically include sexual harassment in the workplace in its legislation and to report on the implementation of such provisions in its next periodic report.

47. The Committee is concerned at the lack of information on women's representation in public and political life in the Macao Special Administrative Region.

48. The Committee requests the Government of the Macao Special Administrative Region to provide sufficient data and information on women in public and political arenas disaggregated by sex, including information on temporary special measures under article 4, paragraph 1, of the Convention and the Committee's general recommendation 25, in its next periodic report.

49. The Committee notes with concern that women's non-governmental organizations have not been fully involved in the process of elaborating the report. As a result, the impact of the reporting process as an aspect of the holistic approach to the ongoing implementation of the Convention may be limited.

50. The Committee calls upon the State party to strengthen the coordination with women's non-governmental organizations as a means to enhance the implementation of the provisions of the Convention, the follow-up to the concluding comments of the Committee and the preparation of future periodic reports under article 18 of the Convention.

51. [...].

52. [...].

53. [...].

54. [...].

55. The committee requests the wide dissemination in China, the Hong Kong Special Administrative Region and the Macao Special Administrative Region of the present concluding comments in order to make the people, including government officials, politicians, parliamentarians and women's and human rights organizations, aware of the steps that have been taken to ensure the *de jure* and *de facto* equality of women, as well as the further steps that are required in that regard. The Committee requests the State party to continue to disseminate widely, in particular to women's and human rights organizations, the Convention, its Optional Protocol, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly, entitled "Women 2000: gender equality, development and peace for the twenty-first century".

56. The Committee requests the State party to respond to the concerns expressed in the present concluding comments in its next periodic report under article 18 of the Convention. It invites the State party to submit its seventh periodic report, due in September 2006, and its eighth periodic report, due in September 2010, in a combined report in 2010.