

**M A C A U
LAW JOURNAL**

SPECIAL ISSUE

**THE IMPLEMENTATION OF THE
INTERNATIONAL CONVENTION ON THE
ELIMINATION OF ALL FORMS OF RACIAL
DISCRIMINATION IN MACAO**

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PREFACE

This second volume 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).

This volume addresses the application to the Macao SAR of the International Convention on the Elimination of All Forms of Racial Discrimination, wherein all the relevant documents related to the implementation of the Convention to the Macao SAR can be found in a systematic and comprehensive manner.

Once again we hope with this initiative to provide legal practitioners with a useful working tool that will both enhance and encourage the study of Human Rights in the Macao SAR and develop the study of International Law in the academic *curricula*.

The Executive-Director

Jorge Costa Oliveira

PART I

The ICERD and its application to Macao

**INTERNATIONAL CONVENTION ON THE
ELIMINATION OF ALL FORMS OF RACIAL
DISCRIMINATION * ****

The States Parties to this Convention,

Considering that the Charter of the United Nations is based on the principles of the dignity and equality inherent in all human beings, and that all Member States have pledged themselves to take joint and separate action, in co-operation with the Organization, for the achievement of one of the purposes of the United Nations which is to promote and encourage universal respect for and observance of human rights and fundamental freedoms for all, without distinction as to race, sex, language or religion,

Considering that the Universal Declaration of Human Rights 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 out

* Adopted at New York, on 21 December 1965.

** Published in the Official Gazette of Macau n.º 37, I Serie, 14 September 1998.

therein, without distinction of any kind, in particular as to race, colour or national origin,

Considering that all human beings are equal before the law and are entitled to equal protection of the law against any discrimination and against any incitement to discrimination,

Considering that the United Nations has condemned colonialism and all practices of segregation and discrimination associated therewith, in whatever form and wherever they exist, and that the Declaration on the Granting of Independence to Colonial Countries and Peoples of 14 December 1960 (General Assembly resolution 1514 (XV)) has affirmed and solemnly proclaimed the necessity of bringing them to a speedy and unconditional end,

Considering that the United Nations Declaration on the Elimination of All Forms of Racial Discrimination of 20 November 1963 (General Assembly resolution 1904 (XVIII)) solemnly affirms the necessity of speedily eliminating racial discrimination throughout the world in all its forms and manifestations and of securing understanding of and respect for the dignity of the human person,

Convinced that any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere,

Reaffirming that discrimination between human beings on the grounds of race, colour or ethnic origin is an obstacle to friendly and peaceful relations among nations and is capable of disturbing peace and security among peoples and the harmony of persons living side by side even within one and the same State,

Convinced that the existence of racial barriers is repugnant to the ideals of any human society,

Alarmed by manifestations of racial discrimination still in evidence in some areas of the world and by governmental policies based on racial superiority or hatred, such as policies of apartheid, segregation or separation,

Resolved to adopt all necessary measures for speedily eliminating racial discrimination in all its forms and manifestations, and to prevent and combat racist doctrines and practices in order to promote understanding between races and to build an international community free from all forms of racial segregation and racial discrimination,

Bearing in mind the Convention concerning Discrimination in respect of Employment and Occupation adopted by the International Labour Organisation in 1958, and the Convention against Discrimination in Education adopted by the United Nations measures to that end,

Desiring to implement the principles embodied in the United Nations Declaration on the Elimination of All Forms of Racial Discrimination and to secure the earliest adoption of practical measures to that end,

Have agreed as follows:

PART I

Article 1

1. In this Convention, the term “racial discrimination” shall mean any distinction, exclusion, restriction or preference based on race, colour,

descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.

2. This Convention shall not apply to distinctions, exclusions, restrictions or preferences made by a State Party to this Convention between citizens and non-citizens.

3. Nothing in this Convention may be interpreted as affecting in any way the legal provisions of States Parties concerning nationality, citizenship or naturalization, provided that such provisions do not discriminate against any particular nationality.

4. Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.

Article 2

1. States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

(a) Each State Party undertakes to engage in no act or practice of

racial discrimination against persons, groups of persons or institutions and to ensure that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

(b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;

(c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;

(d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization;

(e) Each State party undertakes to encourage, where appropriate, integrationist multiracial organizations and movements and other means of eliminating barriers between races, and to discourage anything which tends to strengthen racial division.

2. States Parties shall, when the circumstances so warrant, take, in the social, economic, cultural and other fields, special and concrete measures to ensure the adequate development and protection of certain racial groups or individuals belonging to them, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms. These measures shall in no case entail as a consequence the maintenance of unequal or separate rights for different racial groups after the objectives for which they were taken have been achieved.

Article 3

States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature

in territories under their jurisdiction.

Article 4

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, *inter alia*:

(a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

(b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.

Article 5

In compliance with the fundamental obligations laid down in article

2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights:

(a) The right to equal treatment before the tribunals and all other organs administering justice;

(b) The right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution;

(c) Political rights, in particular the right to participate in elections - to vote and to stand for election - on the basis of universal and equal suffrage, to take part in the Government as well as in the conduct of public affairs at any level and to have equal access to public service;

(d) Other civil rights, in particular:

(i) The right to freedom of movement and residence within the border of the State;

(ii) The right to leave any country, including one's own, and to return to one's country;

(iii) The right to nationality;

(iv) The right to marriage and choice of spouse;

(v) The right to own property alone as well as in association with others;

(vi) The right to inherit;

(vii) The right to freedom of thought, conscience and religion;

(viii) The right to freedom of opinion and expression;

(ix) The right to freedom of peaceful assembly and association;

(e) Economic, social and cultural rights, in particular:

- (i)* The rights to work, to free choice of employment, to just and favourable conditions of work, to protection against unemployment, to equal pay for equal work, to just and favourable remuneration;
- (ii)* The right to form and join trade unions;
- (iii)* The right to housing;
- (iv)* The right to public health, medical care, social security and social services;
- (v)* The right to education and training;
- (vi)* The right to equal participation in cultural activities;
- (f)* The right of access to any place or service intended for use by the general public, such as transport hotels, restaurants, cafes, theatres and parks.

Article 6

States Parties shall assure to everyone within their jurisdiction effective protection and remedies, through the competent national tribunals and other State institutions, against any acts of racial discrimination which violate his human rights and fundamental freedoms contrary to this Convention, as well as the right to seek from such tribunals just and adequate reparation or satisfaction for any damage suffered as a result of such discrimination.

Article 7

States Parties undertake to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and

to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.

PART II

Article 8

1. There shall be established a Committee on the Elimination of Racial Discrimination (hereinafter referred to as the Committee) consisting of eighteen experts of high moral standing and acknowledged impartiality elected by States Parties from among their nationals, who 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 of the principal legal systems.

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

3. The initial election shall be held six month after the date of the entry into force of this 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 be 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. (a) 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;

(b) 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.

6. States Parties shall be responsible for the expenses of the members of the Committee while they are in performance of Committee duties.

Article 9

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 and which give effect to the provisions of this Convention:

(a) within one year after the entry into force of the Convention for the State concerned; and

(b) thereafter every two years and whenever the Committee so requests. The Committee may request further information from the States

Parties.

2. The Committee shall report annually, through the Secretary-General, to the General Assembly of the United Nations on its activities and may make suggestions and general recommendations based on the examination of the reports and information received from the States Parties. Such suggestions and general recommendations shall be reported to the General Assembly together with comments, if any, from States Parties.

Article 10

1. The Committee shall adopt its own rules of procedure.

2. The Committee shall elect its officers for a term of two years.

3. The secretariat of the Committee shall be provided by the Secretary-General of the United Nations.

4. The meetings of the Committee shall normally be held at United Nations Headquarters.

Article 11

1. If a State Party considers that another State Party is not giving effect to the provisions of this Convention, it may bring the matter to the attention of the Committee. The Committee shall then transmit the communication to the State Party concerned. Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

2. If the matter is not adjusted to the satisfaction of both parties, either by bilateral negotiations or by any other procedure open to them, within six months after the receipt by the receiving State of the initial

communication, either State shall have the right to refer the matter again to the Committee by notifying the Committee and also the other State.

3. The Committee shall deal with a matter referred to it in accordance with paragraph 2 of this article after it has ascertained that all available domestic remedies have been invoked and exhausted in the case, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged.

4. If any matter referred to it, the Committee may call upon the States Parties concerned to supply any other relevant information.

5. When any matter arising out of this article is being considered by the Committee, the States Parties concerned shall be entitled to send a representative to take part in the proceedings of the Committee, without voting rights, while the matter is under consideration.

Article 12

1. (a) After the Committee has obtained and collated all the information it deems necessary, the Chairman shall appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission) comprising five persons who may or may not be members of the Committee. The members of the Commission shall be appointed with the unanimous consent of the parties to the dispute, and its good offices shall be made available to the States concerned with a view to an amicable solution of the matter on the basis of respect for this Convention;

(b) If the States Parties to the dispute fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission not agreed upon by the States Parties to the

dispute shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its own members.

2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States Parties to the dispute or of a State not Party to this Convention.

3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. The meetings of the Commission shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Commission.

5. The secretariat provided in accordance with article 10, paragraph 3, of this Convention shall also service the Commission whenever a dispute among States Parties brings the Commission into being.

6. The States Parties to the dispute shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.

7. The Secretary-General shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties to the dispute in accordance with paragraph 6 of this article.

8. The information obtained and collated by the Committee shall be made available to the Commission, and the Commission may call upon the States concerned to supply any other relevant information.

Article 13

1. When the Commission has fully considered the matter, it shall prepare and submit to the Chairman of the Committee a report embodying

its findings on all questions of fact relevant to the issue between the Parties and containing such recommendations as it may think proper for the amicable solution of the dispute.

2. The Chairman of the Committee shall communicate the report of the Commission to each of the States Parties to the dispute. These States shall, within three months, inform the Chairman of the Committee whether or not they accept the recommendations contained in the report of the Commission.

3. After the period provided for in paragraph 2 of this article, the Chairman of the Committee shall communicate the report of the Commission and the declarations of the States Parties concerned to the other States Parties to this Convention.

Article 14

1. A State Party may at any time declare that it recognizes the competence of the Committee to receive and consider communications from individuals or groups of individuals within its jurisdiction claiming to be victims of a violation by that State Party of any of the rights set forth in this Convention. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.

2. Any State Party which makes a declaration as provided for in paragraph 1 of this article may establish or indicate a body within its national legal order which shall be competent to receive and consider petitions from individuals and groups of individuals within its jurisdiction who claim to be victims of a violation of any of the rights set forth in this Convention and who have exhausted other available local remedies.

3. A declaration made in accordance with paragraph 1 of this

article and the name of any body established or indicated in accordance with paragraph 2 of this article shall be deposited by the State Party concerned with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General, but such a withdrawal shall not affect communications pending before the Committee.

4. A register of petitions shall be kept by the body established or indicated in accordance with paragraph 2 of this article, and certified copies of the register shall be filed annually through appropriate channels with the Secretary-General on the understanding that the contents shall not be publicly disclosed.

5. In the event of failure to obtain satisfaction from the body established or indicated in accordance with paragraph 2 of this article, the petitioner shall have the right to communicate the matter to the Committee within six months.

6. (a) The Committee shall confidentially bring any communication referred to it to the attention of the State Party alleged to be violating any provision of this Convention, but the identity of the individual or groups of individuals concerned shall not be revealed without his or their express consent. The Committee shall not receive anonymous communications;

(b) Within three months, the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State.

7. (a) The Committee shall consider communications in the light of all information made available to it by the State Party concerned and

by the petitioner. The Committee shall not consider any communication from a petitioner unless it has ascertained that the petitioner has exhausted all available domestic remedies. However, this shall not be the rule where the application of the remedies is unreasonably prolonged;

(b) The Committee shall forward its suggestions and recommendations, if any, to the State Party concerned and to the petitioner.

8. The Committee shall include in its annual report a summary of such communications and, where appropriate, a summary of the explanations and statements of the States Parties concerned and of its own suggestions and recommendations.

9. The Committee shall be competent to exercise the functions provided for in this article only when at least ten States Parties to this Convention are bound by declarations in accordance with paragraph 1 of this article.

Article 15

1. Pending the achievement of the objectives of the Declaration on the Granting of Independence to Colonial Countries and Peoples, contained in General Assembly resolution 1514 (XV) of 14 December 1960, the provisions of this Convention shall in no way limit the right of petition granted to these peoples by other international instruments or by the United Nations and its specialized agencies.

2. (a) The Committee established under article 8, paragraph 1, of this Convention shall receive copies of the petitions from, and submit expressions of opinion and recommendations on these petitions to, the bodies of the United Nations which deal with matters directly related to the principles and objectives of this Convention in their consideration of

petitions from the inhabitants of Trust and Non-Self-Governing Territories and all other territories to which General Assembly resolution 1514 (XV) applies, relating to matters covered by this Convention which are before these bodies;

(b) The Committee shall receive from the competent bodies of the United Nations copies of the reports concerning the legislative, judicial, administrative or other measures directly related to the principles and objectives of this Convention applied by the administering Powers within the Territories mentioned in subparagraph (a) of this paragraph, and shall express opinions and make recommendations to these bodies.

3. The Committee shall include in its report to the General Assembly a summary of the petitions and reports it has received from United Nations bodies, and the expressions of opinion and recommendations of the Committee relating to the said petitions and reports.

4. The Committee shall request from the Secretary-General of the United Nations all information relevant to the objectives of this Convention and available to him regarding the Territories mentioned in paragraph 2 (a) of this article.

Article 16

The provisions of this Convention concerning the settlement of disputes or complaints shall be applied without prejudice to other procedures for settling disputes or complaints in the field of discrimination laid down in the constituent instruments of, or conventions adopted by, the United Nations and its specialized agencies, and shall not prevent the States Parties from having recourse to other procedures for settling a dispute in

accordance with general or special international agreements in force between them.

PART III

Article 17

1. This Convention is open for signatures by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to this Convention.

2. This Convention is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 18

1. This Convention shall be open to accession by any State referred to in article 17, paragraph 1, of the Convention.

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 19

1. This Convention shall enter into force on the thirtieth day after the date of the deposit with the Secretary-General of the United Nations of the twenty-seventh instrument of ratification or instrument of accession.

2. For each State ratifying this Convention or acceding to it after the deposit of the twenty-seventh instrument of ratification or instrument

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

Article 20

1. The Secretary-General of the United Nations shall receive and circulate to all States which are or may become Parties to this Convention reservations made by States at the time of ratification or accession. Any State which objects to the reservation shall, within a period of ninety days from the date of the said communication, notify the Secretary-General that it does not accept it.

2. A reservation incompatible with the object and purpose of this Convention shall not be permitted, nor shall a reservation the effect of which would inhibit the operation of any of the bodies established by this Convention be allowed. A reservation shall be considered incompatible or inhibitive if at least two thirds of the States Parties to this Convention object to it.

3. Reservations may be withdrawn at any time by notification to this effect addressed to the Secretary-General. Such notification shall take effect on the date on which it is received.

Article 21

A State Party may denounce this Convention by written notification to the Secretary-General of the United Nations. Denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

Article 22

Any dispute between two or more States Parties with respect to the interpretation or application of this Convention, which is not settled by negotiation or by the procedures expressly provided for in this Convention, shall, at the request of any of the parties to the dispute, be referred to the International Court of Justice for decision, unless the disputants agree to another mode of settlement.

Article 23

1. A request for the revision of this 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 24

The Secretary-General of the United Nations shall inform all States referred to in article 17, paragraph 1, of this Convention of the following particulars:

- (a) Signatures, ratifications and accessions under articles 17 and 18;
- (b) The date of entry into force of this Convention under article 19;
- (c) Communications and declarations received under articles 14, 20 and 23;
- (d) Denunciations under article 21.

Article 25

1. This Convention, of which the Chinese, English, French, Russian

and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of this Convention to all States belonging to any of the categories mentioned in article 17, paragraph 1, of the Convention.

**PORTUGUESE PRESIDENT DECREE 26/98
CONCERNING THE APPLICATION OF THE
CONVENTION TO MACAU ***

Portuguese President Decree 26/98

In accordance and for the legal effects established in Article 3 (2) and (3) and Articles 69 and 70 of the Organic Statute of Macau, I hereby decree the extension of the application of the International Convention on the Elimination of All Forms of Racial Discrimination, approved for ratification by Law 7/82, of 29 April, published in the Portuguese Official Gazette n.º 99, I Serie, of 29 April 1982, in the same terms to which the Portuguese Republic is internationally bound.

To publish in the Macau Official Gazette, 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.

* Published in the Official Gazette of Macau n.º 37, I Serie, 14 September 1998.

NOTICE OF THE CHIEF EXECUTIVE 6/2001 *

Considering that the People's Republic of China notified on 19 October 1999, the Secretary-General of the United Nations, in its capacity of depositary entity of the International Convention on the Elimination of All Forms of Racial Discrimination, adopted at New York, on 21 December 1965, 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 Law 3/1999, 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.

* Published in the Macao SAR Official Gazette n.º 2, II Serie, 10 January 2001.

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 International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter referred to as the “Convention”), to which the Government of the People’s Republic of China deposited the instrument of accession on 29 December 1981, 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 Article 22 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

‘CORE DOCUMENT’ OF THE PR OF CHINA *

(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 (km²) (approximately 5.8 km² 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).

* 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 km². 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 Chinese Mainland.

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 Mainland, 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:

Membership	<u>A.</u> <u>First term</u> 20/12/99- -15/10/2001	<u>B.</u> <u>Second term</u> 2001-2005	<u>C.</u> <u>Third and subsequent</u> <u>terms</u> 2005-2009
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 punished 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 2001 INITIAL REPORT UNDER
ARTICLE 9 OF THE CONVENTION CONCERNING
THE APPLICATION OF THE ICERD TO MACAU * ****

(PART III)

MACAO SPECIAL ADMINISTRATIVE REGION

I. Introduction

1. The present report is the first to be submitted by the Government of the People's Republic of China (PRC) under the terms of article 9 (1) of the International Convention for the Elimination of All Forms of Racial Discrimination, for the application of this Convention to the Macau Special Administrative Region of the People's Republic of

* CERD/C/357/Add. 4 (Part III), 19 April 2001.

** This document is part of the eighth and ninth periodic reports of China. (See CERD/C/357/Add. 4 (Part I)). All annexes referred to in the report may be consulted in the files of the secretariat. The information submitted by China on the Hong Kong and Macau Special Administrative Regions, in accordance with the guidelines for the initial part of the report of States Parties, is contained in HRI/CORE/1/Add.21/Rev.2.

China (hereinafter Macau SAR). The Convention took effect in Macau as of 27 May 1999.¹

2. This report, prepared as provided for in the guidelines adopted by the Committee for the Elimination of Racial Discrimination concerning the form and content of reports to be submitted by States Parties, should be read jointly with the core document on the Macau SAR, also forwarded to the Secretary-General of the United Nations. Both these documents form attachments, respectively, to the core document and to the report of China, in a form similar to that concerning the Hong Kong SAR and the PRC. General information concerning the territory and population, political structure and scheme for protection of human rights within the Macau SAR legal system can therefore be found in the core document.

3. Macau has long been a territory in which persons of many and varied races, nationalities, religious persuasions and languages mixed together, where there was no discrimination based on origin, sex, race, language, territory of origin, political or religious conviction, economic situation or social class.

4. The Macau SAR Basic Law (annex 1 to this part of the report), being a law of a constitutional character, contains certain basic principles. One of these is the principle of non-discrimination, dealt with in article 25; others include the guarantee of the rights and freedoms of Macau

¹ The text of the Convention was published in Macau *Official Gazette* n.º 37, of 14 September 1998. The continued application in the Macau SAR after 19 December 1999 of all the international agreements mentioned in this report was agreed upon by the Portuguese and Chinese sides of the Sino-Portuguese Joint Liaison Group for the Question of Macau. The Government of the People's Republic of China informed the bodies concerned that it had assumed its obligations in respect of the Macau SAR under the agreements and notified this to the Secretary-General of the United Nations, on 13 December 1999 under the terms of article 102 of the Charter of the United Nations, by a diplomatic note. These international law instruments were described in the attachments to the said diplomatic note.

residents as contained in its article 4.

5. The provisions of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights,² the International Labour Conventions and other international agreements previously in effect in Macau shall continue to be applied in the Macau SAR, independently of the PRC being a party thereto (Basic Law, arts. 40 and 138).

II. General information on the population

6. Regarding place of birth, according to the last by-census taken in 1996 (“Intercensus 96”), 44.1 per cent of the population was born in Macau, 47.1 per cent in the Chinese Mainland, 3 per cent in Hong Kong, 1.2 per cent in the Philippines, 0.9 per cent in Portugal, 0.2 per cent in Thailand and 3.5 per cent in other countries.

7. In the final quarter of 1999, there were 32,183 non-resident workers in the Macau SAR, the vast majority of whom (24,895) came from the Chinese Mainland, 3,779 from the Philippines, 1,194 from Thailand and 2,315 from other countries and/or territories.

8. On the basis of the “Intercensus 96” results, 87.1 per cent of the population are Cantonese speakers, 1.2 per cent speak Mandarin, 7.8 per cent use other Chinese dialects, 1.8 per cent speak Portuguese, 0.8 per cent speak English and 1.3 per cent other languages.

9. According to the last (XIII) General Population Census effected in 1991 (“Census 91”), 16.8 per cent of the population were Buddhists, 6.7 per cent Roman Catholics, 1.7 per cent Protestant, 13.9

² The Covenants, both dated 16 December 1966, took effect in Macau on 27 July 1993. The corresponding texts were published in the Macau *Official Gazette* n.º 52, of 21 December 1992.

per cent other religions and 60.8 per cent expressed no religious belief.

III. Information concerning Articles 2 to 7 of the Convention

Article 2

10. As may be seen in the Macau SAR legislation, discriminatory attitudes are condemned and prohibited by Macau SAR law.

11. Article 25 of the Macau SAR Basic Law provides that *“All Macau residents shall be equal before the law, and shall be free from discrimination, irrespective of their nationality, descent, race, sex, language, religion, political or ideological belief, education level, economic status or social conditions”*. This is an important legal principle of the Macau SAR, subject to limitations only in cases provided for under the law (Basic Law, art. 40, applicable to the rights and liberties enjoyed by Macau SAR residents).

12. Articles 43 and 44 of the Basic Law extend the principle of universality to persons not resident in the Macau SAR but present there who, as provided by law, enjoy the rights and liberties of residents, while the residents and any other persons present in the Macau SAR are equally bound to observe current laws.

13. The Basic Law has constitutional value and therefore takes precedence over all other laws. Any legislation conflicting with this law *“shall be amended or cease to have force”* (Basic Law, art. 145). The Basic Law stipulates a range of norms necessary for determining not only the autonomy enjoyed by the Macau SAR, but also the extent of that autonomy.

14. Article 25 of the Macau SAR Basic Law grants continuance to a constitutional precept of similar content that prevailed in Macau

before 20 December 1999 and that had been adapted in and brought into conformity with all current legislation in Macau. Thus, there has been a long tradition in Macau of accepting as pillars of the legal system the principle of equality and the prohibition of discrimination.

15. As an example of these efforts to adapt the legislation and to adopt the principle of equality in relations between the Administration and individuals, in its relations with individuals the Administration may not privilege, benefit, prejudice, deprive of any rights or exempt from any obligations any party administered, by reason of position, sex, race, language, territory of origin, religion, political or ideological persuasion, education, economic or social position (art. 5 (1), Decree-Law 57/99/M of 11 October (annex 2)).

16. Furthermore, penal legislation severely punishes the practice of acts carried out for discriminatory reasons. Article 233 of the Macau Penal Code (annex 3) punishes incitement to racial discrimination through establishment of organizations or the development of organized propaganda activities. Punishment is also meted out for use of writings, social communications media or public meetings to incite acts of violence, or to defame or injure individuals or groups by reason of their race, colour or ethnic origin.

17. Genocide, incitement thereto and agreement designed to encourage the practice thereof carry heavy prison sentences of, in the case of genocide, a maximum of 25 years' imprisonment. The Convention for the Prevention and Punishment of the Crime of Genocide, of 9 December 1948, became effective in Macau on 16 September 1999.³

18. Persons not knowing or having mastered either official

³ The text of this Convention was published in Macau *Official Gazette* n.º 48, of 29 November 1999.

language — Chinese or Portuguese — involved in administrative proceedings may have an interpreter appointed for them without payment (arts. 82, Code of Penal Procedure (annex 4), and 89, Code of Civil Procedure (annex 5)).

19. Regulations for eligibility for holding public office, contained in Decree-Law 87/89/M, of 21 December (annex 6), demand as mandatory either Chinese or Portuguese nationality and residence in Macau. Exceptionally, the Administration may nevertheless accept other nationalities for the exercise of functions of a mainly technical, scientific or educational nature which do not involve posts of director and head (art. 10, with amendments introduced under Decree-Law 62/98/M, of 28 December). Also, the Statute for Military Security Forces in Macau accepts the possibility of positions being available for persons of nationalities other than Chinese or Portuguese (art. 82, Decree-Law 66/94/M, of 30 December (annex 7)). It should be noted that during the first half of 1999 the Macau Administration employed 293 workers of nationalities other than Chinese or Portuguese out of a total of 17,391 civil servants.

Non-resident workers

20. The vast majority of non-resident workers in the Macau SAR came from the Chinese Mainland, as stated above. Their adaptation to Macau is simplified by various aspects of ethnic, linguistic and lifestyle identity.

21. Philippine nationals form another important community of non-resident workers in the Macau SAR, hence the need for the Government to institute specific measures concerning this community, on the one hand through direct initiative, on the other hand by creating conditions to enable these persons to organize and express themselves freely. One of the relevant approaches has been the creation at TDM —

Macau TV — of a specific programme, the “Philippine Hour”, managed by this community. Further, the Administration has repeatedly placed at their disposal the area of the Provisional Macau Municipal Council square for the cultural activities of the Filipino community.

Refugees

22. The Convention relating to the Status of Refugees, of 25 July 1951 and its Protocol, of 31 January 1967, entered into force in Macau on 26 July 1999 and 27 April 1999, respectively.⁴

23. At the beginning of the 1980s about 10,000 Vietnamese refugees arrived in Macau. They were welcome jointly by the Government and local organizations linked to the Catholic Church and they were assigned to the Ká-Ho Refugee Camp. There were still 518 Vietnamese nationals living there in 1987. The great majority of these refugees were eventually accepted to resettle in other countries and only a very small number of them — actually seven persons — remained in Macau and were absorbed locally. The Ká-Ho Refugee Camp was closed down at the beginning of the 1990s.

24. The Ilha Verde (Green Island) Refugee Camp is still in existence in Macau and 800 East Timorese were living there. It was largely subsidized by the Government, which — in addition to costs and accommodation — paid the cost of their repatriation. These East Timorese returned to East Timor or went to Portugal, except for about 15 of them who settled in Macau.

⁴ The texts of these Conventions were published in Macau *Official Gazette* n.ºs 44, of 38 on 29 October 1960 and 38, of 21 September 1998, respectively.

Article 3

25. No apartheid or other form of segregation or racial discrimination is practised in Macau. In addition, as stated above, each and every form of racial discrimination is condemned and forbidden by law.

26. The Central People's Government of the PRC, which is responsible for matters concerning external affairs in the Macau SAR, has always condemned any racially-oriented discriminatory practices.

27. It should be emphasized again that the penal legislation severely punishes incitement to racial discrimination, genocide or incitement thereto, and other practices violating the principle of non-discrimination (see information concerning article 4 below).

Article 4

28. The practice of acts encouraging or inciting hatred, hostility or violence is punished by criminal law, under the terms of the Macau Penal Code, articles 129 (2) (d), 229, 230, 231, 233 and 234. In addition, article 229 of the Macau Penal Code, punishes with a sentence of six months to three years any incitement to hatred against a people with the intention of provoking a war; and article 230 of the Macau Penal Code punishes with sentences of 15-25 years of imprisonment any persons who, with the aim of entirely of the group; engage in serious offences against the physical integrity of the group members; subject the group to cruel, degrading or inhuman living conditions or treatment likely to result in its total or partial elimination; transfer by violent means members of one group to another or render the group unable to procreate or give birth. Further, any person who, with intent to incite racial discrimination, encourages, founds or forms an

organization or engages in organized propaganda activities inciting or encouraging racial discrimination, hatred or violence, or participates in such organizations or activities, or assists them (inclusive of financing), or who provokes acts of violence, defaming or injuring a person or groups of persons by reason of their race, colour or ethnic origin, shall be punishable by sentences of sixth months' to eight years' imprisonment (art. 233, Penal Code).

29. The crime of homicide becomes more serious where motivated by racial, religious or political hatred (art. 129 (1) (a), Penal Code). Accordingly, article 1 of Law 7/89/M, of 4 September (annex 8) makes it illegal to publish material which, by reason of its form, subject or purpose, may offend against basic community values. Article 7 of this law specifically prohibits publicity that may encourage or incite violence and illegal or criminal activities or make deprecatory use of national or religious symbology. Law 2/99/M, of 9 August (annex 9), regulating freedom of association, prohibits the creation of associations which in any form encourage violence or violate the penal law or antagonize public order, whether in the form of military-type armed associations, militarised or paramilitary organizations, or racist organizations.

Article 5

Paragraph (a) — Right of access to the courts or other bodies administering justice

Access to the courts

30. The principle of access to the law and the courts is

constitutionally guaranteed in the Macau SAR legal system (art. 36 of the Basic Law) and forms an integral part of the principle of equality, being as such subdivided into the right of access to the courts, the right to information and the right to legal aid.

31. Law 21/88/M, of 15 August (annex 10), with amendments introduced by Decree-Law 41/94/M, of 1 August and developed by Government Regulations 265/96/M, of 28 October and 60/97/M, of 31 March, establishes the system of access to the law and the courts. This system is designed to ensure that nobody shall experience difficulties or obstacles, by reason of social or cultural position, or lack of sufficient financial means, in knowing or defending his/her rights (art. 1, Law 21/88/M).

32. Access to the law and to the courts is the joint responsibility of the Government and the members of the legal professions.

33. Law 21/88/M, of 15 August, provides for four areas of intervention: legal information, legal protection, legal counsel and legal aid.

34. At the level of legal information, Government objectives consist of actions tending to provide information about the law and the legal system through publications and other media, in Chinese and Portuguese, with a view to providing better implementation of rights and compliance with legally established laws (art. 5 of the Law). More extensive concrete details on this subject will be provided hereunder.

35. The right to legal protection is enjoyed by individual and collective persons who provide evidence of lacking adequate means to bear the costs of legal professionals and to bear the costs of a lawsuit (art. 7 of the same Law).

36. The legal aid system is contained in Decree-Law 41/94/M, of

1 August and Government Regulations 265/96/M, of 28 October, and 60/97/M, of 31 March. Legal aid includes full or partial exemption from payment of costs or their postponement, in addition to legal counsel support (art. 1 (1), Decree-Law 41/94/M). Legal aid applies to all jurisdictions independently of the applicant's position in the case, with the exception of criminal cases. In these cases only the defendants and those on whose accusation depends the exercise of penal action have the right to legal aid (art. 2, Decree-Law 41/94/M). Legal aid may be granted to all residents of the Macau SAR, even temporary ones, who prove their lack of adequate financial means to pay in full or in part the normal expenses for a lawsuit (art. 4 (1), Decree-Law 41/94/M). Legal aid is provided on an ad hoc basis by a lawyer, trainee or solicitor, appointed by the judge (art. 25, Decree-Law 41/94/M).

37. Attention should further be drawn to the general principle arising out of article 6 of Law 9/1999, of 20 December (annex 11), which provides that *“all persons are assured the right to access the courts in the defence of their rights and legally protected interest, and justice may not be denied by reason of insufficient financial means”*, while a decision must be rendered within a reasonable time and by fair process.

38. Article 14 of Decree-Law 57/99/M, of 11 October, which approved the Administrative Procedure Code, guarantees to all individuals access to the courts with administrative jurisdiction.

39. Another aspect of the right of access to the law considers the need to create conditions that overcome the linguistic obstacles that exist de facto in Macau. Hence, as mentioned above, participation in lawsuits by persons not familiar with either of the two official languages, Chinese or Portuguese, entails the need to provide them with a corresponding interpreter (arts. 82, Penal Procedure Code, and 89, Civil Procedure Code).

Access to other bodies administering justice

40. Legal counsel is guaranteed by a “Legal Counsel Office” within the Administration, via the Centre for Public Assistance and Information (CAIP). This is a free service available to the entire population. In addition, residents may submit to CAIP complaints and claims concerning shortcomings in the public services (art. 17 (1) (b), Decree-Law 23/94/M, of 9 May (annex 12)).

41. The Procuratorate’s Office also provides a free weekly service to the public, dispensing legal information and in certain cases even taking the initiative for a lawsuit.

42. The Macau Attorneys’ Association also provides the public with a service offering legal clarifications and information. This service is given by a lawyer paid by the Association and offered on its premises subject to prior appointment by telephone.

43. Law 5/94/M, of 1 August (annex 13), regulates and ensures the exercise of the right to petition. Under the terms of this law, petitions cover the defence of personal rights and the legal or other interests of the community; its character as a right of political participation justifying the exercise of the right of petition independently of the existence of any violation of personal rights or in defence of general legality or the general interest.

44. The right to petition is exercised through submission to the Government’s own organs or to any public authorities of petitions, representations, claims or complaints. It may be exercised either individually or collectively, or by collective persons legally formed. It may be cumulative with other forms of defence and legitimate interest and may not be restricted in its exercise by any organ of the Government itself or by any public authority.

45. This characteristic of political law does not prevent its utilization by non-residents in the defence of their legally protected rights and interest.

It is a universal and free right and may in no case be the subject of any taxes or charges.

Paragraph (b) — Right to security of person and protection by the State against maltreatment whether by Government officials or by any other individual, group or institution

46. The right to security, which ensues directly from the right to freedom, relates to the guaranteed exercise of rights free of threats or aggression. A consequence of this right is the prohibition or arbitrary detention or imprisonment and also illegal deprivation or restriction of personal liberty (art. 28, Basic Law). In this manner, restrictions on the right to freedom may only be applied to legally designated cases, subject to a corresponding legal authorization. Where this cannot be verified, an application may be made for habeas corpus, to be duly submitted to the competent court (art. 28, Basic Law).

47. The preventive detention under article 186 (1) of the Code of Penal Procedure is defined as exceptional in nature; it may only be applied when no more favourable measure is available to replace it.

48. Torture or cruel, degrading or inhuman treatment is specifically prohibited by law and any agent performing such acts in the course of his duties shall be punished for a breach of discipline and a criminal act (art. 28, Basic Law, and arts. 234-236, Penal Code). It should be noted that the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, of 10 December 1984, is in force in the Macau SAR, having taken effect for Macau on 15 July 1999.⁵

49. Also punishable are those who on their own initiative or

⁵ The text of this Convention was published in Macau *Official Gazette* n.º 11, of 16 March 1998.

following orders of a superior misuse their office to torture, as is the hierarchical superior who, being aware of such acts of subordinates, fails to report them within three days (arts. 237 and 238, Penal Code).

Paragraph (c) — Political rights

50. In Macau, the principle applies that permanent residents of Macau have the right to elect and to be elected (art. 26, Basic Law). These rights are developed on the basis of ordinary legislation, by Law 10/88/M, of 6 June, amended by Law 10/91/M, of 29 August, by Law 1/96/M, of 4 March and by Law 1/1999, of 20 December. Decree-Law 51/91/M, of 15 October, and Law 25/88/M, of 3 October, amended by Law 3/97/M, of 14 April, all of which approve the electoral system for the Municipal Assemblies (annexes 14 and 15).

51. Law 4/91/M, of 1 April, which approved the electoral system for the Macau Legislative Council, was abrogated by attachment I (2), of the Reunification Law — Law 1/1999, of 20 December — providing that at the end of the year 2000 or the commencement of 2001, the Legislative Council should approve a new law on the subject, on the recommendation of the Macau SAR Government (attachment II (2), Basic Law).

52. The electoral system and the composition of the bodies elected by the Macau SAR are described in the core document, to which reference is made.

53. It is further stressed that during the electoral campaigns for the regional elected bodies, the following principles are to be guaranteed:

- freedom for electoral propaganda;
- equal opportunity and treatment for the various candidatures;
- impartiality of the public powers towards the various candidatures;

— control of electoral accounts (arts. 34-55, Law 25/88/M, of 3 October).

54. Macau residents also enjoy, as previously stated, the right to petition under the terms of Law 5/94/M, of 1 August, and the right to submit suggestions, claims and complaints relating to lacunae in the public services, via the Centre for Public Assistance and Information (CAIP) (art. 17 (b) (1), Decree-Law 23/94/M, of 9 May).

55. Under ordinary legislation, rules for access to the use of public funds are subject to the Statute for Macau Public Administration Workers (ETAPM — Decree-Law 87/89/M, of 21 December, and respective amendments), as stated above in the information relating to article 2 of the Convention. Equality of conditions and opportunity for all candidates is, under article 46 of ETAPM, raised to the level of a general principle in respect of recruitment and selection of staff. With further reference to article 46, for acts carried out during a recruitment and selection procedure, there is a facility for claims and hierarchical or contentious appeal, thus guaranteeing the safeguarding of legally protected interests.

Paragraph (d) — Other civil rights

(i) The right of free movement or choice of residence within the Region

56. Macau SAR residents are recognized as being free to remove and establish themselves in any part of the Macau SAR and are free to emigrate to other countries or regions, and also to travel, leave the Region and return there (art. 33, Basic Law). Similarly, the right to free circulation of regional residents, permanent or otherwise, is guaranteed.

57. The same rights extend to persons authorized to reside in Macau for specific periods of time, and also to the family members of non-resident workers (art. 10 (4), Decree-Law 55/95/M, of 31 October (annex 16)).

58. Persons not authorized to remain or reside in the Region are regarded as illegal and may be subject to expulsion and to other penalties provided under the law (art. 2, Law 2/90/M, of 3 May). Order for the expulsion of illegal immigrations is the prerogative of the Macau SAR Chief Executive (art. 4, Law 8/97/M, of 4 August (annex 17)).

(ii) Right to leave and to return to the Region

59. In the absence of any legal orders to the contrary, permanent residents of the Macau SAR may absent themselves from and return to the Region whenever they so desire.

60. Whoever intends to enter or to leave the Region must hold a valid passport or any other equivalent identification document recognised by law, in accordance to Decree-Law 55/95/M, of 31 October.

61. Entry to the Region may be refused only to those persons who, although previously authorized to enter and reside in Macau, infringe the precise terms of such authorization and those who had previously been expelled or deprived under sentence of their liberty for a period of not less than one year, where strong evidence is available of their having perpetrated a serious crime (art. 14, Decree-Law 55/95/M, of 31 October).

(iii) Right to a nationality

62. In accordance with the provisions contained in article 18 and of attachment III to the Basic Law, the Nationality Law of the PRC is applicable in the Macau SAR (see Chief Executive's Notice 4/1999, of 20 December (annex 18), arranging for its publication in the *Official Gazette*).

63. Considering the specific situation in Macau as a special

administrative region, the Standing Committee of the PRC People's National Assembly proposed to provide various clarifications as to application in Macau of the PRC Nationality Law. These "*Clarifications of the Standing Committee of the People's National Assembly of the People's Republic of China on various points affecting the application of the PRC Nationality Law to the Special Administrative Region of Macau*" were adopted on 29 December 1998 by the sixth session of the Standing Committee of the People's National Assembly Ninth Legislature.

64. Under the terms of point 1, paragraph 2, of these "Clarifications", Macau SAR residents of Chinese and Portuguese origin may choose either the nationality of the People's Republic of China or the nationality of the Portuguese Republic. Persons electing one of these may not retain the other. Prior to electing one of these nationalities, the said Macau SAR residents enjoy the rights provided under the Macau SAR Basic Law, except for the case of rights dependent on possession of a particular nationality.

65. In either case, the Macau SAR Chinese citizens in possession of Portuguese travel documents may continue to make use of these for travel to other countries and regions but may not enjoy Portuguese consular protection in the Macau SAR and other PRC regions by reason of their possessing the said documents.

66. Foreigners and stateless persons permanently resident in the Macau SAR may request acquisition of Chinese nationality through naturalization (art. 4 (1), Law 7/1999, of 20 December (annex 19)).

67. Except for the case of stateless persons, when the nationality application through naturalization or reversion has been approved, the applicant must present documents attesting to the renunciation of the foreign nationality (art. 11 (3), Law 7/1999, of 20 December).

(iv) Right to marriage and selection of spouse

68. The rights to form a family and enter into a marriage are protected under article 38 of the Basic Law and in article 1 (1), Law 6/94/M, of 1 August — the Fundamental Family Policy Law (annex 20).

69. The Administration has the special responsibility, in collaboration with associations concerning family interests, for promoting the improved quality of life of the family and its members (art. 1 (2), Law 6/94/M, of 1 August).

70. In the Macau SAR, association between the various communities encourages the existence of mixed marriages. In 1998, there were about 593 mixed marriages.

Marriages, by nationality of spouses (1998)

Wife's country of nationality	Husband's country of nationality			
	Total	Portugal	China	Other
1998 total	1 451	666	662	123
Portugal	502	341	112	49
China	817	244	517	56
Other	132	81	33	18

(v) and (vi) Right to property and to inherit

71. The right to private property and to succession through inheritance of property are specifically guaranteed in the Basic Law (arts. 6 and 103).

72. There are no restrictions or limitations on the exercise of property rights of non-residents. On the contrary, some of the most important licensed public utility companies involve significant registered holdings of firms owned largely by non-residents.

73. Wills are regulated by the personal law of the author of the will at the time of death (art. 59, Civil Code (annex 21)). The personal

law is the law for the individual's habitual residence, which is taken to be the place which the party makes the effective centre for his personal life. Habitual residence in Macau is not subject to any administrative formalities and habitual residence in Macau is presumed for those who hold a "Macau Resident's Identity Card" (art. 30 (3), Civil Code). In the event of a person's having more than one habitual residence, one of which is in Macau, the personal law shall be that of the Macau SAR (art. 30, Civil Code). In the absence of a habitual residence, the personal law shall be that of the place with which the personal life is most closely connected (art. 30 (5), Civil Code).

(vii) Right to freedom of thought, conscience and religion

74. In its article 34, the Basic Law establishes freedom of conscience, religious belief, prayer, promotion of religious activities in public and sharing therein. As a result, the Government does not interfere in the internal affairs of religious organizations or in the maintenance and development of the relations between these religious organizations and the faithful or of believers from outside the Region (art. 128, Basic Law). Hence, nothing prevents religious organizations from founding seminaries and other educational establishments (in addition to those already in existence), hospitals and social assistance institutions, or from providing other social services (art. 128, Basic Law).

75. One result of these principles is the prohibition of persecution, privation of rights or dispensation from civic obligations or duties arising out of religious convictions or practices.

76. Freedom of organization and independence of religious persuasions are as unrestricted as the freedom of association in general.

77. Law 5/98/M, of 3 August (annex 22), which recognizes and regulates the freedom of religion and religious groups, provides in its

article 2 that nobody shall suffer prejudice of persecution by reason of religious convictions or failure to follow any religion.

78. The principles of non-conformity and of renunciation are recognized in article 3 of the same law, which provides that Macau shall have no official religion and that its relations with interference in the organization of religious persuasions (paras. 2 and 3).

79. Article 4 affirms the principle of equality of religious before the law.

80. Article 5 proclaims the content of freedom of religion sufficiently, describing the rights therein contained: to follow or not to follow a religion, to convert or to renounce one's beliefs, to fulfil or disregard the obligations of the religion espoused, to express personal convictions and to display these convictions, alone or in community or in private, to spread by any means the doctrine of one's religion, to practise the rituals and rites pertaining to the espoused religion.

81. Another aspect to be stressed concerns the recognition of the personal right to religious convictions. To this end, article 6 of the above-mentioned law provides that nobody may be subjected to cross-examination as to his religious beliefs, except for the purpose of gathering not individually identifiable statistics, nor may one be penalized for failure to answer.

82. The rights of assembly and demonstration are protected (art. 9), as is the freedom to learn or to teach any religion in educational establishments (art. 10).

83. The training of believers and ministers is recognized in article 21 of this law, and the religious bodies may create and manage premises appropriate to such ends.

84. Article 15 of the same law recognizes the internal autonomy of religious groups, providing that these are organized in harmony with their internal statutes and are administered within the limits of the law,

and that they are allowed to create, within each and among themselves, associations, institutes or foundations, whether or not enjoying a legal form, intended to ensure exercise of the religion or the prosecution of other specified aims.

85. Another aspect to be stressed concerns the times of transmission for public TV broadcasting and telecommunications available to religious communities applying for these (art. 17 of the same law). At the end of April 2000, the Chinese channel TDM or *Ou Mun Tin Toi* allocated three slots per week to Catholic Church bodies and one hour weekly to a Buddhist one. The Portuguese channel (Radio Macau) allocated half an hour per day to Catholic Church bodies. The TDM Chinese-language TV channel allocated four half-hour periods weekly to Buddhist bodies. Once a week, at 11 a.m. on Sundays, the Portuguese channel broadcasts a mass celebrated in a Catholic church.

86. Penal law protects the principle of freedom of religion, punishing offenders against religious feelings and the damage or theft of religious objects (arts. 198 (1) (c), 207 (1) (e), and 282 of the Penal Code).

87. The guarantee of freedom of conscience and religion is further illustrated by the public holiday calendar applicable to the Macau SAR, which reflects the sociological and cultural variety typical of the Region. Thus, public holidays in Macau include days commemorating: Universal Brotherhood (1 January), the Death of Christ (21 April), Buddha's Day (11 May), the Commemoration of Ancestors (*Chong Yeong*, 6 October), the Immaculate Conception (8 December) (Administrative Regulation n.º 4/1999 of 20 December (annex 23)).

88. The Macau public hospital — Conde S. Januário Hospital — has two mortuary chapels, for the celebration of Christian and Buddhist rites respectively.

89. Appropriate religious facilities are available even to prisoners, who may receive visits by the corresponding clergy. In this context, prisons

have suitable facilities for religious practice.

90. Not only are there no restrictions in Macau on freedom of intellectual, artistic and scientific expression, but the law protects the authors, both residents and others, since in the latter case there is material reciprocity (art. 37, Basic Law, and art. 50 (1) and (2), Decree-Law 43/99/M, of 16 August (annex 24)).

(viii) Right to freedom of opinion and expression

91. The freedom of opinion and of expression benefits from special protection under the Macau legal system, by virtue of article 27 of the Basic Law which specifically protects this freedom and also freedom of the press and of publication.

92. Freedom of the press covers: freedom of expression and creation for journalists and literary collaborators; for journalists, the right of access under the law to sources of information and the safeguarding of their interests and professional confidentiality, and the right to establish newspapers and any other publications.

93. Law 8/89/M, of 4 September, together with the amendments to Decree-Law 93/99/M, of 29 November, and Law 7/90/M of 6 August (annex 25), regulate these principles, covering respectively the TV and radio broadcasting service and press activities.

94. System of broadcasting activities. By virtue of the provisions of article 3 (1) (b) Law 8/89/M, of 4 September, the objective of broadcasting is to guarantee residents right to inform and be informed without hindrance or discrimination. Broadcasting activity therefore ensures the freedom, variety, exactitude and objectivity of the information and its independence vis-à-vis the public authorities (art. 3 (2) (a)).

95. System of publication. Under the terms of article 4 (1) of Law 7/90/M, of 6 August, *“freedom of the Press in expression of thought is exercised without subjection to any form of censorship, authorization, deposit, guarantee*

or qualification”.

96. The right to information as an example or freedom for the expression of thought includes freedom of access to sources of information, guarantee of professional confidentiality and of the independence of journalists; liberty of publication and transmission as well as the freedom to establish an enterprise (art. 3).

97. There exist at present in Macau:

(a) Two broadcasting companies, TDM-Teledifusão de Macau, S.A.R.L., which has licences for two TV channels (one transmitting in Chinese and the other in Portuguese) and two radio channels (one transmitting in Chinese and the other in Portuguese), and Rádio Vilaverde, S.A.R.L., licensed for one radio channel in Chinese;

(b) Twelve Chinese newspapers: the *Semanário Desportivo*, *SiSi*, *Correio Sino Macaense*, *Pulso de Macau*, *Recreativo de Macau* (all weeklies), *Ou Mun Iat Pou*, *Va Kio*, *Si Man Pou*, *Tai Chung*, *Seng Pou*, *Cheng Pou*, *Macau Today* (all dailies) and four in Portuguese: *O Clarim*, *Ponto Final* (weeklies), *Tribuna de Macau* and *Macau Hoje* (dailies);

(c) Eighteen newspaper and other correspondents, notably of China News Service, TVB, ATV, Hong Kong Cable TV, Associated Press/*South China Morning Post*, Reuters/*South China Morning Post*, *People's Daily*, *Weng Hui Bao* (Shanghai), CCTV, China National Radio, China Radio International, *Apple Daily*, *Jornal O Dia*, *Lusa Press*, *Jornal de Negócios* and *Jornal Público*;

(d) About 12 periodical magazines or reviews, one of which — *Revista de Cultura* — is trilingual (Chinese, Portuguese and English), four are bilingual — *Administração*, *Macau* and *Revista Jurídica de Macau* in Chinese and Portuguese and *Macau Image* in Portuguese and English, and one is in English — *Macau Travel Talk*. The remainder are published in Chinese only;

(e) Two press agencies: *Lusa* and a branch of *Xinhua/New China*.

98. In line with the above, Macau has a TV programme entitled the “Philippine Hour” produced by *Teledifusão de Macao* (TDM) for the benefit of the Macau Filipino community.

(ix) Right to freedom of peaceful meetings and association

99. The rights of association, assembly, procession and demonstration as well as the right and freedom to organize and take part in associations and strikes are guaranteed by article 27 of the Basic Law.

100. Right to meet and to demonstrate. Law 2/93/M, of 17 May, (annex 26) which regulates the right to meet and to demonstrate in the Macau SAR, reiterates these principles, providing that residents of Macau may meet peacefully and unarmed without any prior authorization being required therefore (art. 1 (1) and (2)). Previous notice of intent is enough. Only meetings or demonstrations for purposes contrary to law are prohibited though article 2 of Law 2/93/M states that the exercise of these rights may not be restricted, limited or conditioned except in cases provided for under the law, as stated in article 1 (3) of the same document.

101. Meetings or demonstrations may not be carried out by illegal occupation of premises open to the public or to individuals (art. 3, Law 2/93/M).

102. There are restrictions, since meetings or demonstrations are not allowed between 0.30 a.m. and 7.30 a.m., except on closed premises, show halls, uninhabited buildings or, where there are occupants, after having obtained their permission in writing (art. 4, Law 2/93/M).

103. The Law allows the police authorities to interrupt the course of meetings or demonstrations only when the organizers have repeatedly been informed that it is not authorized since the object of the meeting is contrary to law, or if these persons depart from their original objective by carrying out acts contrary to law which seriously and effectively disturb public safety or the free exercise of individual rights (art. 11 (1)).

104. Law 7/96/M, of 22 July (which amends art. 14 of Law 2/93/M of 17 May) prescribes that if the authorities overstep the legal conditions and impede or attempt to impede the free exercise of the right

of assembly or demonstration, they incur the sanctions provided for in article 347 of the Penal Code for the crime of abuse of authority and shall be subject to disciplinary measures.

105. Counter-demonstrations which disturb meetings or demonstrations and hamper their free prosecution incur the penalty prescribed for the crime of constraint (art. 148, Penal Code).

106. Right of association. The general system for the right of association, like the specific system for political associations, is regulated under Law 2/99/M, of 9 August, and articles 140 *et seq.* of the Civil Code.

107. Any persons may form an association without the need for any authorization provided that their objective is not the promotion of violence, infringement of the penal law or contrary to public order. Quasi-military armed associations, militarized or paramilitary ones and fascist associations are prohibited (art. 2 of the Law).

108. Another aspect of the right of association is that nobody may be coerced into joining an association or remaining in it against his/her will, under pain of criminal liability for the party responsible for such coercion (art. 4).

109. There exist in the Macau SAR various formally created associations, resulting from the ethnic and cultural diversity of Macau development into the peaceful coexistence of multiple cultures. These include the Filipiniana Sports and Recreational Club, the Filipino Association of the International Baptist Church, the Association of Filipino Professionals in Macau, the Association of Filipino Friends of Macau, the Association of Natives and Friends of Angola in Macau, the Association of Friends of Angola, the Association of Cambodian nationals in Macau, the Association of Zoroastrians in Macau, the Association of the Korean Protestant Church in Macau, the Timorese Democratic Union, and the Rai Timor Group (GMRT) in Macau. Further, some of these associations have been actively engaged in collecting funds and goods for

humanitarian support to East Timor and, more recently, for Mozambique.

110. The right of association may not be used for the purpose of forming or participating in secret societies, otherwise known as sects or triads.

111. The increase in early 1997 of illegal demonstrations by secret associations or societies led government agencies in Macau to seek to strengthen existing facilities for countering such organizations. Hence, Law 6/97/M, of 30 July (annex 27) describes the legal system for fighting organized crime, punishing specific forms of illegality which by reason of their normally being connected with the activities of such organizations are particularly in need of being prevented through the establishment of specific mechanisms to combat organizations of this kind.

Paragraph (e) — Economic, social and cultural rights

(i) Right to work

112. The Right to choose one's profession and employment is promulgated in article 35 of the Basic Law.

113. ILO Conventions n.^{os} 100 (on Equality of Remuneration) and 111 (on Discrimination relating to Employment and Occupation) remain in force in the Macau SAR.⁶

114. Implementation of ILO Convention n.^o 144⁷ (concerning Tripartite Consultations) is a joint function of the Macau SAR Chief

⁶ ILO Convention n.^{os} 100 (on Equality of Remuneration) and 111 (on Discrimination in Employment and Occupation) became effective in Macau on 20 February 1967 and 19 November 1959, respectively. The texts of these Conventions were published in Macau *Official Gazette* n.^o 50, of 10 December 1966 and n.^o 42, of 17 October 1959.

⁷ ILO Convention n.^o 144 (on Tripartite Consultations), of 21 June 1976, became effective in Macau on 6 September 1999. The text of this Convention was published in Macau *Official Gazette* n.^o 41, of 11 October 1999.

Executive and of the Standing Council for Social Arbitration which, as a consultative organ of the Chief Executive, is designed to establish a dialogue and arbitration between the Government, employers and workers, in the development of regional socio-employment policy (art. 115, Basic Law and art. 1, Decree-Law 59/97/M, of 29 December (annex 28)).

115. The legal system of work relationships current in Macau notably enshrines the principle of equality in work relationships, decreeing that the right to work and the principle of equality imply the absence of any discrimination based on race, colour, sex, religion, organizational affiliation, political opinions, social status or social origin (art. 4, Decree-Law 24/89/M, of 3 April (annex 29)).

116. In 1989, a Labour and Employment Services Office was formed which includes, in addition to an Employment Exchange, information and professional guidance services, which are free and available to all private employers and workers.

117. In compliance with ILO Convention n.º 81,⁸ on Labour Inspection, the Labour Inspectorate records the existence of any type of discrimination in employment and prepares reports as to the existence of violations, their nature and the sanctions applicable, forwarding these to the competent court.

118. It is the responsibility of the Procuratorate as guarantor of legality to provide unofficial support to the workers and their families in the defence of their rights, in addition to the defence of collective rights

⁸ ILO Convention n.º 81 (on Labour Inspection), of 11 July 1947, became effective in Macau on 12 February 1962. The text of this Convention was published in Macau *Official Gazette* n.º 11, of 17 March 1962.

(art. 56, Law 9/1999, of 20 December).

(ii) Right to form and join trade unions

119. ILO Convention n.º 87, of 9 July 1948 (on Freedom of Association and Protection of the Right to Organize) and n.º 98, of 1 July 1949 (on the Right to Organize and Collective Bargaining),⁹ remain in force in Macau.

120. Law 4/98/M of 27 July (annex 30), which defines the bases of employment policy and labour rights, stipulates in article 5 (1) (f), as one of the labour rights of all workers, the right to affiliation in representative associations protecting their interests. The bases described by the legislator in this law shall eventually be developed further, given concrete form and implemented by internal legislation.

121. There have been formed in Macau, under legislation regulating the right of association, numerous workers' associations in the form of trades unions. One example is the Association of the Macau Public Official Employees (ATFPM) which is affiliated to the Public Services International (PSI).

(iii) Right to housing

122. Once the conditions required under Decree-Law 55/95/M, of 31 October, have been satisfied, with the amendments introduced by Law 1/1999, of 20 December, which regulates entry to and residence in

⁹ ILO Conventions n.ºs 87 (on Freedom of Association and Protection of the Right to Organize), of 9 July 1948, and 98 (on the Right to Organize and Collective Bargaining), of 1 July 1949 are in force in Macau. The texts of these Conventions were published in Macau *Official Gazette* n.º 41, of 11 October 1999 and n.º 28, of 11 July 1964, respectively.

Macau, there are no further restrictions on the right to housing.

123. The Government's objective is the gradual creation of conditions enabling each family to have at its disposal a home which in size and other features corresponds sufficiently to the needs of a normal family life, offering intimacy and privacy (art. 20 (1), Law 6/94/M, of 1 August, approving the Fundamental Family Policy Law). Consequently the Government is actively promoting a policy of social housing, under which any family member or individual living under unfavourable economic circumstances may apply for attribution by lot of social premises, classified in terms of rental contracts (Decree-Law 69/88/M, of 8 August (annex 31)). In addition, since a vast section of the population have been seen, by reason of inadequate means, to be living in very straitened space, lacking minimum hygiene, it was decided, in addition to the social residential policy, to introduce an economic residential policy (Law 13/80/M, of 6 September with amendments in Law 8/81/M, of 8 August (annex 32)). This cheap housing destined for residence is either rented or sold, on an ad hoc basis (arts. 4 (1) and 6 (1) of Law 13/80/M).

124. In addition to the social housing, the Administration in 1984 initiated a further programme known as "Residential Development Contracts", now regulated under Decree-Law 13/93/M, of 12 April (annex 33) which represent special contracts signed between the Government and the civil building companies for the construction of low-cost housing for sale at prices fixed by the Administration, the attribution of which is also subject to public competition (Decree-Laws 26/95/M, 51/98/M and 17/99/M).

125. Included under the policy responding to the need for rehousing by reason of natural disasters (typhoons or tropical storms) or obligatory vacating of rough housing (sheds), the Administration still has a reserve of vacant plots created under Decree-Law 45/88/M, of 13 June (annex 34) which regulates the "Temporary Housing Centres".

(iv) Right to health, medical care, social security and social services

126. The right to social benefits extends to all residents of the Macau SAR (art. 39, Basic Law).

127. The Macau Health Department, following the WHO programme “Health for all by the year 2000”, guaranteed access to universal and free health care for the entire population of Macau. This principle is dealt with in Decree-Law 24/86/M, of 15 March (annex 35).

128. Health-care costs are fully or partly covered by the Macau SAR budget, depending either on the type of illness or the socio-economic condition of the user, and also whether he/she is a Macau resident (art. 3, Decree-Law 24/86/M, with the version introduced under Decree-Law 68/89/M, of 9 October).

129. Health care is free of charge in the following cases:

— At health centres (medical care, including sickness, medicines);

— For public health reasons, for suspected cases or carries of infectious/contagious diseases, drug addicts, cancer and psychiatric patients and in the context of family planning;

— To population groups at risk: pregnant women, children below 10 years of age and primary and secondary school pupils;

— Detainees;

— Individual or groups of broken families; and

— Persons over 65 years of age.

130. In addition, emergency health care provided at the Conde S. Januário Hospital (a public hospital) is completely free of charge.

131. Decree-Law 87/89/M, of 21 December, which regulates the Macau Public Servants Statute, offers the following social benefits:

retirement pensions, survivors pensions, subsidies in case of death, seniority premiums, family allowances, housing allowances, marriage allowances, funeral allowances, holiday allowances, childbirth allowances, shift allowances and health care.

132. A Social Security Fund was created under Decree-Law 58/93/M, of 18 October (annex 36), and caters for local workers in the private sector. This Fund covers old-age pensions, invalidity pensions, unemployment benefits, sickness allowances, pneumoconiosis, work accidents, maternity assistance, social pensions, supplementary social pensions, childbirth allowances, marriage allowances and funeral allowances.

133. The Social Action System of the Region is designed to protect individuals and social groups in conditions of indigence by allowing them financial advances in cash and social aid in the form of equipment and services, as well as the social advancement of individuals and families and community development (art. 1, Decree-Law 52/86/M, of 17 November (annex 37)).

134. Social action is based on the principles of equality, efficiency, solidarity and sharing. Equality is achieved by eliminating all forms of discrimination, notably in respect of sex or nationality, without prejudice to residents. Efficiency is achieved by duly granting financial aid and services with a view to preventing situations of destitution and encouraging dignified living conditions. Solidarity involves teaching the community to accept responsibility for the achievement of the social action objectives. Sharing means making all persons responsibly involved in the entire process (art. 2, Decree-Law 52/86/M).

135. The organs of the Social Action System are the Chief Executive, the Social Action Council and the Social Action Institute (art. 3, Decree-Law 52/86).

(v) Right to education and professional training

136. Right to education. All residents of Macau, independently of race, religion and political or ideological conviction, are entitled to education (art. 37, Basic Law and art. 2, Law 11/91/M, of 29 August (annex 38)). This right consist of two parts: equality of opportunity in access to and study in schools and the freedom to learn and teach, which is characterized by prohibition of stereotyped education and protection of the right to creative expression and the existence of private institutions.

137. The need to integrate the various communities present in Macau is realized and to this end a sufficiently flexible educational and diversified system has been created which involves fostering the development of a democratic and multifaceted attitude, with respect for others and for their ideas and for dialogue and the free exchange of opinions (art. 3 (1), Law 11/91/M). This attitude guarantees respect for freedom to learn and to teach, taking into account that the Government does not arrogate to itself the right to programme education in accordance with any philosophical, aesthetic, political, ideological or religious directives and that the right to the establishment and existence of private institutions is assured, these being free to elaborate for themselves their own educational syllabus.

138. Basic education, including the preparatory year for primary education, primary education and general secondary education are universal, obligatory and free of charge (art. 6, Law 11/91/M and art. 1, Decree-Law 42/99/M, of 16 August (annex 39)). Compulsory schooling covers children and youths between the ages of 5 and 15 and is provided in official or private educational institutions (art. 1 (1), Decree-Law 42/99/M). Free education means no fees or other charges for registration,

attendance or certification. Pupils attending unsubsidised private schools receive allowances to cover fees (art. 6 (4), law 11/91/M).

139. Official educational institutions, covering 6.2 per cent of all pupils in the educational programme, may use as the teaching medium only the Chinese and Portuguese languages (art. 35 (7) Law 11/91/M). Official educational institutions using Portuguese as the teaching medium shall adopt Chinese as the second language and conversely, those using Chinese shall adopt Portuguese as the second language (art. 35 (8), Law 11/91/M).

140. During the school year 1997/98, the most representative teaching medium was Chinese (73.8 per cent) followed by Chinese and Portuguese (13.1 per cent). English was the teaching medium in 10 establishments and Portuguese in 5. In official establishments, Chinese was the most used teaching medium (about 76.2 per cent) while only 14.3 per cent of establishments used Portuguese.

141. In parallel with the official teaching establishments, there are private ones with parallel curricula, which follow the school pattern of free tuition for all while using Portuguese as the medium of instruction. In the context of their teaching autonomy and private educational institutions are entirely free to decide on the language of tuition to be used and also the second language to be included, obligatorily, in the corresponding curricula (art. 35 (6) Law 11/91/M).

142. For private tuition not parallel to the official establishments, which cover 93.0 per cent of the total number of pupils in the educational complex, 89.9 per cent of the establishments teach in Chinese and 10.1 per cent in English.

143. Apart from higher education, there were 93,806 pupils in

the educational establishments in Macau in the school year 1997/98, of whom 79,614 were Macau-born, 9,315 from Portugal, 771 from the PRC, 3,275 from the Hong Kong SAR and 831 from other places. The teachers in these establishments also reflect the spectrum of communities existing in the Macau SAR. Hence, out of a total of 3,696 teachers for the year 1997/98, 1,619 were Macau-born, 236 from Portugal, 1,386 from the PRC, 180 from the Hong Kong SAR, 40 from the Philippines and 235 from elsewhere.

144. Higher education may be either public or private and during the school year 1997/98, there were 25 establishments for higher learning in Macau, mostly sponsored by the Government.

145. Regarding the breakdown of students in higher education by nationality, 59.8 per cent originated from Macau, 18.5 per cent from the PRC, 15.0 per cent from the Hong Kong SAR and 2.4 per cent from Portugal. As to the teachers' nationalities, we note for the same year that 28 per cent originated from Macau, 22.3 per cent from the PRC, 21.2 per cent from Portugal and 14.2 per cent from the Hong Kong SAR.

146. On the subject of access to public higher education, local residents enjoyed a reduction in fees of between 40 and 85 per cent, depending on the courses and establishments. For the year 1997/98, there were in Macau 9 institutions and 24 establishments for academic education.

147. Apart from the reduction in fees, subsidized by the Government, the latter, jointly with other institutions gave financial assistance for tuition in the form of scholarships. For the year 1998, 7,045 scholarships were awarded.

148. Professional training. Decree-Law 51/96/M, of 16 September (annex 40) defines the professional training system which has been a priority

sector in recent years for the Government of Macau. That document proposes training persons for professional activity, ensuring equal access by all to professional guidance and training, and providing continuous cooperation between the departments and groups concerned (art. 4 (a) and (b), Decree-Law 51/96/M).

149. Also, with a view to preparing the young to prepare for the labour market and to ensure development capacity for absorption of the knowledge needed to carry on a qualified profession, legislation of the legal basis for apprenticeship (arts. 1 and 2, Decree-Law 52/96/M, of 16 September (annex 41)). Apprenticeship includes both general and techno-professional specific training and is designed for youths having completed primary school, aged 14 to 24 (art. 8, Decree-Law 52/96/M).

(vi) Right to participate in cultural activities

150. Access to and participation in cultural activities and demonstrations is a right authorized in the Basic Law (art. 37).

151. The Government and other Macau SAR public entities support the cultural initiatives of the various communities, whether by encouraging their organization or providing logistical and/or financial assistance to stimulate them, or else allocating areas for cultural performances by the various communities living in Macau.

Paragraph (f) — Right of access to all public place or service, such as transport facilities, hotels, restaurants, cafés, theatres and parks

152. There are no restrictions on entry to public or private premises by reason of racial origin.

Article 6

The Courts

153. The Basic Law gives the Macau SAR independent legal authority, including that of judgement in the final instance. It also provides for independence of the courts, their subordination only to the Law and their jurisdiction over all cases in the Region. Exceptions to court jurisdiction are taxes of a legal nature and principles previously in force which the Basic Law has retained. Macau SAR courts also do not have jurisdiction over State acts, such as those concerning national defence and foreign relations (arts. 19 and 82-94, Basic Law).

154. Article 84, paragraph 3, of the Basic Law stipulates that the organization, competence and operation of the courts is regulated by law. Under these terms, on 20 December 1999, Law 9/1999 approved the legal organizational bases in Macau and Law 10/1999 (annex 42) regulated the position of magistrates.

155. Article 4 of Law 9/1999 lays down that it is the prerogative of the Macau SAR courts to ensure the defence of legally protected rights and interests, repress infringements of legality and settle conflicts in the public and private domains. The following courts have been set up in the Macau SAR: the Basic Court (with jurisdiction in the first instances over all matters not allocated to a specific court; this court also includes the Criminal Instruction Judges); the Administrative Court (having jurisdiction in the first instances over lawsuits ensuing from administrative, legal, fiscal and customs relationships); a Court of Second Instance and a Court of Final Instance (arts. 27-54, Law 9/1999).

The Judiciary

156. Judges in the Macau SAR courts of the various instances are

appointed by the Chief Executive on the recommendation of an Independent Commission for the Recommendation of Judges, consisting of judges, lawyers and prominent local personalities (art. 87 (1), Basic Law and art. 15, Law 10/1999). Judges are selected in accordance with their professional qualifications (licentiateship in law legally recognized in Macau and substantial knowledge of the Macau juridical system) and by reason of the general requirements for the exercise of public office.

157. The independence of judges is safeguarded by their irremovability and their not being subject to any orders or instructions other than to respect the decisions of higher courts (art. 87 (2) and 89, Basic Law; art. 5 (1) and (2), Law 9/1999 and art. 4, Law 10/1999). Judges are not subject to transfer, suspension, retirement, exoneration, resignation or any other form of removal from their office except as provided for by law (art. 5 (1), Law 10/1999).

158. Judicial magistrates may not be held liable for acts carried out in the exercise of their legal duties, which means that judges are subject only to civil, criminal or disciplinary responsibility by reason of their office, in cases provided for by the law (art. 89 (2), Basic Law and art. 6, Law 10/1999).

The Procuratorate

159. In the Macau SAR, the Attorney-General, assistant attorneys and their deputies are magistrates of the Procuratorate. In the discharge of their duties, the Procuratorate magistrates are independent and free of any interference (art. 90 (1), the Basic Law).

160. The Attorney-General is appointed by the Central People's Government on the recommendation of the Chief Executive. The

assistant attorneys and deputies are appointed by the Chief Executive on the recommendation of the Attorney-General (art. 90 (2) and (3), Basic Law).

161. The Basic Law similarly provides that the organization, competence and operation of the Procuratorate are regulated by law. Thus, Law 9/1999 defines the Macau SAR Procuratorate as a judicial organ discharging its legally attributed functions independently. It is autonomous in relation to the other organs of authority, exercising its prerogatives and competences independently of any interference. Law 10/1999 regulates in detail the legal status of Procuratorate magistrates.

162. The Macau SAR Procuratorate's autonomy is characterized by its adherence to the criteria of legality and objectivity and by the fact that the Attorney-General, assistant attorneys and their deputies are subject solely to the law.

The Anti-Corruption Commission

163. The Anti-Corruption Commission (CCC) is a public organ enjoying total independence. It is not subject to any form of order or instruction (art. 2, Law 11/90/M, of 10 September as amended by Law 2/97/M of 31 March (annex 43) and art. 14 of Law 1/1999, of 20 December). The Anti-Corruption Commission has the following responsibilities:

(a) To take steps to forestall corrupt or fraudulent actions;

(b) To undertake instrumental activities not directly connected with fundamental rights concerning crimes of corruption or fraud committed by officials of public bodies and their agents in respect of penal procedural law and without prejudice to the powers allocated by the law in this respect to other bodies;

(c) To undertake instructional activities not directly connected with fundamental rights concerning crimes of electoral fraud committed by any persons in respect of penal procedural law and without prejudice to the powers allocated by the law in this respect to other bodies;

(d) To encourage the defence of rights, liberties, guarantees and legitimate interests of persons, assuring them through the media of the justice, legality and efficiency of the public administration.

164. The Anti-Corruption Commissioner is in charge of the CCC and is recommended by the Chief Executive and appointed by the Central People's Government (art. 50 (6) and art. 59, Basic Law).

165. For the supervision of the Commission's complete independence of other organs of authority, in the discharge of his supervisory duties over the public authorities and with due regard for his powers of investigation to protect the rights, liberties, guarantees and legitimate interests of persons, the Anti-Corruption Commissioner acts as an Ombudsman on behalf of the Macau SAR.

Access to Law and to the courts

166. Access to Law and to the courts is duly explained in paragraph (a) of article 5 of this report, to which reference is made.

Means for the protection of basic rights and forms of reparation for rights infringed

167. The courts are basically responsible for inspection in the matter of human rights and punishment of infringements thereof. There exist, however, extrajudicial procedures for the protection of basic rights. The following describes the steps to be taken in the event of any violation of

rights, liberties and guarantees by government bodies:

(a) Complaints at the Centre for Public Assistance and Information (CAIP). Macau SAR residents have the right to lodge complaints and claims at CAIP in respect of acts or omissions by public departments concerning matters directly affecting them, and also to receive information as to the results of such measures (Decree-Law 23/94/M, of 9 May);

(b) Complaints at the Anti-Corruption Commission. One of the CCC's tasks is to take action in the defence of rights, liberties, guarantees and legitimate interests of persons, ensuring through the media that the public administration acts with justice, legality and efficiency. The CCC may make recommendations directly to the bodies concerned with a view to the correction of illegal or unjust administrative acts concerning matters which in one form or another have come to its notice;

(c) Complaints to the Legislative Council. Article 71 (6) of the Basic Law attributes to the Legislative Council the competence to receive and deal with complaints submitted by Macau SAR residents. Article 9 (f) of the Legislative Council Rules (annex 44) attributes to the Chairman of the Legislative Council the authority to receive and forward to the corresponding competent commission any petitions, claims or complaints addressed to the Legislative Council;

(d) Administrative complaints. In accordance with the Code of Administrative Procedure, should subjective rights or legally protected interests be infringed by an administrative act, the party concerned may lodge a complaint claiming from the perpetrators the annulment or rectification of those acts;

(e) Hierarchical recourse for administrative acts. Hierarchical recourse is available for all administrative acts carried out by bodies subject

to the hierarchical powers of other bodies. The basis for such recourse may be illegality, ignoring the principles of equality, proportionality, justice and impartiality, or the incompatibility of the act with the Code of Administrative Procedure.

Judicial procedures for protection of basic rights

168. The following legal procedures are available to aggrieved parties:

(a) Legal recourse for administrative acts. Administrative acts may be the subject of recourse to the competent courts. The Administrative Court has the competence for recourse for acts committed by entities, organs and services up to management level. The Court of Second Instance has competence in the event of recourse for administrative acts by parties above management level (Law 9/1999);

(b) Procedures for impugning regulations as a means of guarantee against infringement of rights. The courts may declare standards contained in administrative regulations illegal with general obligatory effect by virtue of the Code of Administrative Procedure (arts. 88 *et seq.*). Once the same standard has been declared illegal three times, the decision as to its illegality may take general compulsory and retroactive effect from the time of entry into effect of the corresponding administrative regulations.

Forms of reparation and compensation for rights infringed

169. The general principle arising out of article 477 of the Civil Code provides that in cases of intent or mere blame, persons unlawfully transgressing the rights of others or of any legal provision designed to

protect the interests of others shall be required to compensate the aggrieved party for damage suffered by reason of such infringement.

170. In penal cases, applications for civil compensation must normally be made during the case in question. Where this cannot be done the judge may still allocate a given sum in reparation for damages suffered, where the aggrieved party does not object and provided that there are sufficient grounds for the purpose and the amount, which is to be determined in accordance with the civil law criteria.

171. Any impugned party found to be at fault must compensate the victim. Where he lacks the ability to do so or if he cannot be found, alternative means for indemnification exist. Victims of violent crimes may request subsidies of various kinds from the Macau SAR as a way of alleviating the physical damage suffered, compensating for incapacity to work or providing food for family members in the event of a death (Law 6/98/M (annex 45)).

172. A special law governs extracontractual liabilities of the Administration, collective public bodies and agents for acts of public management (art. 36 (2), Basic Law and Decree-Law 28/91/M, of 22 April (annex 46)).

173. The core document should be consulted for details of this point and as to the degree of linkage and implementation of jurisdictional decisions and resources.

Article 7

Teaching and education

174. As provided for above under paragraph (d) of article 5, the freedom of opportunity for access to tuition is protected in Macau.

Culture

175. As provided for above under paragraph (e) of article 5, the Macau SAR authorities support the cultural initiatives of the several communities and shall carry on such task.

Information

176. Promotion and dissemination of information on human rights have been among the chief concerns of the Macau Government, principally through communications media — contests, investigations and interactive media — and the distribution of brochures specially produced for this purpose. A large number of such initiatives are through the collaboration of residents' associations, workers' associations and educational centres.

177. Since February 1994, the Public Administration has been publishing in the Chinese press texts designed to clarify and inform the public as to legislation promulgated, including notably:

— In the daily *Ou Mun Iat Pou* since 1994, weekly publications in the columns “Know the laws of Macau” and “A summary of the *Official Gazette*”;

— In the daily *Va Kio* since 1994, weekly publication of “Introducing recently published ordinances”, and since 1995 the weekly publication of “Various aspects of Macau Law”;

— In the daily *Si Man Pou* since 1996, the weekly publication of “Talking about the law in Macau”;

— In the daily *Correio Sino-Macaense*, the weekly publication “A summary of the *Official Gazette*”.

178. Other special programmes on legal affairs have been carried over the radio and TV in addition to information campaigns in secondary

schools. The Chinese-language radio station *Ou Mun Tin Tóí* has regularly been broadcasting since 1994 the programme *Encyclopaedia of the Law* in addition to transmitting a summary of the *Official Gazette* — in both Cantonese and Mandarin — stressing the most important ordinance published during the work.

179. As soon as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights took effect in Macau, on 27 July 1993, the Legal Translation Office (GTJ) started publication of a bilingual brochure in Chinese and Portuguese, entitled “Basic rights applicable in Macau”, with a view to disseminating the content of these instruments of international law. Along the same lines, GTJ published the following brochures in Chinese: *Rights, Laws and Guarantees, Residence in Macau, Workers’ Rights and The Social Security System*. In December 1995, GTJ started the collection in Chinese *Get to Know the Law in Macau*, having already published five volumes, entitled respectively: *Political and Constitutional System and Legal Organization in Macau, Family Rights, Marriage and Divorce, Some Points on Living in Macau, Descent, Adoption and Inheritance*; and *Rights, Liberties and Guarantees of Macau Citizens*. GTJ also published various pamphlets in Chinese on *The Procuratorate, Political Organization in Macau, Legal Aid, Marriage: conditions, rights and responsibilities, property division and divorce, Twelve questions on the Civil Code, The New Commercial Code and Standards for Adoption*. In addition, and in the context of explaining the law, GTJ has published various books in Chinese, especially: *The Penal Code, The Code of Penal Procedure* — in simplified characters (in collaboration with the University of China for Political Science and law), *A Legal Glossary* and *The Legal Basis of Public Office*.

180. Also, the Macau Security Forces Services (FSM) recently opened two posts to serve and inform the public with the intention of

providing a better understanding of their services. These offices are open daily and are designed to receive or provide information of a general nature concerning the FSM, while details are separately provided locally by representatives of the three services forming the FSM.

PART III

**CONCLUDING OBSERVATIONS OF THE
COMMITTEE ON THE ELIMINATION OF
RACIAL DISCRIMINATION**

2001 CONCLUDING OBSERVATIONS OF THE CERD IN RELATION TO THE PR OF CHINA (MACAO SAR) * ** ***

China

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

* A/56/18, paras. 231-255, of 9 August 2001.

** Consideration of reports submitted by States Parties under Article 9 of the Convention.

*** The present are extracts of the CERD observations which are relevant to the Macau SAR.

A. Introduction

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

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

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

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

B. Positive aspects

236. [...].

237. [...].

238. [...].

239. [...].

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

C. Concerns and recommendations

241. [...].

242. [...].

243. [...].

244. [...].

245. [...].

246. [...].

247. [...].

248. [...].

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

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

251. [...].

252. [...].

253. [...].

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

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