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**SPECIAL ISSUE**

**THE IMPLEMENTATION OF  
THE INTERNATIONAL COVENANT  
ON ECONOMIC, SOCIAL AND  
CULTURAL RIGHTS IN MACAO**

**2 0 0 6**

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L A W J O U R N A L

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

THE IMPLEMENTATION OF  
THE INTERNATIONAL COVENANT  
ON ECONOMIC, SOCIAL AND  
CULTURAL RIGHTS IN MACAO

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EU-MACAO CO-OPERATION PROGRAMME IN THE LEGAL FIELD



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## PREFACE

Increase legal awareness and dissemination of legal issues has been one of the cornerstone objectives underpinning the Macao Governments' policies for over 15 years.

This special edition has been prepared in recognition of the importance of this subject and the need to make the public at large aware of the path undertaken by the Macao Special Administrative Region (Macao SAR) regarding the application and implementation of the principal international treaties on Human Rights in the Region.

For that purpose, six instruments commonly known as the *core international human rights instruments* applicable to the Macao SAR were selected from among the sources of International Law.

This first edition concerns the International Covenant on Economic, Social and Cultural Rights. All the main documents related to the international obligations derived from its application to the Region, as well as a short record of policies, normative acts and practices concerning the protection of economic, social and cultural rights in the Region, may be found in this publication.

These documents were assembled in a systematic manner, in the Chinese, Portuguese and English languages, with the aim of producing a groundbreaking compilation with user-friendly material accessible to both legal practitioners and the general public.

Another goal to be achieved with this initiative is to provide jurists,

law students and researchers with a useful working tool, in order to enhance and to encourage the study of Human Rights in the Macao SAR and to contribute to the development, within the academic *curricula*, of International Law.

The Executive-Director  
Jorge Costa Oliveira

**PART I**

**The ICESCR and its application to Macao**





## THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS \* \*\*

### **Preamble**

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

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\* Adopted at New York, on 16 December 1966.

\*\* Published in the Official Gazette of Macau, n.º 52, I Serie, 3<sup>rd</sup> Suppl., 31 December 1992.

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

## **PART I**

### **Article 1**

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

## **PART II**

### **Article 2**

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially

economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

### **Article 3**

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

### **Article 4**

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

## **Article 5**

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

## **PART III**

## **Article 6**

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

**Article 7**

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

**Article 8**

1. The States Parties to the present Covenant undertake to ensure:

(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

## **Article 9**

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

## **Article 10**

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society,

particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.

2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

## **Article 11**

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and



distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

## **Article 12**

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

## **Article 13**

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to

the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

(a) Primary education shall be compulsory and available free to all;

(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious

and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph I of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

#### **Article 14**

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

#### **Article 15**

1. The States Parties to the present Covenant recognize the right of everyone:

(a) To take part in cultural life;

(b) To enjoy the benefits of scientific progress and its applications;

(c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

2. The steps to be taken by the States Parties to the present

Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

## **PART IV**

### **Article 16**

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.

2. a) All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of the present Covenant;

b) The Secretary-General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts therefrom, from States Parties to the present Covenant which are also members of these specialized agencies in so far as these reports, or parts therefrom, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

### **Article 17**

1. The States Parties to the present Covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialized agencies concerned.

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

3. Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

### **Article 18**

Pursuant to its responsibilities under the Charter of the United Nations in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

### **Article 19**

The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or, as appropriate, for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights

submitted by the specialized agencies in accordance with article 18.

### **Article 20**

The States Parties to the present Covenant and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under article 19 or reference to such general recommendation in any report of the Commission on Human Rights or any documentation referred to therein.

### **Article 21**

The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in the present Covenant.

### **Article 22**

The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

### **Article 23**

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

### **Article 24**

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

### **Article 25**

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

## **PART V**

### **Article 26**

1. The present Covenant is open for signature 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 the present Covenant.

2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

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

5. The Secretary-General of the United Nations shall inform all States which have signed the present Covenant or acceded to it of the deposit of each instrument of ratification or accession.

#### **Article 27**

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

#### **Article 28**

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

#### **Article 29**

1. Any State Party to the present Covenant may propose an



amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

### **Article 30**

Irrespective of the notifications made under article 26, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph I of the same article of the following particulars:

(a) Signatures, ratifications and accessions under article 26;

(b) The date of the entry into force of the present Covenant under article 27 and the date of the entry into force of any amendments under article 29.

**Article 31**

1. The present Covenant, 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 the present Covenant to all States referred to in article 26.



## PORTUGUESE PARLIAMENT RESOLUTION 41/92 CONCERNING THE APPLICATION OF THE CONVENANT TO MACAU \*

### **Parliament Resolution 41/92**

Extends to the territory of Macau the application of the International Covenant on Economic, Social and Cultural Rights.

The Parliament decides, in accordance with Articles 137 (b) and 169 (5) of the Constitution, the following:

### **Article 1**

The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, ratified, respectively, by Act 29/78 of 12 June, and by Act 45/78 of 11 July, shall be applicable in the territory of Macau.

### **Article 2**

(1) The applicability in Macau of the International Covenant on Civil and Political Rights and the International Covenant on Economic,

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\* Published in the Official Gazette of Macau, n.º 52, I Serie, 3<sup>rd</sup> Suppl., 31 December 1992.

Social and Cultural Rights, and in particular of article 1 in both Covenants, shall in no way effect the status of Macau as defined in the Constitution of the Portuguese Republic and in the Organic Statute of Macau.

(2) The applicability of the Covenants in Macau shall in no way affect the provisions of the Joint Declaration of the Government of the Portuguese Republic and the Government of the People's Republic of China on the Question of Macau, signed on 13 April 1987, especially with respect to the provision specifying that Macau forms part of Chinese territory and that the Government of the People's Republic of China will resume the exercise of sovereignty over Macau with effect from 20 December 1999, and that Portugal will be responsible for the administration until 19 December 1999.

### **Article 3**

Article 25 (b) of the International Covenant on Civil and Political Rights shall not apply to Macau with respect to the composition of elected bodies and the method of choosing and electing their officials as defined in the Constitution of the Portuguese Republic, the Organic Statute of Macau and provisions of the Joint Declaration on the Question of Macau.

### **Article 4**

Article 12 (4) and article 13 of the International Covenant on Civil and Political Rights shall not apply to Macau with respect to the entry and exit of individuals and the expulsion of foreigners from the territory. These matters shall continue to be regulated by the Organic Statute of Macau and other applicable legislation, and also by the Joint Declaration on the Question of Macau.

**Article 5**

(1) The provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights that are applicable to Macau shall be implemented in Macau, in particular through specific legal documents issued by the organs of government of the territory.

(2) The restrictions of the fundamental rights in Macau shall be confined to those cases prescribed by law and shall not exceed the limits permitted by the applicable provisions of the aforementioned Covenants.



**NOTICE OF THE CHIEF EXECUTIVE 15/2001** \*

Considering that the People's Republic of China notified on 2 December 1999, the Secretary-General of the United Nations, in its capacity of depository entity of the International Covenant on Economic, Social and Cultural Rights, adopted at New York, on 16 December 1966, in respect to the continuation of the application of the referred Covenant to the Macao Special Administrative Region.

The Chief Executive orders the publication, in accordance with Article 6 (1), of the 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 depository, together with the respective Portuguese translation.

Enacted, 5 February 2001.

The Chief Executive, Ho Hau Wah.

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\* Published in the Macao SAR Official Gazette n.º 7, II Series, 14 February 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 signed on 13 April 1987 (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, 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.

It is provided both in Section VIII of Elaboration by the Government of the People’s Republic of China of its Basic Policies Regarding Macao, which is Annex I to the Joint Declaration, and Article 138 of the Basic Law of the Macao Special Administrative Region of the People’s Republic of China (hereinafter referred to as the Basic Law) which was adopted on 31 March 1993 by the National People’s Congress of the People’s Republic of China, that international agreements to which the People’s Republic of China is not yet a party but which are implemented in Macao may continue to be implemented in the Macao Special Administrative Region.

In accordance with the above provisions, 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 Covenant on Economic, Social and Cultural Rights, adopted at New York on 16 December 1966 (hereinafter referred

to as the “Covenant”), which applies to Macao at present, will continue to 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:

1. The application of the Covenant, and its Article 1 in particular, to the Macao Special Administrative Region shall not affect the status of Macao as defined in the Joint Declaration and in the Basic Law.

2. The provisions of the Covenant which are applicable to the Macao Special Administrative Region shall be implemented in Macao through legislation of the Macao Special Administrative Region.

The residents of Macao shall not be restricted in the rights and freedoms that they are entitled to, unless otherwise provided for by law. In case of restrictions, they shall not contravene the provisions of the Covenant that are applicable to the Macao Special Administrative Region.

Within the above ambit, the Government of the People’s Republic of China will assume the responsibility for the international rights and obligations that place on a Party to the Covenant. (...)”



**PART II**

**Reports, written  
questions & answers**



**PORTUGAL'S 1995 REPORT UNDER ARTICLES 16  
AND 17 OF THE COVENANT CONCERNING THE  
APPLICATION OF THE ICESCR TO MACAU \***

**MACAU**

**I. GENERAL INFORMATION**

**A. Land and people**

1. Macau, a territory under Portuguese administration, lies on the South China coast around 65 km to the west of Hong Kong. The Territory of Macau includes the Peninsula of Macau (where the “City of the Name of God” is located) and the islands of Taipa and Coloane, covering a total surface area of approximately 18 km<sup>2</sup>. Macau’s geographical location, its

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\* E/1990/6/Add.8, 10 April 1995.

traditional openness and its economic, social and cultural environment have attracted and facilitated the coexistence of extremely varied cultures, languages and religions.

2. According to the last (13<sup>th</sup>) General Population Census taken in 1991 (Censos 91), the total resident population stood at 355,693 inhabitants with an estimated increase to 381,000 inhabitants by the end of 1992. The composition of the population and relative standing of the main ethnic and cultural, linguistic and religious groups can be seen in the Thirteenth Population Census/Third Housing Census Global Results, annexed to this report.

## **B. General political structure**

3. The establishment of the Portuguese in Macau dates back to 1557.

4. Macau's legal system is based on the Romano-Germanic branch of continental European law. It is characterized by the fact that laws proper are, by far, the most important source of law, and the relevant legislation is inserted in specific legal codes known as the five "big codes": the Civil Code, the Commercial Code, the Civil Procedure Code, the Criminal Code and the Criminal Procedure Code.

5. Macau's constitutional organization has undergone major changes over the territory's history. Initially, there was a system of "mixed jurisdiction" (from 1557 to 1822), followed by a "colonial period" (1822 to 1976) and latterly a "transition period" (lasting from 1976 until 19 December 1999). A constant feature of Macau's history has been the ongoing cooperation between Portugal and China. In addition to this, Macau has always enjoyed a high degree of autonomy.

6. Right from the start of the Portuguese settlement of Macau, this high degree of autonomy was reflected in the administrative organization of the Territory. The post of Governor was only introduced in the mid-eighteenth century but, in fact, until 1783, when the “Royal Provisions” were approved, the Portuguese settlement of Macau was governed by the politically powerful Senado. The Senado, a body based on the medieval Portuguese tradition of local government, represented Portuguese interests through the offices of three councillors elected for three years by the Portuguese population, two judges and one procurator. The Senado was vested with political, administrative and judicial powers.

7. At present, Macau is in the course of the “transition period” which will end when China resumes full sovereignty over the territory on 20 December 1999 (Sino-Portuguese Joint Declaration, art. 1). Following this date, and for a period of 50 years, the People’s Republic of China undertakes to uphold the various principles, policies and provisions which, under the principle of “one country, two systems”, are included in the Sino-Portuguese Joint Declaration (art. 2 (12)) and to enshrine them in a Basic Law of the Macau Special Administrative Region of the People’s Republic of China.

8. Currently the status of the territory of Macau is defined in both Portugal’s and Macau’s legislation by the 1976 Portuguese Constitution (PC) and the Organic Statute of Macau (OS) approved by Law 1/76 of 17 February and amended by Law 53/79 of 14 September and Law 13/90 of 10 May.

9. Under international law, Macau’s status is defined by 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 Macau” signed in Beijing on 13 April 1987, and by the United Nations decisions on



the issue, namely the 1972 recommendation of the United Nations Special Committee on Decolonization concerning Macau's situation (General Assembly resolution 2908 (XXVII) of 2 November 1972).

10. From the original 1976 version until the present, the PC has included specific provisions concerning Macau's situation with a view to defining the Territory's legal status according to the new Portuguese constitutional regime and in accordance with the above-mentioned international directives from the United Nations. The Constituent Assembly which drew up the present constitution — in which the territory of Macau was expressly defined as such — included a fourth paragraph in article 5 of the constitution under the heading "Territory", with the following text:

"The Territory of Macau, under Portuguese administration, shall be governed by a statute adequate to its special situation."

The PC clarified the situation once and for all and, in contrast to paragraph 1 of the same article, Macau was explicitly excluded from national territory. Under the terms of this provision, the powers of the Portuguese State were defined as simple administrative powers.

11. Although this was to change the internal framework, the Portuguese legislators were merely absorbing the theory which had already been recognized at international level by both the People's Republic of China and the United Nations, namely that Macau is Chinese territory under Portuguese administration. The Sino-Portuguese Joint Declaration was to consolidate Portugal and the People's Republic of China's existing understanding of Macau's legal character. Article 1 of the treaty states that:

"The Government of the People's Republic of China and the

Government of the Republic of Portugal declare that the Macau area (including the Macau Peninsula, Taipa Island and Coloane Island, hereinafter referred to as Macau) is Chinese territory, and the Government of the People's Republic of China will resume the exercise of sovereignty over Macau with effect from 20 December 1999."

12. Similarly, article 2 of the Assembly of the Republic's Resolution 41/92 of 31 December reiterates that:

"1. The application in Macau of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, namely Article 1 of both Covenants, shall not in any way affect the status of Macau as defined by the Portuguese Constitution and the Organic Statute of Macau.

2. The application in Macau of those Covenants shall in no way affect the provisions of the Sino-Portuguese Joint Declaration on the Question of Macau signed on 13 April 1987, namely in so far as it states that Macau is part of the territory of China and that the Government of the People's Republic of China shall resume the exercise of sovereignty over Macau with effect from 20 December 1999 while Portugal shall be responsible for the administration of Macau until 19 December 1999."

13. In the light of the Sino-Portuguese Joint Declaration, the 1989 review of the Constitution included a revision of the provisions concerning

Macau and these have now been merged into a single article, article 292 under the heading “Statute of Macau”, with the following text:

- “1. While under Portuguese administration, the territory of Macau shall abide to a statute adequate to its special situation.
2. The statute of the territory of Macau, embodied in Law 1/76 of 17 February, and incorporating the amendments thereto that were introduced by Law 53/79 of 14 September, shall continue in force.
3. Upon proposal of either the Legislative Assembly of Macau or the Governor of Macau, the latter after having heard the Legislative Assembly of Macau, the Assembly of the Republic shall be empowered to amend or to replace the Statute after having sought the opinion of the Council of State.
4. Where the proposal is approved with amendments, the President of the Republic shall not promulgate the decree of the Assembly of the Republic unless the Legislative Assembly of Macau or, as appropriate, the Governor of Macau, give a favourable opinion.
5. The territory of Macau shall have its own judicial organization, autonomous and adapted to the specificities of that territory, in conformity with the law; the latter shall safeguard the principle of the independence of the judges.”

14. Article 2 of the OS states, in turn, that:

“The territory of Macau shall be organized as a juristic entity and, in respect of the principles and the rights, freedoms and safeguards established in the Constitution of the Republic of Portugal and this

Statute, shall have administrative, economic, financial and legislative autonomy.”

15. Under Article 4 of the OS, the Territory’s own governing bodies shall be the Governor and the Legislative Assembly. The Consultative Council operates alongside the Governor and is responsible for advising him on all matters concerning his duties or the administration of the Territory whenever the Governor deems it appropriate. With regard to the appointment of the Governor, article 7 of the OS states that the Governor is to be appointed and dismissed by the President of the Republic following consultation with the local population through the Legislative Assembly and representatives of social organizations. The consultation procedure provided for in article 7 is regulated in articles 180 to 183 of the Legislative Assembly’s Regulations.

16. The Legislative Assembly consists of 23 members appointed in the following manner:

- (a) Eight elected by direct, universal suffrage;
- (b) Eight elected by indirect suffrage;
- (c) Seven appointed by the Governor from amongst local residents of recognized merit and standing in the local community.

17. It should be pointed out that all aspects of Macau’s public life are strongly influenced by the notion of participation by and consultation with the population and representatives of social, cultural and economic interests. A fair reflection of this high degree of participation by and consultation with the population is that there are several consultative organs, such as the Council for Transitional Affairs, the Standing Committee on Coordinating Social Affairs, the Consumer Council, the

Economic Council and the Education Committee, which place a heavy emphasis on participation.

18. For the first time in its history, Macau has its own judicial organization which operates independently and is adapted to Macau's specific situation. The process of localizing the judicial system effectively began when the PC was revised in 1989. The revised presentation of article 292, paragraph 5, in Constitutional Law 1/89, established that Macau should have its own judicial organization, autonomous and adapted to the specificities of the territory, in conformity with the law, which shall safeguard the principle of the independence of the judges. The basic outlines of the judicial system were then integrated into articles 51 to 53 of the OS.

19. Article 52 of the OS states that "in the administration of justice the courts of Macau shall be responsible for ensuring the protection of legally protected rights and interests, preventing any breaches of legality and resolving conflicts between public and private interests."

20. Law 112/91 of 29 August approved the Law of Judicial Organization of Macau (LJOM), defining and harmonizing the basic elements within the new system. According to the LJOM, the judicial organization of Macau includes courts with general jurisdiction and courts with administrative, fiscal, customs duties and financial jurisdiction (art. 5, para. 1, of Law 112/91). Following the enactment of this law, and in addition to primary courts, an Audit Court and the Superior Court of Justice were introduced (art. 6, para. 1, of Law 112/91).

21. The Superior Court of Justice (SCJ) is the highest organ within Macau's court system, without prejudice to the powers of the Supreme Court of Justice, the Supreme Administrative Court and the Constitutional Court to handle appeals (art. 11 of Law 112/91). The jurisdiction of these

Portuguese courts in Macau, which is currently very rarely invoked, shall, according to the terms of article 75 of the OS, be retained until the President of Portugal decides that the Macau courts should be vested with full and exclusive jurisdiction. The SCJ is thus the highest local court with powers of general jurisdiction and jurisdiction over administrative, fiscal and customs duties matters (art. 11 of Law 112/91). It operates as a court of second instance and as a court of appeal (art. 6, para. 2, of Law 112/91). The SCJ consists of a President and six judges and hears cases either as a full bench or in divisions (art. 12, para. 1, of Law 112/91). Until such time as Macau's courts are vested with full and exclusive jurisdiction under the terms of article 75 of the OS, Macau's Supreme Court of Justice shall consist of a President and four judges (art. 40, para. 1, of Law 112/91, amended by Law 4-A/93 of 26 February).

22. In Macau there are primary courts with general jurisdiction and jurisdiction over administrative, fiscal and customs duties matters (art. 7, para. 1, of Law 112/91 and art. 18, para. 1, of Decree-Law 17/92/M of 2 March). Matters of general jurisdiction are now dealt with by the Court of General Jurisdiction and the Court of Criminal Instruction (art. 18, para. 2, of Decree-Law 17/92/M). Jurisdiction over administrative, fiscal and customs duties cases is the responsibility of the Administrative Court of Macau which must preside over cases and appeals aimed at resolving cases arising from legal relations involving administrative, fiscal and customs duties acts (art. 9, para. 1, of Law 112/91 and art. 18, para. 3, of Decree-Law 17/92/M). Similarly, the Court of Audit has jurisdiction and powers over matters concerning financial control under Macau's laws (art. 10, para 1, of Law 112/91).

23. The Public Prosecutor's Department is autonomous and enjoys independent status under law. It carries out the duties attributed to it freely and independently without any interference (art. 53, para. 5, of the OS, art. 23 of Law 112/91 and art. 8, para. 1, of Decree-Law 55/92/M of 18 August). The autonomy of the Public Prosecutor's Department is characterized by its links to criteria of legality and objectivity and by the exclusive subjection of its officers to the guidelines provided for in the law (art. 8, para. 2 of Decree-Law 55/92/M).

### **C. Economic, social and cultural characteristics\***

#### *Economic model*

24. The economy of the Territory is based on characteristics usually associated with liberal models: limited intervention of the State in the economy;<sup>1</sup> free circulation of goods and capital; and a system of low taxation.<sup>2</sup> This is in line with a social structure differing from those predominant in Western industrialized countries with respect to the mechanisms of social security. The foreign exchange policy pursued by Macau is to peg the local currency (pataca) to the Hong Kong dollar<sup>3</sup> and, thus, to the US dollar. This secures a stable rate of exchange, compatible with the strong economic links between the Territory's economy and that of the two aforementioned economies.

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\* The cultural characteristics will not be dealt with here since they have been covered in section A.

<sup>1</sup> The Administration's expenditures in goods and services (government consumption) represent approximately 8 per cent of the GDP (1992 data).

<sup>2</sup> Fiscal revenues (excluding social security payments), direct taxes (excluding revenues from franchising) added to the indirect taxes represent approximately 4.1 per cent of the GDP.

<sup>3</sup> 1 pataca = 1.03 HKD.

*Population*

25. A marked increase in the population (nearly 60 per cent in the last 12 years) has been recorded since the early eighties. This can be traced to an increase in the migratory inflow brought about by the surge of economic growth experienced at the time.

26. This has had a substantial influence on the profile of the Territory's population. In 1992, for instance, nearly 70 per cent of the population growth could be accounted for by the surplus in the balance of migration.<sup>4</sup> As a result, Macau has a young population,<sup>5</sup> with only 48 per cent of the population having resided in the Territory for more than 20 years and only 40 per cent of the residents being born in Macau.

*Economic structure*

27. Macau, as a small territory, with a population estimated at 381,000 inhabitants (at the end of 1992), has a very open economy.<sup>6</sup> This is estimated to account for 63 per cent of the GDP. The development of Macau has therefore been based on those economic sectors, in both goods and services, which are oriented towards export. Under these circumstances, the external situation of the main export markets,<sup>7</sup> — both the Asia-Pacific countries and the industrialized nations — is a decisive factor in the Territory's economy.

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<sup>4</sup> The Migratory Balance Account (nominal) had a balance of +11,772. The overall balance was 17,016.

<sup>5</sup> According to data from the 1991 census, 49.7 per cent of the population is between 20 and 44 years old.

<sup>6</sup>  $(\text{Exports of Goods and Services} + \text{Imports of Goods and Services}/2)/\text{GDP} \times 100$ .

<sup>7</sup> The USA and EU represent around 70 per cent of the total figure of exports of goods (Statistics on Foreign Trade).



28. Foreign investment flows have played a key role in the development of Macau. The industrialization of the Territory was boosted during the 1970s as a result of investment from Hong Kong, particularly in the textiles and garments sector which (in Hong Kong) was beginning to feel the restrictive effects of the Multifibres Agreement. The configuration of the Territory's economic specialization is, at the same time, influenced by the interdependence between Macau and the neighbouring territories of Hong Kong and the Province of Canton.

29. In 1980 exports of textiles and garments were the main sales to the foreign market, bringing 87 per cent of the income and amounting to 1 per cent of world garment exports. Due to this boom exports of textiles and garments began to be made under Bilateral Agreements (with European countries, the United States and Canada, signed within the scope of Multifibres Agreement).

30. At the beginning of the eighties there was a new boom in industrial investment, which originated in Hong Kong and focused on the toy industry, artificial flowers, electronics and ceramics. This contributed to a certain diversification of Macau's industrial base. Thus, by the mid-eighties the non-textiles sectors represented 30 per cent of exports.

31. The main characteristic of the industrial structure of the territory is that it is highly fragmented, being made up of a large number of companies. There are currently approximately 1,911 manufacturing units,<sup>8</sup> the majority of which are small — around 68 per cent of the units have less than 20 workers. Only about 133 units have more than 100 workers, that is, about 7 per cent of the total registered units. These, however, contribute around 50 per cent of the Production Value. The workforce in the manufacturing industries has been declining, along with the number of

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<sup>8</sup> Industrial Census of 1992.

manufacturing units. According to the available data, there have been gains of productivity in the main sectors of the manufacturing industry, the net labour force productivity<sup>9</sup> being around MOP 72,000 per worker.<sup>10</sup>

32. In structural terms it should be noted that there has been a shift in the composition of the aggregate demand since the end of the eighties, with consequent effects on the supply profile.

33. The external income of the service sector has started to assume an increasing importance. In 1991 it surpassed the income from exports of goods and now represents around 31 per cent of the total demand. In fact, in recent years industrial exports have stopped being the main growth factor, having been replaced by tertiary activities. The interruption in the growth of the export of goods in the late eighties, revealing the beginnings of a change in the industrial pattern, followed the relocation of some industries to adjacent regions where there were more competitive production conditions, namely in labour costs related to wages, for the main products of Macau's industry. At the same time expansion has been seen in the service sector, which includes financial services, real estate, services rendered to enterprises and tourism, as well as a boom in the construction sector.

34. The good performance of the construction and the public works sector derives from circumstances which have particularly favoured private investment, and from the implementation of major infrastructure works, in particular a new bridge connecting the Macau peninsula to the island of Taipa, a containers terminal, a passengers maritime terminal and the international airport.

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<sup>9</sup> Net productivity = Added Value/Personnel.

<sup>10</sup> Calculated value for 1992.

35. The tourism sector deserves special mention since it has shown a significant increase in terms of fixed capacity.<sup>11</sup> With the number of visitors totalling 7,701,000 in 1993 and potentialities arising from the improvement of the quality of the services rendered and improved access to the Territory tourism plays a key role in economic terms. Besides being the main source of external revenues, and thus contributing to a surplus in the balance of goods and services, tourism also constitutes the Administration's main source of revenue.

*Financing of public expenditure*

36. Well-established gambling activities in the Territory — subject to an exclusive licensing contract whereby 30 per cent of the annual gross revenue reverts to the State — makes tourism a major source of revenue for the Territory's budget. Gambling revenues account for 46 per cent of the total public revenue.<sup>12</sup> A new source of financing, premiums arising from the sale of land in public auction, accounted for 25 per cent of the total revenue (against 17 per cent in 1991). It must be pointed out, however, that 50 per cent of such revenues constitute automatic transfers to an external entity — a fund for the future Special Administrative Region of Macau — and, therefore, given its nature, cannot be regarded as a structural source of public expenditure financing. With this in mind it is

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<sup>11</sup> The increase in capacity shown by the hotelier sector is reflected by the increase in the number of available rooms from 4,807 in December 1991 to 7,769 in December 1993.

<sup>12</sup> 1993 data.

easy to understand why direct and indirect taxes account for only 11.6 and 7.5 per cent respectively of the Administration's revenues.<sup>13</sup>

### *Labour*

37. The current breakdown of employment by economic sector is an approximation for the supply profile of the territory. This makes up for the absence of data regarding the distribution of gross value-added between economic sectors.

38. The industrial sector, which employed nearly 50 per cent of the active population in the early eighties, has seen its weight diminish considerably over the years. At present it accounts for no more than 24 per cent of total employment.<sup>14</sup> On the other hand, a surge in the services sector can be seen, with it currently accounting for 65 per cent of employment. Within the service sector the trade, catering and hotels and the social and personal services industries have a prominent position, accounting for 26 and 27 per cent of total employment respectively. The evolution of the structure of the working population in the last decade has resulted in an almost full-employment labour market with the unemployment rate standing at around 2 or 3 per cent.

39. In November 1993 the unemployment rate stood at 2.4 per cent while the underemployment<sup>15</sup> rate stood at 1.2 per cent. According to the available data, the majority of underemployed individuals work in the manufacturing sector.

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<sup>13</sup> 1993 data.

<sup>14</sup> Data related to 2<sup>nd</sup> semester 1993 (Survey on Employment — Provisional data).

<sup>15</sup> By underemployed is understood any individual employed but working less than 35 hours (for reasons beyond his control) and looking for additional work or willing to accept any offers in that sense. (Source: Labour Survey, DSEC).

*Recent trends*

40. The economy of Macau is going through a favourable period despite the recession which is affecting industrialized countries and its consequent effect on international trade and the potential demand for produce of the Territory.

41. The undertaking of major infrastructural ventures and the drive possessed by many tertiary industries contributed to the strong performance of the economy, with the GDP recording an annual average growth rate of 6.7 per cent for the period 1990-1992. The behaviour of investment and exports of services, with annual growth rates of 21 and 12 per cent respectively, constituted a key element in its successful performance.

42. Inflation in Macau can be explained largely by exogenous factors, consequent on the weight consumer goods bear in the Consumers Price Index (CPI).<sup>16</sup> Structural changes in the markets, however, have exerted considerable pressure in some market segments fostering inflationary trends. At aggregate levels, the CPI has decelerated since the second semester of 1991. A 12-month time series ending December 1993 recorded a growth rate of 6.7 per cent compared to the same period in the previous year.

**D. General legal framework within which human rights are protected**

43. The principal authorities competent to deal with human rights issues are the organs of government of the Territory (the Governor and the Legislative Assembly). Although Portugal's legislative bodies retain their powers with regard to Macau, the Territory's own governing bodies

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<sup>16</sup> According to estimates by the Office for Economic Affairs (OEA) consumer goods account for 42.4 per cent of the CPI (CPI, October 1981 — September 1983=100).

have special responsibilities for adopting the measures (namely, through legislation) intended to give effect to the rights recognized in the Covenant, as provided for in article 5, paragraph 1, of the Assembly of the Republic's Resolution 41/92 of 31 December which extended the Covenant to Macau. Issues concerning rights, freedoms and safeguards are, in effect, covered by the powers of the Legislative Assembly and of the Governor, according to article 31, paragraph 1 (b), and paragraph 5 of the OS. In the control of these matters an important role is played by the courts and the High Commission against Corruption and Administrative illegality.

44. With regard to the remedies available in the case of any violation of rights and freedoms recognized in the Covenant, the following should be mentioned.

45. In the area of rights and freedoms violated by administrative authorities, citizens may lodge complaints with the Public Information and Assistance Centre (PIAC) on matters pertaining directly to themselves and concerning acts or omissions by public services (Decree-Law 60/86/M of 31 December, arts. 4 to 6).

46. Complaints may also be lodged with the High Commission against Corruption and Administrative Illegality (HCCAI). One of the HCCAI's responsibilities is to promote the protection of people's rights, freedoms, safeguards and legitimate interests and it may address recommendations directly to the relevant authorities with a view to remedying illegal or unjust administrative actions on the basis of information received in any form or manner (art. 3, para. 1, (c), art. 4, (m), and art. 9 of Law 11/90/M of 10 September).

47. Individuals whose legitimate personal interests are deemed to have been violated by administrative actions may appeal to those responsible, requesting modification, suspension or revocation of the act in question (Decree-Law 23/85/M of 23 March, arts. 25-29).

48. All administrative actions carried out by individuals who are subject to supervision by a higher office may be subject to appeal to that office requesting modification, suspension or revocation of the act in question, the reason given being the illegality, injustice or inappropriateness of the act (Decree-Law 23/85/M, arts. 30-38).

49. Administrative actions giving rise to litigation may be reviewed in the competent courts. The examination and judgement of appeals against administrative actions by the Governor and the Under-Secretaries is the responsibility of the Supreme Administrative Court, while the Macau Administrative Court is responsible for judging appeals concerning other litigious acts of the Administration of the Territory (OS, art. 19, Law 112/91 of 29 August, arts. 9 and 163 and Decree-Law 23/85/M, art. 39).

50. In Macau the provisions of article 280 of the PC and article 70 of Law 28/82 of 15 November, allow for appeals to be made to the Constitutional Court against the following decisions:

(a) Those rejecting the application of any provision on the grounds of unconstitutionality;

(b) Those confirming the application of any provision, the constitutionality of which was questioned before that court;

(c) Those rejecting the application of any provisions of a legislative act on grounds of violation of higher ranking law;

(d) Those giving application to a provision, the legality of which was questioned before that court on the grounds of the preceding subparagraph;

(e) Those applying a provision which has previously been deemed unconstitutional or illegal by the Constitutional Court;

(f) Those applying a provision which has previously been deemed unconstitutional by the Constitutional Committee, where the decision the

Constitutional Court is requested to consider is on the exact same point of law;

(g) Those rejecting the application of a provision contained in a legislative act, on the grounds that it contravenes an international convention, or those which apply it in a manner other than that which has previously been decided by the Constitutional Court.

51. The Law of Judicial Organization of Macau (hereinafter referred to as LJOM), recently introduced the support appeal (*recurso de amparo*). The LJOM stipulates that any decision by a court of Macau may be appealed in the Superior Court of Justice on the basis of a claim of a violation of the fundamental rights guaranteed by the OS. Direct appeals are limited to issues of violation of rights (art. 17, para. 1, of Law 112/91).

52. In the field of rights and freedoms violated by private individuals, mechanisms exist to safeguard and assert these with the possibility of appeal to the courts.

53. Article 292 of the PC states that the territory of Macau shall be governed by a statute adequate to its special situation as anticipated in the Organic Statute of Macau (OS) approved by Law 1/76 of 17 February with the amendments introduced by Law 53/79 of 14 September and Law 13/90 of 10 May. It should be noted that the OS is a constitutional law. In turn, article 2 of the OS includes a direct transfer to Macau's system of the principles of rights, freedoms and safeguards, i.e., the Fundamental Principles of Section I ("General Principles") and Section II ("Rights, Freedoms and Safeguards") of Part I ("Fundamental Rights and Duties"), established in the PC. The same conclusion can be drawn from the provision made in article 11, paragraph 1 (d), of the OS.

54. The rights, freedoms and safeguards of the PC — which not only takes into account the civil and political rights included in the Covenant



but exceeds them on several points — are applied in Macau’s legal system under the provisions of article 2 of the OS. These rights, freedoms and safeguards are not applied in the exact same terms and with the same content as in Portugal due to a few limitations arising from special precepts of the OS reflecting Macau’s specific and different situation. The exercise of these rights, freedoms and safeguards is limited or restricted in Macau under the terms of article 18, paragraphs 2 and 3, of the PC in which it is stated that:

“2. Rights, freedoms and safeguards may be restricted by law in only those cases expressly provided for in the Constitution. Restrictions shall be limited to what is necessary to safeguard other rights or interests protected by the Constitution.

3. Laws restricting rights, freedoms and safeguards shall be general and abstract in character, shall not have retroactive effects, and shall not limit in extent and scope the essential content of constitution provisions.”

55. Article 19 of the PC is also in force in Macau, allowing the organs of supreme authority to suspend the exercise of rights, freedoms and safeguards only in the case of a state of siege or a state of emergency declared in the form laid down in the Constitution. The Governor of Macau also has the power to take the necessary measures to restore public order anywhere in Macau on the advice of the Consultative Council. Should it be necessary to restrict or suspend the exercise of constitutional rights, freedoms and safeguards, the advice of the Legislative Assembly must first be sought and the President of the Republic informed as soon as possible (OS, art. 11, para. 1 (d)).

56. In turn, article 5, paragraph 2 of the Assembly of the Republic's Resolution 41/92 of 31 December, published in the Official Gazette of Macau, No. 52, Third Supplement, of 31 December 1992 applying the two Covenants to Macau, states that:

“Fundamental rights in Macau shall not be restricted unless as prescribed by law and these restrictions may not exceed the applicable provisions of the Covenants [on Civil and Political Rights and on Economic, Social and Cultural Rights].”

The limitations and restrictions on the exercise of these rights enshrined in locally produced legislation regulating fundamental rights have, moreover, been considerably fewer than those referred to in the Covenant.

57. In both Macau and Portugal, the same constitutional rules regarding the relationship between international and domestic law are in force, namely article 8 of the PC which establishes the principle of primacy of international law over ordinary domestic law. Thus the precepts of the Covenant are applied and invoked under the same terms as in Portugal, although it should be noted that article 8, paragraph 2, of the PC establishes a regime for the automatic acceptance of the norms of international conventions.

58. Article 5, paragraph 1, of the Assembly of the Republic's Resolution 41/92 of 31 December, establishes that:

“The provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights applicable to Macau shall be implemented in Macau, namely through specific laws issued by the Territory's own

organs of government.”

Nevertheless, this provision does not, and could not, change in any way the constitutional norms regarding whether or not the provisions of the Covenant can be directly applied or invoked. This article is intended to emphasize the need for those provisions of the Covenant(s) applicable to Macau to be drafted by local legislating bodies, on the one hand implying that these powers should be transferred from Portugal to Macau, and on the other highlighting the political objective of localizing legislation.

#### **E. Information and publicity**

59. The text of the Covenant was published in full in Macau’s Official Gazette, in both official languages (Portuguese and Chinese). It was not, however, made known by other means.

60. The drafting of the present report brought together representatives from the branches of the Administration responsible for the areas covered by the Covenant: economy and finance; transport and public works; justice; health and social affairs; public administration; education and youth; communication, tourism and culture. The main sources employed in the drafting of the report were the existing institutional and legislative provisions regarding the areas and rights covered by the Covenant, as well as the quantitative data produced periodically by the Department for Statistics and Census and the Monetary and Exchange Authority of Macau — the bodies responsible for the production of the official statistics of Macau. Management reports by those departments and services with financial or administrative autonomy were also employed.

61. The report was made available to members of local government and to the Administration.

## **F. The role of international cooperation in the implementation of the Covenant**

62. The territory of Macau is a member of several international organizations some of which concern themselves with the areas covered by this Covenant. Macau is an associate member of ESCAP (Economic and Social Commission for Asia and the Pacific), of WHO (World Health Organization), and an associate member of ARTDO (Asian Regional Training and Development Organization). Macau also participates in other organizations through some Offices of the Territory's administration. In this connection there can be mentioned IASS (International Association of Social Security), IALI (International Association of Labour Inspectorate) of which the Office for Labour and Employment Affairs is a member, IFLA (International Federation of Libraries Association), CIA (Conseil international des archives) and ICMHS (International Council for Museums and Historical Sites) of which the Cultural Institute of Macau is a member.

63. As will be seen in the specific points dealing with the various rights, it can be concluded that the role of international cooperation has not been significant, although many different actions of a bilateral and international nature have been carried out in Macau with the collaboration of the counterpart organizations or departments of other countries.

## **II. IMPLEMENTATION OF SPECIFIC PROVISIONS OF THE COVENANT**

### **Article 6**

64. Only the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) has been officially accepted (published in the

Official Gazette No. 42, of 17 October 1959). The provisions of this Convention have been enshrined in the labour law of the Territory, known as Labour Relations, Decree-Law 24/89/M of 3 April. In particular, article 4 states that: “all workers have the right to equal opportunity at work and to equal treatment in their employment and the performance of their work without distinction as to race, colour, sex, religion, membership of any association, political opinion, social class or social origin, as a consequence of the right to work to which everyone is entitled.”

65. The available data on the levels of the working population, unemployment and underemployment are as follows:

**Table 1**

LABOUR MARKET INDICATORS

-	1989	1990	1991	1992	1993
Occupational rate	67.2	66.6	66.9	65.1	65.2
Men	78.8	81.5	81.0	78.5	79.4
Women	55.8	52.9	53.7	52.8	52.3
Unemployment rate	3.7	3.2	3.0	2.3	2.2
Men	2.7	2.5	2.5	2.2	2.0
Women	5.1	4.1	3.7	2.5	2.5
Underemployment rate		2.3	1.6	1.4	1.6
Men		2.2	1.4	0.9	1.4
Women		2.3	1.9	2.0	1.8

Source: DSEC, “Labour Survey” (based on figures for May of each year).

66. For the situation of employment or unemployment of the special classes or categories of workers, such as women and young people, see table 2 regarding 1991. There is no data available concerning the position of disabled workers for the period requested.

**Table 2**

EMPLOYED AND UNEMPLOYED POPULATION ACCORDING  
TO AGE AND SEX (per cent)

Age/sex	Employed population	Unemployed population	
		Looking for first job	Looking for a new job
-	-		
25 years			
Male/female	16.6	5.9	22.8
Male	8.0	3.9	9.9
Female	8.6	2.0	12.9
25-39 years			
Male/female	52.5	2.0	44.6
Male	30.2	-	17.8
Female	22.3	2.0	26.7
40-59 years			
Male/female	25.2	-	15.8
Male	16.9	-	8.9
Female	8.3	-	6.9
60 years			
Male/female	4.4	-	7.9
Male	3.2	-	6.9
Female	1.2	-	1.0

*Continue...*

Age/sex	Employed population	Unemployed population	
		Looking for first job	Looking for a new job
-	-		
Unknown			
Male/female	1.2	-	1.0
Male	-	-	-
Female	-	-	-

Source: DSEC, Employment Survey, May 1991.

67. In this table, if we compare, by age group, the numbers of the employed population with those of the unemployed, it is possible to conclude that unemployment is greater in the categories of young and older workers.

68. Although there is no statistical data regarding social groups, the group of workers facing greatest difficulties in finding employment is that attempting social reintegration, namely ex-prisoners and ex-drug addicts, followed by those who are physically or mentally disabled.

69. In 1989 the Office for Labour and Employment Affairs was created, comprising a job centre and information and vocational guidance services. These services are free of charge and available to all private employers and workers. They are given to more than 2,000 young people and adults each year and place more than 1,200 workers.

70. In addition to information/vocational guidance and placement services, the purpose of which is to create greater occupational mobility, enabling the worker to get a job better suited to his skills and qualifications and those who seek their first job to choose a career in accordance with their motivations, qualifications and occupational skills, there are various bodies of the Administration, as well as public and private teaching institutions, which promote short-, medium- and long-term vocational training either internally or in cooperation with related social bodies.

71. Labour law prohibits any type of discrimination in employment. In addition there is, in the Office for Labour and Employment Affairs (OLEA), the Department for Labour Inspectorate. Amongst other things, it is the function of this body to prepare reports containing the findings of inquiries into the existence of infractions of the regulations, the norms that have been breached and the applicable penalties, and to send these to the court.

72. As mentioned above, various departments of the Administration, including the OLEA, implement vocational training courses. For the duration of the courses carried out by OLEA, which last an average of 1,500 hours, trainees are entitled to a training benefit. These courses are designed for young people and adults.

73. Five vocational training courses have been carried out in 1993, for 125 trainees, and with a total duration of 7,500 hours. Three other courses were run in collaboration with related social bodies, in which 56 trainees took part and which lasted 1,140 hours.

74. The Office for Economic Affairs has a vocational training department. It has run courses of a technical nature designed for the industrial sector, in particular the textile and garment industries. In addition, there have been courses in computer science, management, accounting and finance, secretarial skills and public relations.

#### COURSES ORGANIZED BY THE CENTRE FOR THE PROMOTION OF INDUSTRIAL DEVELOPMENT

	No. of courses	Total no. of students
1990	144	2,572
1991	212	3,791
1992	246	4,572

Source: Office of Economic Affairs Management Report.



75. In 1992, 246 courses were run for 4,562 trainees, totalling 7,569 hours, an increase of 16 per cent in the training capacity as compared with 1991. There was also an increase in the number of young trainees who participated in these activities. In 1992 around 60 per cent of the total hours were devoted to training in the garment and knitwear industry, covering various levels of skills from manual workers to production and commercial managers.

76. There is also a vocational training department in the Macau Tourism Office. This covers various areas, providing courses of professional training, studying the needs in terms of vocational training, providing basic skills training and refresher courses, in addition to other training actions and projects. During the academic year 1992/93, 362 trainees participated in 12 courses covering several areas, totalling 3,136 hours of training.

77. Macau Polytechnic Institute has a Centre for Continuing Education and Special Projects. In 1993 this Centre, as can be seen in table 3, provided 62 courses for technical and occupational upgrading, in 12 training areas, with the participation of 1,064 trainees, totalling 2,328 training hours.

**Table 3**

COURSES FOR TECHNICAL AND OCCUPATIONAL  
UPGRADING (POLYTECHNIC INSTITUTE OF MACAU) 1993

Field of work	No. of courses	No. of hours	No. of participants
Management	8	186	154
Human Resources Management	2	46	31
Law	2	48	38
Computer Science	24	782	378
Secretary and P.R.	5	123	92
Administration	6	141	124
Training of Instructors	4	172	56
Languages — English	11	830	191
Total	62	2,328	1,064

78. The target group for these courses was civil servants. However, from 1994 the range of the courses has been broadened and made available to the general public. In some cases trainees attending courses offered by other bodies are entitled to training benefit. In other cases the courses are free of charge or open to trainees at a nominal fee. Courses are open to all the residents of the Territory, provided that they meet the requirements concerning qualifications and age.

79. The allocation of human resources to different sectors and occupations is directly conditioned by the available vocational skills of these resources which has an effect on productivity.

80. In Macau there is no discrimination whatsoever based on sex, race or religion. As a result of the established rights, there has been a manifest improvement in the practice of equal opportunity for all residents of the Territory. However, with the aim of establishing flexible decentralized labour relations, Macau's labour legislation excludes non-resident workers from its scope (that is, workers coming from other regions to meet the shortage of workforce in certain occupations and for a fixed period). In this case there are special regulations safeguarding the basic rights of employment of the non-resident group — Governor's Orders 12/GM/88 and 49/GM/88. These regulations state certain clauses which must be included in the individual contract of employment: the direct and indirect guarantee of lodging, payment of the contracted wages, assistance in the case of illness and maternity and assistance in case of accidents in the course of employment and occupational diseases.

81. The services of guidance and vocational training are open to all the resident population of the Territory without any kind of discrimination.

82. There is no date available concerning persons who hold more than one full-time job, but we presume that the number is very low. The normal working week is 48 hours and, according to OLEA data in 1992, the average number of hours worked per week does not exceed the norm.

83. In the last four years there have been two symposia on labour law and a seminar on vocational training. ILO experts participated in these events along with representatives of official institutions of Singapore, the Republic of Korea, Japan, the Philippines, China and Portugal.

#### **Article 7**

84. The following ILO Conventions have been officially accepted by the Territory:

Equal Remuneration Convention, 1951 (No. 100), published in the Official Gazette No. 50 of 10 December 1966, enshrined in the Territory Labour Law, Decree-Law 24/89/M (Labour Relations — Juridical System), in articles 4, 34, 36;

Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106), published in the Official Gazette No. 29 of 16 July 1960, enshrined in article 17 of the Labour Law which states that in each period of seven days workers are entitled to 24 consecutive hours of rest, without prejudice to their wages;

Labour Inspection Convention, 1947 (No. 81), published in the Official Gazette No. 11 of 17 March 1962, put into practice through the creation of the Labour Inspection Department, within the OLEA (art. 7 of Decree-Law 40/89). Amongst other

things it is the function of this department to oversee the proper application of legal, regulatory and contractual provisions for the protection of workers.

Although the remaining Conventions have not been explicitly accepted in the Territory, many of the principles and rights they contain are applied in legislation in force in the Territory.

85. Although the establishment of a minimum wage is not compulsory, Labour Law, Decree-Law 40/89, chapter V, establishes the general principle of a fair wage, its definition, calculation and obligatory compliance.

86. Weekly rest in industry is covered in article 17 of the Territory's Labour Law which states that "All workers are entitled to a rest of 24 consecutive hours in each period of seven days without prejudice to their wages."

87. Public holidays and paid vacations are covered by articles 19 and 21 of the above law which provides for six public holidays with pay and six days of paid vacation each year.

88. Agricultural activities in the Territory are negligible, therefore there is no labour inspection specifically for this sector.

89. Besides the various provisions of the Labour Law which safeguard conditions in the workplace prejudicial to women and minors, there are also the following decree-laws:

Decree-Law 57/82/M, General Regulation on Health and Safety on Industrial Work Sites, of 12 October (Official Gazette No. 42); Decree-Law 78/85/M of 10 August (Official Gazette No. 32) establishes the right to compensation for damage caused by accidents at work and occupational diseases;

Decree-Law 37/89/M of 22 May (Official Gazette No. 21) approves the General Regulation on Health and Safety in commercial establishments, offices and services;

Decree-Law 44/91/M of 19 July (Official Gazette No. 28) approves the Regulation on Health and Safety in Civil Construction);

Decree-Law No. 34/93/M of 12 July (Official Gazette No. 28) approves the Regulation on Occupational Noise.

90. Wages are fixed by agreement between the employer and the worker. There is no system of minimum wages. However, chapter V of the Labour Law protects the right to fair wages, their definition, calculation and obligatory compliance.

91. The available data on wages is set out in table 4.

**Table 4**

SALARIES AND CONSUMERS PRICE INDEX (CPI) TIME SERIES

-	1989	1990	1991	1992	1993
Median salaries (MOP/month)	2,261	2,585	2,911	3,362	3,959
Variance	-	14.3%	12.6%	15.5%	17.8%
CPI (annual)	145.4	157.0	172.0	185.3	197.7
Variance	-	8.0%	9.6%	7.7%	6.7%

Source: DSEC, Labour Survey — May, and Annual CPI.

92. There are no situations that show the existence of infringements of the principle of equal pay for equal work, or conditions of work for women which are inferior to those enjoyed by men.

93. There is no statistical information regarding the distribution of income between the public and private sectors. The available data concerning the average remuneration of the public sector employees (civil services and the security forces) are as follows:

-	1989	1990	1991	1992
Public sector a/	5,876	6,891	7,917	9,067

Source: Human Resources of Macau's Administration — Administration and Civil Services.

a/ Weighted average remuneration according to the number of workers of each category.

We must point out that the available data do not allow a comparison of remuneration for comparable jobs in the public and private sectors.

94. The legal provisions on occupational health and safety referred to above are implemented by the Labour Inspectorate.

95. Non-resident workers (foreign workers who are imported to meet the shortage of labour for a temporary period), are protected by special regulations: Governor's Orders 12/GM/88 and 49/GM/88.

96. Tables 5-7 provide data on occupational accidents.

**Table 5**

NUMBER OF VICTIMS OF OCCUPATIONAL ACCIDENTS BY  
AGE GROUP

Age group	1987	1988	1989	1990	1991
< 14 years	5	-	-	-	-
14-24 years	448	462	622	499	573

*Continue...*

Age group	1987	1988	1989	1990	1991
25-44 years	-	-	1,563	1,649	1,809
45-64 years	1,497 a/	1,625 a/	273	281	283
> 65 years	-	-	15	13	25
Unknown	17	9	8	13	8
Total	1,967	2,096	2,481	2,455	2,698

Source: OLEA.

a/ Before 1989 only three age groupings were used: < 14 years, 14-24 years and 25 years and above.

**Table 6**

VICTIMS OF OCCUPATIONAL ACCIDENTS ACCORDING TO CAUSES

	1987	1988	1989	1990	1991
Falls	78	158	219	284	345
Falling objects	73	55	126	72	75
Collision with objects (excluding falling objects)	402	168	1,094	880	713
Trapped in or between objects	556	903	193	622	826
Over-exertion or false movements	280	293	375	375	454
Exposure to or contact with extreme temperatures	103	104	108	120	116
Exposure to or contact with electrical current	15	8	14	3	9
Exposure to or contact with noxious or radioactive substances	25	1	16	24	30
Other causes	386	406	336	75	130
Unknown	49	-	-	-	-
Total	1,967	2,096	2,481	2,455	2,698

Source: OLEA.

**Table 7**

## ACCIDENTS RESULTING IN DEATH ACCORDING TO CAUSES

Causes	1987	1988	1989	1990	1991
Falls and falling objects	-	2	2	6	5
Collision with objects	-	1	-	1	2
Trapped in or between objects	-	2	-	-	-
Over-exertion	-	-	-	-	1
Exposure to or contact with electrical current	-	1	1	1	-
Exposure to or contact with noxious or radioactive substance	-	-	-	2	-
Other causes	-	1	3	5	4
Total	-	7	6	15	12

Source: OLEA.

97. There are no indications in the Territory that there is discrimination in employment against any group of workers.

98. Labour law provides for 8 hours of work per day and 48 hours per week, and there must be a minimum break of 30 minutes in each 8 hours of work. There must be a weekly rest of 24 hours every 7 days of work, without loss of remuneration; 10 obligatory holidays, 6 of which must be remunerated; and a minimum paid leave of 6 working days per year.

99. Section 2 of article 10 of Decree-Law 24/89/M stipulates that: “(...) according to usage and custom, the way of working, or the existing agreement between employer and employee, the limits imposed in the preceding paragraph [i.e. 8 hours of work per day] may be exceeded up to the limit of 10½ hours per day. However, work exceeding the 8 hours is not mandatory.” Nevertheless, in some cases it is difficult to know whether the provision of this section are respected by employers.



100. The law covers all categories of workers. However, in practice, domestic helpers are the least able to enjoy their rights because this is a very difficult area to control. As has already been stated, non-resident workers are not covered by the Labour Law.

101. As stated above, experts from other countries and territories in the region have contributed to the organization of symposia in Macau.

### **Article 8**

102. The Territory has expressly accepted ILO Convention No. 98 on the Right to Organise and Collective Bargaining, 1949, published in the Official Gazette No. 28 of 11 July 1964.

103. Workers are free to form associations themselves or to join workers' associations which are similar to trade unions. With the exception of the Association of Construction Workers and the Association of Builders and Real Estate Companies of Macau, there is no collective bargaining. In addition to five associations of civil servants there are 43 associations of workers, group by economic sectors, which are involved in trade union activities. There is no data available concerning the size of their membership.

104. The right to strike is not regulated in the Territory. However, section 2 of the Organic Statute states that principles, rights, freedoms and guarantees established by the Constitution of the Portuguese Republic are also in force in the Territory. Thus, the right to strike is protected in Macau.

105. No restrictions are placed upon the exercise of the rights enshrined in this article for civil servants and members of the public administration. According to the Disciplinary Statute of Macau Security

Forces (MSF), Decree-Law 84/84/M of 11 August (published in the Official Gazette No. 33) there are restrictions regarding the exercise of these rights by elements of the MSF.

### Article 9

106. The Territory has not signed any of the ILO conventions on the right to social security.

107. There are two different systems of social security: one providing for workers in the public administration and the other civil servants and the other for workers in the private sector.

#### *Public sector*

108. In the Territory there are about 15,700<sup>17</sup> civil servants including the members of the Macau Security Forces. This represents about 8.2 per cent of the working population. The Macau Pensions Fund<sup>18</sup> is responsible for administering the system of retirement pension and benefits for civil servants and other members of the Administration.

109. Under the provisions of the Statute of Macau Civil Servants (SMCS), Decree-Law 87/89/M, of 21 December, there are the following social security benefits: retirement pension, survivors pension, death benefits, seniority bonus, family benefit, residence allowance, marriage allowance, maternity benefits, funeral allowance, vacations allowance, Christmas allowance, shifts subsidy, medical care benefits.

110. Retirement pension. Of the 15,700 civil servants, only about 8,000 are active subscribers of the Macau Pensions Fund. However, there

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<sup>17</sup> Data for the year 1993 (Administration and Civil Services).

<sup>18</sup> Decree-Law 1/87/M, of 13 January, approved the Statute of Macau Pensions Fund.

are as many as 3,091 non-active subscribers. Civil servants and other members of the administration enjoy the right to a retirement pension, since they have made the legal payments to the Macau Pensions Fund, under article 259 of the Statute of Macau Civil Servants. According to this provision, only those civil servants or other members of the administration whose age allows them to carry out a minimum of 15 years' service until the age limit fixed by law for the exercise of their functions can subscribe to the Macau Pensions Fund with retirement benefits in view.

111. The pension value varies depending on the number of years of service in the administration and on the category of remuneration at the date of retirement. In general terms, it is equal to the thirty-sixth part of the civil servant's salary, multiplied by the number of years counted for the retirement, up to a maximum of 36 years (art. 264 of the SMSC, according to Law 11/92/M, of 17 August). Pensions are revised in proportion with changes in the income levels of active workers.

112. Taking into account the benefits established for the inactive groups (Christmas allowance and fourteenth month, residence allowance, transport allowance and so on), the average monthly expenditure per capita in 1993 was MOP 7,165 (against MOP 6,220 in 1992).

113. There are two types of retirement benefit: voluntary and compulsory. The former is given at age 65, with a minimum of 15 years' service. The latter is given for permanent and total disability, as certified by the Medical Board (a minimum of 15 years' service is also required), or for permanent and total disability resulting from occupational accident or illness contracted in the performance of one's work, or in the performance of humanitarian acts or actions on behalf of the community. In this case, no minimum number of years of service is required.

## PENSIONS PAID BY THE MACAU PENSIONS FUND (MPF)

	No. of pensioners	Expenditure (thousands of Mop)
1990	2,009	101,884
1991	2,032	117,892
1992	2,146	142,086
1993	2,231	170,117

114. Survivors pension. The amount of the survivors pension is equal to half the retirement pension that the member of the pension fund was entitled to receive at the date of his death, or that he would have been entitled to if he had left the job at that time in order to retire. The survivors pension is paid to the surviving spouse and unborn children, as well as other successors who are entitled to benefit from the family allowance. At the end of 1993, there were 860 people receiving the survivors pension. In the same year, the Macau Pensions Fund spent the sum of MOP 31.4 million.

	No. of pensioners	Expenditure (thousands of MOP)
1990	770	19,093
1991	810	22,692
1992	851	27,323
1993	860	31,365

115. Death benefit. The death benefit is payable in an amount equivalent to six times the monthly salary, plus all the remuneration that was owed at the date of death, or six times the pension owed at the same date, in the case that the person has already retired. Beneficiaries are any spouse not legally separated from persons and property, children or other descendants; in the absence of these, parents or others in the line of ascendants and finally, brothers/sisters or nephews/nieces who represent them.

## ALLOWANCES PAID BY CENTRAL ADMINISTRATION \*

	No. of beneficiaries	Expenditure (thousands of MOP)
1990	40	1,094
1991	60	2,230
1992	65	2,422
1993	66	2,934

Source: DSF and Macau Pensions Fund.

\* Includes retired groups.

116. Seniority bonus. For every five-year period of service the worker is entitled to receive an amount of MOP 190 every month, up to the limit of seven periods.

117. Family benefit. An amount of MOP 140 for parent or spouse and MOP 190 for descendants is paid.

(a) To descendants when they are minors or between 18 to 21 years old if they are in secondary education or the equivalent, and up to 24 years old if they are enrolled in higher education, or engaged in post-graduate studies;

(b) To the spouse, parents or their equivalents, if their monthly income does not exceed MOP 2,050.

## ALLOWANCES PAID BY THE CENTRAL ADMINISTRATION \*

	No. of beneficiaries	Expenditure (thousands of MOP)
1990	5,679	21,719
1991	6,266	23,818
1992	6,723	25,389
1993	6,247	30,000

Source: DSF and Macau Pensions Fund.

\* Includes retired groups.

118. Residence allowance. Current employees, as well as those who are no longer connected with the service because they are retiring or have already retired, and who live in Macau, are entitled to receive an amount of MOP 900 each month, if they neither own a house nor live in a house belonging to the Administration.

ALLOWANCES PAID BY THE CENTRAL ADMINISTRATION \*

	No. of beneficiaries	Expenditure (thousands of MOP)
1990	5,907	50,813
1991	7,067	58,770
1992	7,637	63,491
1993	7,055	74,468

Source: DSF and Macau Pensions Fund.

\* Includes retired groups.

119. Marriage Allowance. An amount of MOP 2,000 per worker is paid.

ALLOWANCES PAID BY THE CENTRAL ADMINISTRATION \*

	No. of beneficiaries	Expenditure (thousands of MOP)
1990	150	226
1991	308	469
1992	289	433
1993	285	549

Source: DSF and Macau Pensions Fund.

\* Includes retired groups.

120. Maternity benefit. An amount of MOP 2,000 per child is paid.

ALLOWANCES PAID BY THE CENTRAL ADMINISTRATION \*

	No. of beneficiaries	Expenditure (thousands of MOP)
1990	205	372
1991	388	705
1992	437	791
1993	354	699

Source: DSF and Macau Pensions Fund.

\* Includes retired groups.

121. Funeral allowance. An amount of MOP 2,200 on the death of each worker is paid. The expenses of the funeral can be covered in their entirety by the Administration in the following situations: if a worker dies due to an accident at work, or from a disease contracted while carrying out and in the exercise of public functions, or if death results from a humanitarian act or from an action on behalf of the community.

BENEFITS PAID BY THE CENTRAL ADMINISTRATION \*

	No. of beneficiaries	Expenditure (thousands of MOP)
1990	56	101
1991	73	131
1992	62	111
1993	91	198

Source: DSF and Macau Pensions Fund.

\* Includes non-working group.

122. Vacations allowance. An amount equal to the remuneration corresponding to the post held by the worker and based on the salary is paid on 1 June of each year. The bonus is paid during that month.

123. Christmas bonus. An amount equal to the remuneration corresponding to the post held by the worker and based on the salary is paid on 1 November of each year. The bonus is paid in that month.

124. Shift subsidy. The amount is variable. It is distributed according to three grades of salary, 7.5 per cent, 12.5 per cent and 17.5 per cent respectively, according to the number of shifts and their length if they extend partially or totally to weekly or complementary rest periods.

125. Medical care benefit. Civil servants and the members of their family are entitled to free health care. The contribution of the worker is fixed at 0.5 per cent of the total wages, salary or retirement pension.

126. Method of financing. The contribution towards the retirement benefit is 27 per cent of the salary, plus the seniority bonus, and it is paid as follows:

(a) 9 per cent by the employee or agent — amount retained at source;

(b) 18 per cent by the Territory Administration.

According to the contract of concession on horse racing the concessionaire is bound to give 1 per cent of the annual income from bets laid to the Macau Pensions Fund. In 1993 the contributions on the part of the workers and the Administration to the scheme amounted to MOP 246.3 million while the amount raised by the concession was about MOP 11.7 million. The running expenses of the retirement and survival pensions are covered by the General Budget for the Territory.



*Private sector*

127. Although the above-mentioned ILO conventions have not been signed, the Decree-Law 84/89/M of 18 December 1989 establishes the institutional framework of an obligatory scheme of contributions — the Social Security Fund (SSF) — to prevent situations of greatest hardship amongst unprotected local workers in the private sector.

128. In 1993, the SSF covered approximately 142,000 workers, that is, about 80 per cent of the working population, and provided the following allowances: old age pension; disability pension; unemployment benefit; sickness allowance; pneumoconiosis allowance; credit resulting from working relations; accidents at work; to maternity leave. Article 37 of Decree-Law 24/89/M states that companies must allow pregnant women 35 days of paid maternity leave without loss of remuneration, up to a maximum of three births.

129. On 1 January 1994 Decree-Law 58/93/M, of 18 October (published in the Official Gazette No. 42) came into force. This has broadened the scope of welfare benefits with a social pension, supplementary benefits for pensioners, maternity benefits, a marriage allowance and a funeral allowance. The social pension is a benefit in cash of MOP 400 per month to protect elderly and disabled people who do not have the means to meet their basic needs. Beneficiaries of pensions from the SSF can be awarded a supplementary benefit when it is proved that the amount of the pension is not sufficient to meet their basic needs. The supplementary allowance is awarded and paid by the Instituto de Acção Social de Macau and its amount varies according to the size of the household.

130. Old age pension. In order to receive this pension the following requirements must be met:

(a) The person must have habitually resided in the Territory at least for 7 years; they must be 65 years old or more and have made social security contributions for at least 5 years. This means that this benefit will only become payable from January 1995. From then onwards the amount of old age pension will be MOP 750 per month. However, due to the aim of widening the protection of specific groups of the population, the law made provision for a monthly pension of MOP 300 from the date of the establishment of the Social Security Fund (which was increased to MOP 400 from July 1993 onwards), in the following situations.

(i) Workers of 65 years or over who worked for the 3 years immediately preceding the application;

(ii) Workers of 65 years or over who do not have any occupation, and do not have any means of meeting their basic needs.

#### AVERAGE NUMBER OF OLD-AGE PENSIONERS \*

Year	1990	1991	1992	1993
	2,038	2,073	1,745	1,856

\* The table does not include about 2,000 individuals who receive old age subsidies paid by Instituto de Acção Social de Macau.

131. Disability pension. The amount of MOP 300 was increased to MOP 400 in July 1993. The following conditions must be met: the applicant must have habitually resided in the Territory for at least 7 years; he must be over 18 years old; a medical report testifying to the invalidity and the inability to accomplish any kind of paid work must be presented, along with a declaration from the Office for Labour and Employment Affairs testifying that the beneficiary had had an occupation. The award

of this pension will depend on the favourable opinion of the Medical Board of the Social Security Fund. There were around 100 recipients of the invalidity pension in 1993 and the SSF paid out the amount of MOP 465,300.

132. Unemployment benefit. An amount of MOP 600 is paid per month. The following conditions must be met: the applicant must have habitually resided in the Territory for at least 7 years; he must be enrolled in the Job Centre of the Office for Labour and Employment Affairs; he must have worked during the 12 months immediately preceding the presentation of the application; and the absence of other means of subsistence must be proved. This benefit is awarded once only after 30 consecutive days of unemployment, but it can be renewed up to a maximum of twice, if the continuing unemployment as well as absence of means of subsistence is proved. In 1993 there were 36 beneficiaries and the total amount paid was MOP 21,600.

133. Sickness allowance. An amount of MOP 20 is paid per day. The following requirement must be met: the applicant must have contributed to the Social Security Fund for at least 6 months during the 12 months that preceded the start of the trimester in which the person became sick; the worker should not receive any remuneration for any work carried out during the period of sickness. The allowance can be awarded for a maximum of 24 days each year, whether these are consecutive or separate. In 1993 there were 11 beneficiaries and the amount paid by the SSF was MOP 3,400.

134. Pneumoconiosis benefit. The SSF pays the expenses and compensation related to incapacity for work or for death of a beneficiary, including funeral expenses, arising from the contraction of pneumoconiosis, as is stated in the law applicable to accidents at work or occupational

diseases. In 1993 there were no cases of pneumoconiosis. In 1992 there were two cases, and a total amount of MOP 320,000 was paid.

135. Credit resulting from working relations. The SSF pays these credits to workers where they cannot be paid by their employers, due to economic or financial insufficiency. These credits include: payments due as a result of accidents at work or occupational diseases, calculated according to law; wages earned but not paid; indemnities against unilateral rescission of the contract. If the post no longer exists the SSF can pay compensation immediately of an amount not greater than half of the wages to which the worker is entitled and has not yet been paid, as well as the indemnity arising from the unilateral rescission of the contract. In 1993, the SSF paid an amount of MOP 1,040,063 to 173 workers.

136. Accidents at work. In 1993 the SSF paid an amount of MOP 200,000 to one worker.

137. Method of financing. The method of financing is the following:

(a) Contributions paid by each worker of MOP 10 per month;

(b) Contributions paid by employers of MOP 20 per month for each resident worker and MOP 30 for each non-resident worker;

(c) 1 per cent of the Territory's General Budget. During the last four years the income accruing from the transferral of 1 per cent of the Territory's General Budget and of the contributions was the following:

10<sup>3</sup> MOP

	Contributions	Transfers = 1 per cent of the Budget	Total
1990	25,892.0	32,000.0	57,892.0
1991	34,198.0	75,743.5	109,941.5
1992	40,373.3	53,900.0	94,273.3
1993	37,163.8	101,398.8	138,562.6

Source: Social Security Fund Management Reports on the years 1991 and 1993.

*Social security*

138. The expenditure on Social Security in 1989 represented 0.6 per cent of the GDP.<sup>19</sup> It is estimated that in 1992 that figure represented 1.1 per cent of the GDP.

139. In addition to numerous associations of workers there are other private institutions of a civic and social character and homes for the elderly.

140. Non-resident workers are not protected by the system of social security. Given the temporary nature and special contracts of these workers, it is not probable that they will be included in such schemes. Nevertheless, the conditions which regulate the contracting of these workers safeguard the following rights, amongst others: health care and maternity protection; protection in case of accidents at work and occupational diseases. For women the right to maternity leave with paid salary is guaranteed up to a maximum of three births.

**Article 10**

141. The territory of Macau has not signed any of the relevant conventions. However, many of the principles and rights that they contain are safeguarded by the Territory's legislation.

142. In our society the term "family" is a group of individuals who share a common economy and maintain a familial type of social relationship.

143. Majority is attained at the age of 18. However, the minimum working age is 16.

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<sup>19</sup> These values were based on the data in table 14 of the Statistical Appendix.

144. There has been a system of public assistance since 1930. It has been successively revised until, as a result of Decree-Law 52/86/M of 17 November 1986, the Instituto de Acção Social de Macau (IASM) was made one of the organs of the Social Action System, together with the Governor and the Social Action Council. “Social action”, which does not rely on contributions, aims to protect individuals and groups in situations of hardship by the provision of either money or goods, and also through social support and services.

145. The competences of the IASM, amongst others, are:

(a) To adopt and promote measures for prevention, minimization and assistance in cases of social and financial hardship of individuals and families;

(b) To protect individuals in financial need, particularly those who do not have or are unable to secure means of subsistence due to illness, handicap, involuntary unemployment, disability or old age;

(c) To protect and provide guidance to those individuals who, due to their particular family or social circumstances, are put in the care of the IASM;

(d) To participate in the rehabilitation and vocational training of disabled or handicapped people;

(e) To cooperate with the private institutions of social solidarity, with technical and financial support, through the signing of cooperation agreements and the setting up of training courses.

146. In the last three years an average of MOP 20,200 million was spent annually on various types of assistance.

147. The types of assistance available in 1993 and the required conditions for qualification are set out in the following table:

	No. of beneficiaries	Expenditure (thousand of MOP)	Conditions (besides insufficient means)
Assistance to the elderly*	2,001	15,900	5 years as resident & + 65 years old
Indigent	66	248	18 months as resident
Totally disabled	377	1,219	" "
Partially disabled	38	156	" "
Tuberculosis	34	211	" "
Blindness	17	103	" "
Former civil servants	21	257	not covered by Govt. social security plan
Total civil servants	12	51	" "

\* Monetary assistance.

148. It must be pointed out that the monetary support given to the elderly and the disabled who have resided in the territory for seven years has been paid by the SSF since the beginning of 1994, and now comes within the old age pension and the disability pension. The amount paid is MOP 400 per month. However, this sum, together with the supplement paid by IASM, can go up to MOP 750 or more.

149. The IASM is also involved in the following activities:

(a) Licensing of crèches in order to guarantee the quality of the service;

(b) Setting up and maintaining crèches;

(c) Economic support for mothers for the placing of their children in a crèche;

(d) Support and assistance of families with social and/or economic problems.

150. Workers whose contract lasts for a period of more than one year are entitled to 35 days leave on childbirth, and their post is secured without loss of remuneration.

151. Article 39 of Decree-Law 40/89/M stipulates that no employer is allowed to employ or use the services of workers under 16 years of age.

152. Orphans and abandoned children are assisted by the IASM by means of:

- (a) Placing them in a family;
- (b) Procedures for legal adoption in collaboration with the courts;
- (c) Placing them in children's homes;
- (d) Licensing homes to shelter children and young people, so that certain criteria of quality can be met.

153. For mentally handicapped children the IASM is involved in:

- (a) Licensing equipment designed for mentally retarded people;
- (b) The provision of technical and economic support for the internment and rehabilitation of mentally handicapped children, either as internees or as day-care patients.

154. IASM provides information on its services by means of four local units which are open to the public.

## **Article 11**

### *Standard of living*

155. According to the results of the Household Expenditure Survey (HES) for the years 1987/88:<sup>20</sup> Survey on the Family Expenses, Census and Statistics Department of Macau. the average expenditure per family might

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<sup>20</sup> Source.



have increased in real terms by 13.9 per cent compared with 1981/82. On the other hand, during the three years finishing in 1992, it is estimated that private consumption had increased by about 6 per cent per year, representing an increase in per capita consumption of 1.4 per cent (estimated at about MOP 32,900), in terms of annual average. This evolution is positive, reflecting an increase in real wages and employment. These indicators show an improvement in the standard of living of the population as a whole.

156. Besides these quantitative indicators, other indicators of the standard of the household expenditure are normally used to assess the improvement in living conditions, comparing it with the profile of consumption typical of countries with a higher level of income. Thus, if we compare the structure of consumption of resident families for the periods 1981/82 and 1987/88, we can note the changes in the pattern of consumption: a smaller percentage of their income is spent on food (from 42 to 38 per cent); and there is an increase in the percentage spent on services (from 8.1 per cent to 12.2 per cent), on transportation and vehicles (from 5 to 7 per cent) and on other sundry goods<sup>21</sup> (from 8.1 to 12.2 per cent). The changes also point to an improvement in the standard of living of the population in general, in terms of their choice as consumers.

157. For a better assessment of the population's standard of living, these data must be supplemented with other data of a social nature (education and health), referred to in the course of the analysis of the implementation of other articles of the Covenant.

158. For the main economic indicators, see table 1 in the Statistical Appendix.

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<sup>21</sup> Books and periodicals, jewellery, newspapers.

159. In 1988, for the purposes of granting free medical care<sup>22</sup> the situation of “social risk”<sup>23</sup> was defined as that of individuals whose income is less than MOP 500 per month or families whose income is equal to or less than those set out in the table below:

Size of the family (N)	Social risk (RS)
2 persons	950
3”	1,350
4”	1,750
5”	2,000
6”	2,250
7”	2,500
8”	2,750
9”	3,000
10”	3,250

160. On the other hand, the ordinance which regulates social housing utilizes the concept of the “family unit with unfavourable economic conditions” (art. 2, para. (d) of Decree-Law 69/88/M, of 8 August — Official Gazette No. 32). The concept of “level of subsistence expenditure” is used for the purpose of fixing the monthly rent of a house, and in 1994<sup>24</sup> this was fixed at MOP 750 although, as the table demonstrates, its value varies according to the size of the family:

<sup>22</sup> As stated in sect. 2 of art. 3 of DL 24/86/M, 15 March (OG No. 11).

<sup>23</sup> “(...) the individuals or families who do not have sufficient economic means to meet all their basic needs” (No. 1 of Dispatch 14/DSESAS/88, OG No. 12).

<sup>24</sup> Administrative Regulation 103/94/M, 18 April (OG No. 16).

Size of family	Expenditure (MOP)
1	750
2	1,450
3	2,050
4	2,550
5	3,000
6	3,400
7	3,750
8	4,150
9	4,500
10	4,900
11	5,252
12	5,650

161. Based on data from HES 87/88 it is possible to draw some conclusions regarding the profile of the distribution of the household expenditure. Families with the lowest income,<sup>25</sup> which represented 6 per cent of the population surveyed, spent an amount equivalent to 3 per cent of the total expenditure, while families with the highest income,<sup>26</sup> who accounted for only 12 per cent of the population surveyed, were responsible for 27.5 per cent of the total expenditure.

162. However, when the above data are compared with that of HES 81/82, one can see that the group with the lowest income 26/ (17.1 of the population surveyed) was responsible for 7.2 per cent of the total expenditure. On the other hand, the group with the highest expenditure<sup>27</sup> (20.1 per cent of the population surveyed) were responsible for 49.7 per cent of the total expenditure.

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<sup>25</sup> Belonging to the fortnightly expenditure group from MOP 0 to MOP 799.

<sup>26</sup> Belonging to the fortnightly expenditure group of MOP 5,000 or more.

<sup>27</sup> Belonging to the fortnightly expenditure group of MOP 2,500 or more.

*The right to adequate food*

163. A survey is currently being prepared on adequate food.

164. There is no available data on malnutrition.

*The right to adequate housing*

165. When discussing the right to housing in Macau, the specific characteristics of the Territory must be borne in mind. The small area of the Territory should be noted, along with the fact that its population density per square kilometre is considered to be the highest in the world. An obvious consequence of this situation is the shortage of land for the construction of houses. Added to this there is the fact that the Administration is the main holder of lands, which it grants, leases, or rents to third parties in concessions for different economic purposes.

166. Before dealing with the items requested for this report, we will discuss four statistical tables which give an overview of the housing situation in Macau (tables 11.1 to 11.4 from the III Census on Housing)<sup>28</sup>: XIII Recenseamento da População, III Recenseamento da Habitação — Resultados Globais, Direcção de Estatística e Censo (XIII Census of the Population, III Housing Census). These deal with in turn: buildings, by each parish and by the number of occupied units of housing; occupied units of housing, families and resident population by the type of unit; occupied units of housing by their location; occupied family housing units according to location and the number of families in each unit. Table 11.1 shows that the greatest number of buildings are located in the parishes of Nossa Senhora de Fátima and Santo António to the north of the city. The smallest number of buildings is on the island of Coloane. Of the 9,588 buildings in the city, only 1,208 are located on the islands. Table 11.2 shows that of a total of 89,193 occupied housing units, 5,371 are occupied by two families

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<sup>28</sup> Source.

and 2,382 have three or more families, which amounts to 7,753 families living in a situation of overcrowding, a figure which is believed to be an underestimate. Table 11.3 shows that the units of housing in the parish of Nossa Senhora de Fátima, in the north of the city, represent one third of the total units. In that same parish are 80 per cent of the total improvised housing units in the Territory. There are 535 housing units actually in the waters of the port, which demonstrates the shortage of land for construction. Table 11.4 gives greater detail on some of the indicators already mentioned for the most populated parishes.

167. There are no homeless persons living on the streets or in the open in Macau as is the case in the big cities of the world. However, according to data supplied by IASM there are 52 persons who refuse to live in the shelters provided for the homeless. These people are well known and sometimes sleep under various well-known public buildings. When invited or advised to do so, they refuse to enter the shelters provided. In some cases they are persons who have run away from psychiatric treatment.

168. Table 11.5 of the Housing Census describes the occupied family units of housing, according to parish, type of housing, and number of rooms. Out of a total of 87,401 units of housing, the majority are units of three rooms, a total of 50,949 units. This is followed by units of four and two rooms, with 15,095 and 12,962 units respectively.

169. By parish, the figures for the north part of the city are, once more, very significant. Of a total of 3,282 units of a single room, more than 50 per cent — 1,659 — are in the parish of Nossa Senhora de Fátima. At the same time, this parish is the one with the fewest units of five, six or more rooms. Of a total of 2,435 units with five rooms, there are only 377 here; and of a total of 1,267 units with six or more rooms there are only 147 here.

170. Out of 3,709 so-called improvised housing units, 1,152 units have only one room and 1,080 have two rooms. This emphasizes the simple and precarious nature of these improvised constructions.

171. Another important statistic is that showing the relation between the occupied units of housing, according to type, and the public water supply. It is noteworthy that the public water supply extends to a large number of the units of housing. Out of 87,401 units, 85,680 are covered by the public water supply and the remaining 1,721 units are supplied by other sources. The highest number (30 per cent) of those units not covered by the public water supply is, obviously, among the improvised housing units.

172. Table 11.6 is similar to the previous one, but omits the number of rooms of each unit. We can conclude that these 1,721 units not covered by the public water supply correspond to 2 per cent of the total.

173. Another important table is that which contains data on the relation between the occupied units by parish and type, and the installation of a bath or shower. Out of the total of 87,401, 77,835 have an internal bath or shower. This suggests that around 11 per cent of units lack that amenity. The highest number of units lacking this amenity is amongst the improvised housing units (75 per cent). The highest percentage of these are located on the islands, amounting to 60 per cent. This shows how old, precarious and improvised the lodgings are in this area. In the city the average percentage of shortage of bath or shower in the interior of the lodging units is 10 per cent, which goes up to 15 per cent in the parish of Nossa Senhora de Fátima.

174. Another statistic which serves to demonstrate housing conditions and the age of the housing stock is that relating to sanitation facilities in the interior of the housing units. The total percentage of units

which lack this amenity is less than 3 per cent, which can be considered reasonable. However, this goes up to 5 per cent if one considers the absence of a flushing cistern in the oldest 4,724 units. These percentages are higher among the improvised housing units. Thus, out of the total of 3,709 units, 2,527 have interior sanitation facilities, meaning that 30 per cent lack this facility; of the 2,527 only 614 or 22 per cent have a flushing cistern. This may be interpreted as meaning that few of the improvised housing units are intended to become permanent.

175. Another indicator of housing conditions is the type of lighting. From table 11.9, it can be concluded that practically all units are lit by electricity. The number of units without access to electricity is insignificant, and the reasons for this are unknown.

176. The existence of a kitchen or a space designed for cooking is also used as an indicator to characterize housing conditions. Out of the total of 87,401 lodging units only 1,176, or 1.2 per cent, have no kitchen or space designed for cooking. Once more, the area with the greatest shortage is the north of the city, the parish of Nossa Senhora de Fátima, where 6.2 per cent of units do not have their own space or a space adequate for cooking.

177. A table which gives some overall idea of the density of occupation in Macau is that which compares the occupied housing units, by the number of rooms, to the number of persons residing there. Out of 87,401 units, 50,949, (about 60 per cent), have three rooms. These are followed by the units with four rooms, less than 20 per cent of the total, and by those with two rooms, about 15 per cent of the total.

178. As for the size of families that live in the same unit of housing, the largest number are families with four members, followed by those of three, five and two. However, the existence of families of more

than 8 persons, and sometimes reaching as many as 20 persons is significant. Such a large number of persons living in the same unit may mean that they are various families with the same parental root or other groups without any parental relation.

179. The study of the statistical tables must be completed by referring to the statistics on the occupied family units of housing and the size of the families and the population living in those units, according to their location in the Territory. The data draws our attention to the fact that the number of families is much greater than the number of the family housing units: a shortfall of 10,669 housing units.

180. The parish of N. Senhora de Fátima is the most populous of the Territory with over one third of the total population. The average size of family household in this area is 3.6 persons, the second highest, exceeded only by those living on the waters of the port, where the average size of family household is 5.29.

181. In considering the number of persons classified as living in “illegal” settlements or housing, it is assumed that this relates to a typical pattern of illegality: the construction without permission on private property of dwellings built by the occupant. In Portugal, following this illegal pattern of construction, quarters and streets have spread out in areas which had not been earmarked for building. At times, this has been a way of avoiding the bureaucratic red tape of the licensing authority. In Macau this type of illegality has the particular feature that the unlicensed constructions generally occupy vacant plots of land belonging to the Territory itself — in the case of shanties and improvised housing — otherwise they are precarious constructions on roofs, in corridors, in empty stairwells and so on, occupying someone else’s property or the common parts of high-rise buildings. We will refer to the situation of shanties and improvised housing



later on, but it is not possible to provide statistics on other type of illegal housing.

182. We will discuss the number of evictions in general, with particular emphasis on those classified as arbitrary, or carried out without legal protection.

183. There are very few judicial evictions in the Territory. In his study published in the magazine *Administração Pública de Macau*, No. 13/14 entitled “Justiça e a comunidade em Macau: problemas sociais, a Administração Pública e a organização comunitária no contexto da transição” (“Justice and the Community in Macau: Social Issues, the Public Administration and the Community Organization in the Context of Transition”), Prof. Boaventura de Sousa Santos presents a table of the actions for eviction filed by Chinese each year from 1960 to 1989. The year with the greatest number of actions was 1965 with 50 and the annual average for the last decade is 26.

184. Another category of eviction that exists in Macau is the administrative eviction. It is neither fair nor just to speak of this as arbitrary eviction. Those in breach of their legal obligations are guaranteed means of defence: the right to a hearing and the right to contest the reasons that may have led to the rescission of the lease. The action for administrative eviction is brought only when the other party does not voluntarily accept the unilateral rescission of the contract.

185. The administration controls a huge stock of social housing and only uses administrative eviction as a last resort. There is no appeal to courts against administrative eviction, but if a person feels that he has been unfairly treated it is possible to present a claim to the High Commissioner against Corruption and Administrative Illegality. As an illustration, we would point out that of nearly 30 cases of evictions that took place during the last year, all have been accepted by the individuals concerned. The only

exception was due to a material error in filing the case, which was promptly corrected after the police report.

186. A very particular characteristic of the judicial system of the Territory is that the majority of the people for whom it is designed, the Chinese population, are not familiar with it. This may explain why it is so little used. Nevertheless, under no circumstances can it be said that there is no legal protection or that there have been arbitrary actions by the authorities.

187. In the context of a liberal economy, where the role of the Administration in the regulation of economic activity is limited to the minimum level necessary, the relation between individual income and expenditure on housing is not defined by the Government. Nevertheless, in the allocation of social housing, the Government establishes a relation between the size of family and its monthly income, in order to determine whether the family is in a disadvantaged economic situation.

188. Once houses have been allocated, the rents are fixed on the basis of the monthly income of the family, classified according to categories and under legal criteria. In spite of being initially fixed, the rents can be subject to revision, and may be increased, reduced or even waived, according to the current family income. This revision takes place periodically, or if a representative of the family presents a corroborated declaration.

189. The rent is also fixed in accordance with *taxa de esforço*<sup>29</sup>, which increases in value (between 5 and 17.5 per cent), as the income increases (Decree 102/94/M of 18 April, Official Gazette, No. 16).

190. There are over 1,000 requests for social housing and the waiting list can last several years. The allocation procedure is established by law and gives priority to those meeting certain requirements: cases of

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<sup>29</sup> It is the percentage of the family's income designed for payment of rent.

eviction from improvised housing ordered by the administration; cases of families lodged in centres for victims of accidents or in temporary housing; families who are the victims of disasters and have lost their usual housing. Only after allocation by this process is completed does the normal process for awarding houses to families in disadvantaged economic situations take place.

191. There is no statistical data on the size of the private rental sector or owner-occupied housing. The available data is related to the sectors either belonging to the Administration or in which it intervenes directly. Thus, on 31 December 1993 there were 5,302 social rental units and 1,129 designed for temporary purposes, totalling 6,431 social housing units. If we take the average size of family as 3.5 persons, then the total of those who live in social housing is about 22,500 persons. In 1993 there was an increase of 330 units for social rental, on the 1992 figure.

192. We referred earlier to the existence of improvised housing units, occupying vacant plots of land in the territory. In December 1993 there were 3,068 improvised dwellings for 3,464 families, totalling 12,626 persons. According to the official data in 1991 there were 4,603 of these for a total of 5,415 families, amounting to 19,739 persons. The conclusion that can be drawn is that in these two years there has been a substantial reduction, of around 35 per cent in both the numbers of improvised houses and the number of persons living in them. We would add that there is currently a scheme in operation to eradicate improvised houses by the end of 1995.

193. Due to the special characteristics of the Territory the area of housing law is not very developed, in particular in relation to provisions that would make the right to housing effective. Due to the principle of minimal government intervention, it is understandable that the legal framework is of reduced importance. The only law that may be classified

as a general law, is Law 13/80/M, 6 September, whose provisions were implemented by specific regulations during the 1980s.

194. Equally, the intervention of the Municipal Councils is not of great importance, compared to other territories or countries, where the construction of the social housing and the cooperative sector have the support of local government. However, notwithstanding this, the Administration has played a role in the construction of social housing since 1960, constructing the following:

Year		Enterprises	Total	Unit lodgings
1960	...	Aldeia da Esperança	...	32
		Seak Pai Wan	...	32
1968	...	Angélica L. Santos	...	70
		B.º Económico da Taipa	...	200
1970	...	Julieta N. Carvalho Bloco A	...	70
1971	...	Julieta N. Carvalho Bloco B	...	108
1973	...	Julieta N. Carvalho Bloco C	...	162
1980	...	Fai Chi Kei	...	240
1985	...	Torres ABC	...	579
1988	...	Mong Há	...	650
Total	...	...	...	2,143

195. It is worth noting that mass emigration to the Territory in the 1980s brought enormous problems for the Administration in the area of housing. As a result, through direct construction, 1,469 units of housing were constructed in the following quarters: Fai Chi Kei Quarter, Towers A, B and C of Tamagnini Barbosa Quarter, and the Mong Há Quarter.

196. Given the pressing need for social housing, in 1984 the Administration launched a programme of indirect promotion of social housing (Decree-Law 124/84/M of 29 December), known as Contracts for Housing Development (CHD), and which is running in conjunction

with eradication of the improvised housing. According to the law these “are special contracts between the Administration and civil construction companies, in which the latter agree to construct of low cost social housing, in return for various benefits and support from the Administration”. In these contracts it is stipulated that the Administration will receive a percentage of the units constructed and ready for habitation as part of its housing stock. Since 1987, the Administration has been receiving these houses and either using them as social housing or selling them.

197. Between 1987 and 31 December 1993 14,670 housing units were built under the CHD. The Administration received 2,419 of these — 16.5 per cent — selling 582 and leasing out the remaining 1,837. In a similar manner to this scheme the Administration received 780 housing units from the so-called special contracts.

198. The fundamental law on lands in Macau is 6/80/M of 5 July, known as the Land Law. This is complemented by the Portuguese Civil Code, with slight adaptations for Macau, which was extended to the Territory by Administrative Regulation 22,869 of 23 November 1967, published in the Official Gazette, No. 46, 2<sup>nd</sup> Supplement of 1967.

199. The Land Law, comprising 14 chapters and 203 articles, regulates such matters as: public ownership, private property and public property; land reservations; land zoning; classification and conditions for the occupation of vacant land; disposal of vacant land; sale; concessions and occupation of land; demarcation of property; rights and duties of the concession holders; procedures for granting concessions and occupation; substitution and transfer of a concession of land; termination of the process and of the concession; land registration, property registration and institutions; penalties; miscellaneous provisions and definitions.

200. Reading the preamble of the Land Law, some of the historical reasons for the form of the law of property in Macau become clear. Regulation 1860 of 20 November 1971 states that it: “(...) considers leasing as the way of disposal of the land for the construction of urban buildings, in order to promote private enterprise, relieving the concession holders from the heavy costs inherent in the use of land, such as those overheads related to work of embankment, sanitation and urbanization and the removal of improvised constructions.”

201. The lease of urban buildings is regulated by Decree-Law 43.525 of 7 March 1961, published in the Official Gazette No. 14 of 8 April, together with the Civil Code. These regulate the rights and obligations of the landlord and tenant, as well as matters related to revocation, rescission and expiry of leases. The Administration does not exercise rent control.

202. There is special regulation of leases in the social housing sector: Decree-Law 69/88/M of 8 August, published in the Official Gazette No. 32, which regulates the allocation, lease and management of buildings and units of social housing. This law establishes the rights and duties of the contracting parties and states the conditions for rescission, termination, and expiry of the leasing agreements. The protection of the tenant's rights and the bodies who have the power to enforce them are thus established by law.

203. At the institutional level there are also tenants' associations which have the power to bargain with the Administration.

204. There are allowances for housing that are allocated directly to families to buy economic housing and in the form of housing allowances to civil servants. An indirect allowance is the calculation of the rent in social housing, since its value is based on the size and income of the family.

205. Decree-Law 79/85/M, of 21 August, also known as General Regulation on Urban Construction (GRUC), sets out the technical norms for the construction of buildings. The ordinance includes norms of an administrative nature which define the conditions for the development of projects, the procedures for submitting them for approval, the licensing of the construction works and their management. This last includes the administrative follow-up, controlling and supervising compliance with the law and, in extreme cases, inflicting penalties on those who infringe the provisions.

206. The Laboratório de Engenharia Civil de Macau (Civil Engineering Laboratory) is the body responsible for controlling the quality of materials used in civil construction. This body recently signed an agreement with the direction of the Obras Públicas e Transportes (Public Works and Transportation Department), on better ways of assisting the Direcção de Serviços de Solos, Obras Públicas et Transportes (Office for Land, Public Works and Transportation) in the control of the quality of materials used in civil construction.

207. There are no legal provisions for the prohibition of discrimination in the housing sector in Macau.

208. The eviction and removal of tenants is regulated by law and can take place only when legal requirements based on certain objective conditions are met.

209. The law of housing in Macau is constantly being updated in accordance with the changing situation. There are currently various proposals under discussion to upgrade and update the existing laws, particularly with regard to leases and the management of condominiums.

210. There is no specific law against speculation in housing or property. However, there are some norms in the Decree-Law 13/93/M,

of 12 April, which regulates Contracts for Housing Development, which are designed to fight foreseeable speculation in subsidized housing. Under this law the HAM (Housing Authority of Macau) can apply sanctions to concession-holding companies and to buyers when they carry out any of the following acts prohibited by law: the onerous or free ceding of title or the utilization of the property for purposes other than housing on the part of the buyer; the sale of the houses for a higher price than that established by law, or their promotion by third parties, when these acts are considered as acts of speculation or abuse according to the ends of the law.

211. The only relevant regulation of the “illegal” housing sector for the purposes of this item is that related to improvised constructions and shanties. Decree-Law 6/93/M, 15 February “establishes measures to contain and eradicate improvised constructions or shanties in the Territory at the time of this law entering into force, outlining the expectations of, and defining the duties which fall upon the various occupants”. It is clear that in this ordinance: (1) Following the findings of the census on constructions, carried out prior to the law entering into force, there is a recognition of the current situation; (2) Any unlicensed improvised building, constructed or begun after the law has come into force, will be demolished under the law. The recognition of the existence of improvised housing will last during the phased process of eradication. In this sense the changing of an illegal situation into a legal one, which occurs in Portugal and was referred to earlier, does not exist in Macau.

## **Article 12**

212. In line with the strategy proposed to the World Health Organization (WHO) — “Health for All by the Year 2000” — the Macau



Health Service (MHS) provides mainly free universal access to health care, to all the population of Macau. The Decree-Law 24/M/86 of 15 March, which came into force in 1986, was an important step towards the implementation of this strategy. The General Budget of the Territory (GBT) covers totally or partially the cost of the services rendered by the MHS.

213. Health care is free in the following cases:

- (a) In the Health Centres (medical care, nursing and medication);
- (b) For reasons of public health, to those who are suspected of carrying infectious or contagious diseases, drug addicts, people suffering from cancer or needing psychiatric assistance, and also in the area of family planning;
- (c) Population groups whose health is at risk, such as pregnant women and in childbirth, post-natal care, and for children in primary and secondary schools;
- (d) Prisoners;
- (e) Families or individuals with family problems;
- (f) Individuals over the age of 65.

214. Goal 35 of “Health for All by the Year 2000” stipulates that “Member States should be equipped with information systems for health care which would be able to support their national health care strategies for all”. To this end a new and completely computerized information system for health care was introduced on 1 January 1990. By the end of 1993 about 200,000 patients were registered on the database.

215. The following are the physical assets of the integrated health system of Macau in 1993:

- (a) 1 general hospital with 399 beds;
- (b) 9 health centres which offer primary health care;

- (c) 1 public health laboratory;
- (d) 1 centre for blood transfusions;
- (e) 1 technical school for training nurses and auxiliary staff in diagnosis and therapy;
- (f) an office for pharmaceutical matters.

216. There are 1,731 professionals working in the MHS, of which 287 are doctors and 500 are nurses. About 80 per cent of the staff are from Macau or the People's Republic of China.

217. There are also some private bodies which provide health services to the population of the territory: Kiang Wu Hospital with 587 beds, 100 doctors and 262 nurses; Tung Sin Tong Association; Workers' Clinic; Hope Medical Group. These institutions cooperate with the Administration to provide free health care to certain groups of the population in exchange for financial assistance (subsidies) from the official services. Along with these institutions, whose status is equivalent to the private institutions for social solidarity, there are other bodies providing health care, the licensing and control of which is the responsibility of the MHS.

218. The fundamental goal of health care policy is the improvement of the quality of life and the living conditions of the population, so that economic development is reflected in individual and collective well-being. Health policy aims to achieve the following objectives in 1994:

- (a) A strengthening of prevention against factors capable of affecting physical and social well-being;
- (b) Upgrading of health systems;
- (c) A strengthening of those factors which lead to greater stability and continuity in the health system, and upgrading the training of human

resources which will ensure the future functioning of the system and strengthen its relationship to the community.

219. In 1989, 9.7 per cent of public expenditure was on health care, some 1.5 per cent of the GDP. Since the available figures for 1992 are considered to be an underestimate in relation to the real figures, they are not reproduced here.<sup>30</sup>

220. The infant mortality rate (number of deaths of children under 1 year for every 1,000 live births) was 8.4 in 1990, 7.5 in 1991, 7.3 in 1992 and 8.6 in 1993.

221. Between 1989 to 1992, the percentage of units of housing with access to safe drinking water grew from 95 per cent to 98.3 per cent.

222. Between 1989 and 1992, the percentage of the population with access to adequate excreta disposal facilities grew from 98 per cent to 99.3 per cent.

223. The figures for the years of infants immunized against diphtheria, pertussis, tetanus, measles, poliomyelitis and tuberculosis for 1992 and 1993 are the following:

	1992	1993
DTP (diphtheria, tetanus and pertussis)	80.4	82.1
VAP (poliomyelitis)	80.2	81.8
BCG (tuberculosis)	86.5	91.2
Hepatitis	77.7	79.3
Measles	72.9	76.8

<sup>30</sup> Please see table 14 of the Statistical Appendix.

The percentage of properly vaccinated children in 1993 was 78 per cent.

224. The figures for life expectancy for the years 1981 and 1992 are as follows:

	1981	1991
Women	70.8	71.8
Men	67.1	68.1

225. Since pregnant women fall within one of the groups at risk for whom health care is free, 100 per cent of pregnant women have access to trained personnel. The maternity mortality rate in 1991 and 1992 was 0.3 deaths, per 100,000 live births.

226. Access to health care is free for children up to 10 years of age, and for those in primary and secondary education.

227. The measures considered necessary to improve the health of vulnerable groups are determined by the government guidelines of health, which are as follows:

- (a) Improvement of the coordination of the health subsystems;
- (b) The preparation of legislation to outline and regulate those problems related to prevention, treatment and social integration of those who suffer from mental diseases;
- (c) To introduce health insurance;
- (d) To upgrade the functioning of health centres in order to ensure the effective access of the entire population, and to strengthen their role in the provision of health care and the prevention of disease.

228. Among the measures taken to improve the health of these groups have been the extension of the opening hours of health centres. There were also actions designed to draw people's attention to programmes for child health care, women's health, family planning, and adult health. As for health care at the hospital level, there were increases in the numbers of medical personnel, and the introduction of alterations in working methods. A haemodialysis care unit will be installed with the aim of increasing assistance to patients suffering from renal diseases. The assessment of all these measures will be made through the computerized health system which has already been installed. The consequence of these measures has been a lower death rate for notifiable diseases.

229. As maternity and infant health care are free of charge for all, the actions taken aim at reducing neo-natal and infant mortality. There has been an increase in efforts to attract pregnant women and children to primary health care as early as possible, as well as an increase in the rate of vaccination and the implementation of programmes of oral hygiene. At the level of hospital care, the number of beds in the Paediatric Unit was increased in 1993, and a Special Care Unit for the Newly Born was set up.

230. Measures taken to prevent, treat and control epidemic, endemic, occupational and other diseases are an increase in vaccination, in the water and sewage network, the monitoring of water quality and air pollution, and the introduction of regulations for safety at work are some of the measures undertaken by the Administration.

231. Measures taken by the Government to assure all medical service and medical attention in the event of sickness include Decree-Law 24/86/M, of 15 March, which ensures access to health care for the whole population of Macau.

232. Notwithstanding all the measures taken in 1993, there was an increase in the infant mortality rate in relation to the trend registered in recent years, reflecting an increase in the neo-natal mortality rate.

233. Concerning the elderly, medical care in all health units is free to those who are over 64 years of age.

234. Coordination with residents' and workers' associations and with private institutions of social solidarity has been undertaken to maximize community participation in primary health care.

235. Concerning health education, in April 1988, the Technical Unit for Health Education was created in the field of primary health care with the aim of providing information on health problems for the population. This information has been provided through direct contact with the population and through the media.

236. There has been cooperation with WHO in training and information programmes, awarding scholarships for medium and long internships in health institutions in the Asia-Pacific Region. These programmes are biennial.

237. The World Health Organization contributed the following amounts:

1990-1991 .....	US\$ 64,400
1992-1993 .....	US\$ 56,000
1994-1995 .....	US\$ 65,000

#### **Articles 13 and 14**

238. Before dealing with the specific items requested for this report, it is necessary to mention some of the basic characteristics of the

Macau education system, to provide some background for the discussion of educational policy and the statistical data.

239. The Macau education system was defined by Law 11/91/M of 29 August and by the regulations following from that law. This law established the framework of the educational system which includes the great majority of both public and private educational institutions in the Territory.

240. The education system is considered as the combination of means through which the right to education is realized. It is expressed through the guarantee of continuing formative action, with the aim of the overall development of the individual's personality, social progress and the democratization of society.

241. The Macau education system is a combination of various structures, under the initiative and responsibility of several public and private instructions and organizations. An essential characteristic is the predominance of private educational institutions, a circumstance that is closely linked to the Territory's history. Thus, in the academic year 1992/93, out of 173 educational institutions, from pre-school level to secondary school level, only 17, that is 9.8 per cent, were public, and 156 (90.2 per cent) were private. In 1990/91, out of a total of 94, 16 were public, a figure which shows a trend towards private institutions. The major proprietors of private institutions are the Dioceses of Macau and associations such as the Chinese Association for Education.

242. A similar distribution can be seen amongst pupils. Out of 82,661 pupils, only 6,548 (8 per cent) attend official schools, and 76,113 (92 per cent) attend private schools. The figures for 1990/91 show respectively 4,887 (6.5 per cent) attending official schools, and 70,297 (93.5 per cent) attending private schools.

243. Another important characteristic that must be noted is the variety of teaching languages and the accompanying variety in the curriculum. Of the official institutions, excluding higher education, 4 schools use Portuguese as the medium of instruction and the remaining 13 use Cantonese. The schools using Portuguese follow curricula similar to those of Portugal. Schools using Cantonese, where Portuguese is always taught, follow curricula suited for Macau, based on the Hong Kong educational system with the progressive introduction of local features in the various years and subjects. Thus, in 1992/93, 8 private schools used the Portuguese language as the medium of instruction, 113 taught in Chinese, and 15 taught in English.

244. In private institutions there is a great variety of curricula based on models similar to those of the People's Republic of China, Portugal, Taiwan and Hong Kong.

245. The Council for Education, which is the consultative body of the Governor for educational affairs, has currently been progressively rationalizing the situation by approximating the names of the subjects, the study plans and the schedules and also the curricula, introducing in this way more local references into the curricula, particularly in the fields of history, geography, social science and civic education.

246. Articles 2 and 3 of Law 11/91/M state the main education and organizational principles. The fundamental principle of education in Macau states that all the residents of the Territory have the right to education, irrespective of race, creed or political or ideological opinion. Given the historical circumstances of Macau it does not make sense to speak of any legal discrimination based on sex as far as the right to education is concerned.



247. The Administration must promote the development of adequate means for an effective equality of opportunity in access to and success in education. Respect for the freedom of learning and teaching is guaranteed by the fact that the Administration does not reserve to itself the right to direct education according to particular philosophical, aesthetical, political, ideological or religious orientation. It protects the right to establish and maintain private institutions which are free to define their own educational projects.

248. As for organizational principles, it is important to note that the education system comprises pre-school education, primary school (six years), secondary school, and higher education, as well as special education, adult education and technical and vocational education.

249. All residents of the Territory have the right to a basic education, comprising a preparatory year for primary teaching, primary teaching and the general secondary teaching of three years, which is mainly free of charge. This means that pupils are exempted from all kinds of fees or expenses related to enrolment, attendance or certification, and tuition allowances are paid to the students of private schools if these are not already subsidized. The provision of universal and free education is being introduced progressively. The first phase, which is currently being implemented, comprises the preparatory year for primary education. The second phase will cover general secondary education.

250. Educational support and supplements, assisting students at any level of education, are guaranteed, as well as any necessary educational support, treating students in basic schooling as a priority. Important measures of positive discrimination are thus being introduced.

251. The Administration ensures, directly or by means of subsidies, the existence of educational and vocational guidance services, pedagogical support, school health services and assistance to working students. With this aim of ensuring effective equality of opportunity, the Administration has developed action programmes for education, in particular by awarding scholarships for higher education, by providing tuition fee allowances for high-school education, food allowances, school insurance and subsidies to buy writing materials and books. The Schooling Social Action Service is considered as one of the most important means of ensuring that basic schooling becomes free of charge.

252. In the area of resources special importance is given to human resources, with the recognition that teachers and other school staff perform an activity that is in the public interest, and consequently enjoy the right to a status consistent with their professional and social responsibilities. Teachers have the right and the duty to training, including initial training in higher education, in-service training, and continuous training, provided jointly by the Department of Education and Youth and institutions of higher education. Teachers receive allowances from the Administration according to their academic and professional training, which reduce the differences in salary between teachers in official schools and in private schools. It should be noted that there also exists an Educational Resources Centre, provided with the most modern equipment, designed to give support to all teachers in the learning and use of modern teaching technology.

253. All educational institutions, whether they are public or private, are vested with pedagogical autonomy in the public interest as it is defined by the law of the education system. Private educational institutions can

be either subsidized or non-subsidized. The former are those which receive regular and permanent subsidies from the Administration. Non-subsidized private educational institutions are divided into two groups: profit-making and non-profit-making institutions. The latter are those where no tuition fees are paid or where the income from these is used only to cover the expenses of the institution, including the expenses aiming at the improvement of the quality of teaching and schooling conditions.

254. The financing of the education system is the responsibility of both the Administration and the families. Under the law, education is considered as one of the fundamental priorities of the Territory's budget. In 1994, there were increases of about 25 per cent in the budget of the Department for Education and Youth, 15 per cent for the Schooling Social Action Fund, 33 per cent for the University of Macau, and 59 per cent for the Polytechnic Institute. This demonstrates a decisive increase in financial expenditure for the area, with these sums not including the undertakings foreseen in the Plan for Investment and Development Expenditures of the Administration.

255. The Administration fulfils its financial responsibilities by maintaining a network of official institutions, subsidizing non-profit-making private institutions and giving allowances to students to pay tuition fees. Financial assistance to private educational institutions is permanent when it has in view the payment of the general expenses for the institutions, and is non-permanent when it is for the sharing of capital expenditure, the improvement of schooling conditions and teachers' training.

256. The administration of the education system is conceived in such a way as to safeguard the autonomy and freedom of educational institutions as well as respecting rules of democracy and participation. Its structures seek to ensure ties with the community and to guarantee

adequate means of participation for teachers, pupils, parents' associations, and institutions representative of social, educational, cultural and economic activities.

257. The administration of the education system is comprised of different levels. There is the level of educational policy, which is established by the Governor and the competent Joint Secretary, assisted by the Council for Education in a consultative capacity. The level of implementation of education policy from preschool to secondary education is the responsibility of the Department for Education and Youth, which coordinates and participates in the development of higher education through the Office for the Support of Higher Education. The management of private educational institutions is the responsibility of the bodies that own them, although an inspectorate is to be established with a view to pedagogical, administrative and financial supervision. As we have already mentioned, the Governor has a consultative body which ensures the participation of the parties involved in the educational process in the stages of the setting and implementation of education policy. The Council of Education must be heard on all major issues relevant to the development of educational policy, including budgetary proposals. It has also played a key role in the framing of the law including important ordinances on the development of free education, curricular development, and on the status and careers of teachers.

258. It is worth noting that the education system includes special education, adult education and technical and vocational education, although the latter is mainly the responsibility of the Office for Labour and Employment Affairs. The teaching of the official languages (Portuguese and Chinese) at beginners and advanced levels is promoted by the

Administration with the participation of private bodies, of which the Portuguese Institute of the Orient is the most important.

259. The organization and functioning of higher education in Macau is regulated by special legislation. Decree-Law 11/91/M of 4 February applies to the organization and functioning of private and public institutions which provide higher education in the Territory.

260. Higher education comprises the two separate areas: universities and polytechnics. University education is carried out by the University of Macau (UM) and the International Open University of Asia (Macau), which is a private institution. Higher polytechnic education is provided by the Polytechnic Institute of Macau (PIM). Each one of these institutions possesses its own statutes. It should be noted that in the field of further education, each of the institutions, and particularly the PIM, carry out various activities which do not lead to an academic degree, but which have the aim of training and advancing local professionals.

261. The Security Forces Institute, the School of Tourism and the Nursing School also act as establishments of higher education, involved in the training of local professionals.

262. The official languages of the Territory are taught in all the public institutions, within the scope of the implementation of a bilingual system. In exceptional cases teaching can also be carried out in English. The Administration actively promotes bilingualism, which stems from the fact that the Basic Law guarantees both Portuguese and Chinese as the official languages in the Territory after 1999. Private educational institutions are free to decide — as part of their pedagogic autonomy — which teaching language to adopt. Bearing in mind what has been said, they are also free to choose a second compulsory language, to be included in

their curricula. The public educational institutions can only choose between Portuguese or Chinese as teaching languages. The Portuguese public schools adopt Chinese as a second language to be included in their curricula while the Chinese public schools adopt Portuguese as a second language, to be included in their curricula.

263. It is important to note that once China resumes the exercise of sovereignty over Macau, on 20 December 1999, the Special Administrative Region of Macau will be ruled by the Basic Law. In terms of the constitutional principle “one country, two systems” of China, this contains norms intended to safeguard current cultural, educational and linguistic characteristics. The main policies to be pursued by the Administration are based on the Sino-Portuguese Joint Declaration, signed by the Governments of the two countries in 1987. Thus, article 2 of the Basic Law protects a high degree of autonomy for the executive and legislative powers of the future Special Administrative Region of Macau. Article 4 ensures the rights and freedoms of the residents and other individuals in the region. In relation to the high degree of autonomy of the region, article 121 states that the Government is responsible for the definition of its own education policies, including those on the education system, its administration, the teaching languages, the allocation of funds, the assessment system, the recognition of academic qualifications and academic degrees.

264. The Special Administrative Region of Macau is to promote compulsory schooling, and social institutions and private individuals may promote other initiatives in the area of education under the terms of the law. According to article 122, institutions already established in Macau may continue to function, enjoying autonomy in administrative matters

and teaching and academic freedom under the law. The right to choose a school is also legally guaranteed. Article 128 of the Basic Law expressly states that schools run by religious bodies may continue to provide religious education, including courses on religion.

*Secondary education*

265. The first three years of secondary education are included within the basic and universal education, which is provided free of charge in public teaching institutions. Pupils attending private secondary schools are entitled to receive subsidies for the payment of tuition fees and the purchase of teaching materials, according to the criteria of support for compulsory education and cases of financial hardship. For additional secondary education tuition fees must be paid in both private and public institutions.

*Higher education*

266. Higher education was re-established in Macau in 1981, on a private initiative supported by the Government of the Territory. The University of East Asia was thus created, supplying both university and polytechnic teaching. In 1988 the Macau Foundation, a body created by the Government with special responsibility for organizing and promoting higher education, acquired the University of East Asia and restructured it under its direction. In this way conditions were created in which the University of Macau could organize its activities in accordance with the needs of the Territory and oriented towards the needs of students from Macau.

267. In 1991, for the regulation of higher education in Macau, Decree-Laws 49/91/M and 50/91/M of 16 September were published.

These established the Polytechnic Institute of Macau for the provision of polytechnic education, and the University of Macau to provide university education. In 1992, Decree-Law 178/92/M of 28 September authorized the creation of the International Open University of Asia (Macau), a private institution of higher education primarily employing distance learning techniques. In 1993 the Tourism School was established (Decree-Law 48/93/M of 1 September) to provide higher and intermediate training, with strong ties to the world of employment. This school is part of the Office of Tourism and provides courses in hotel management and tourism, which were previously run by the Polytechnic Institute of Macau. Decree-Law 57/88/M of 4 July established the Security Forces Institute under the control of the Directorate of the Macau Security Forces, with the principle objective of training senior officers and firemen. This school provides graduate and post-graduate degrees in leadership and management.

268. In the academic year 1993/94 the University of Macau offered 27 undergraduate courses (Licenciaturas) and 4 Masters courses to a total of 2,645 students in the following Faculties: Business Administration, Humanities and Social Sciences, Education Science, Science and Technology, Law, the Institute of Portuguese Studies, and the Centre for Pre-University Studies. Within the areas of Law and Education courses are also offered that confer a diploma or certificate.

269. Table 2 of the Statistical Annex shows the change in the number of students in both public and private institutions since the introduction of higher education in the Territory. The number of students attending the University of Macau remained stable between 1990 and 1993. However, it doubled in the academic year 1993/94. This increase



corresponds to a greater number of enrolments in the undergraduate degree courses, since the number of students enrolled in the Pre-university Studies has remained virtually unaltered (306, 328 and 330 in 1991/92, 1992/93 and 1993/94 respectively.) The area with the greatest number of students at both graduate and post-graduate levels is that of business studies, in the Faculty of Business Administration.

270. The majority of the students attending the University — 89 per cent of the students in 1991/92, and 92 per cent in 1993/94 — are from Macau (table 4).

271. Table 5 shows the number of graduates of the University of Macau. According to data provided by the Statistics and Census Department of Macau,<sup>31</sup> (September 1993), p. 25. for the year 1991, the number of holders of academic degrees in the general population does not exceed 10,000 (2.9 per cent).

272. In the Polytechnic Institute there are five Bachelors courses and three other courses which lead to a diploma,<sup>32</sup> distributed between five schools: Languages and Translation, Commerce and Tourism, Administration and Applied Sciences, Physical Education and Sports, and Visual Arts. There was a total of 756 students in the academic year 1992/93 and in 1993/94 the total number of students is 643.

273. The Security Forces Institute offers three degree courses: in Police and Public Safety, in Maritime Customs and Excise, and for Firemen and Sappers. The majority of students at the Security Forces Institute are from Macau (69.4 per cent), followed by those from China (23.5 per cent); 17.6 per cent of the students are women.

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<sup>31</sup> XIII Population Census. II Housing Census — Global Results.

<sup>32</sup> Courses which confer a certificate without granting an academic degree.

274. The yearly tuition fees for the University of Macau for the academic year 1992/93 were as follows (in MOP): MBA 60,000; Licenciatura 42,500; diplomas between 13,650 and 27,300; Pre-university Studies Centre 26,700. Macau residents are entitled to a reduction of 40 per cent, subsidized by the Government. In special cases, students in the Faculty of Educational Sciences are exempted from tuition fees. The annual tuition fees in the Polytechnic Institute of Macau in 1993/94 were MOP 34,700 for Bachelors courses (equivalent to a higher diploma under the English system) and MOP 27,300 for courses which confer a diploma. Macau residents are entitled to a reduction of between 40.7 and 85 per cent depending on the course. Students of the School of Visual Arts who are not residents of Macau are entitled to a reduction of 50 per cent.

275. In 1993, the budget of the Territory provided a total of MOP 83,256,800 for the UM and PIM, of which MOP 69,547,300 was allocated to the University of Macau. As already stated, in the academic year 1994/95 the budget for UM will be increased by 33 per cent, and that of PIM by 59 per cent.

276. There is a third type of financial support given by the Government in the form of the award of various types of scholarships for higher education in Macau or outside the Territory. The figures contained in tables 6 to 10 of the Statistical Annex show the number of scholarships by academic year, the major areas of study, and the different types of scholarships.

277. The International Open University of Asia (Macau) operates a scheme of distance learning, in areas similar to those offered by public higher education. It confers degrees and diplomas of different levels to students whose medium of instruction is either Portuguese, Chinese or

English, adopting the relevant Portuguese, Chinese or English curriculum. The majority of students at undergraduate and post-graduate levels are taught in English (65.3 and 68.7 per cent respectively), followed by Chinese (34.7 and 30.9 per cent) and, in 1992/93, by Portuguese (0.4 per cent).

278. One of the features of higher education in Macau is that both students and teaching staff are from different countries and regions with their own cultural and linguistic characteristics. Though the majority of students were born in Macau and speak Chinese, the teaching staff is made up of many different nationalities. Only at the Security Forces Institute is the teaching staff made up of only Portuguese (84.8 per cent) and Chinese (15.2 per cent). At the UM, Portuguese and Chinese teaching staff are 54.7 per cent of the total and at PIM they are 72.4 per cent. The next largest group are the English staff with 22.6 per cent at the UM, and 20 per cent at the PIM. At the International Open University of Asia (Macau) in 1992/93, the majority of the teaching staff was English; 14.2 per cent were Chinese and 8.7 per cent Portuguese. Table 11 of the Statistical Annex contains information on academic staff by academic qualifications and nationalities.

### *Basic education*

279. The Administration is directly involved in adult education, but its major contribution has been in the form of organizational and financial support of initiatives from civil society. Article 14 of the education law sets out the objectives of adult education as the elimination of both actual and de facto illiteracy, the provision of educational opportunities to those who did not attend or did not conclude the normal system of education, and the

promotion of civic education and cultural activities. However, these aims are so broad as to make it difficult to produce any statistics.

280. The figures for vocational training, carried out by the Department for Education and Youth are set out in the table below:

1990/91	1,189 trainees
1991/92	1,573 trainees
1992/93	193 trainees

The reduction in the number of trainees in 1992/93 was due to the transfer of the training activities to the Office for Labour and Employment Affairs.

281. Broadly considered, the only available figures on adult education are for the academic year 1991/92. During that year adult education was offered by 98 establishments with 731 courses (of which 296 were offered by the Administration). According to the *Anuário Estatístico* (Annual Statistical Review), 34,168 students were enrolled in these courses, of whom 13,788 were men and 20,380 women. During the same period, there were 731 teaching staff, of whom 60 per cent were male.

282. The calculation of illiteracy rates, both actual and de facto, causes difficulties which are not easily overcome. This is not only because of the concepts themselves, but also due to the scarcity and imprecision of the quantitative data that has been collected. The latest statistical data available (annexed to this report) are taken from the Census of 1991 (Censos/91). If the distribution of the population according to their level of formal education is analysed, by looking at the relation between the number of residents who have no formal education whatsoever or who have not completed primary education and the total of residents of three or more

years of age, it could be inferred that the majority of the residents that have not completed six years of schooling are virtually illiterate.

283. Taking the figures from table 4.4 of Censos/91, 127,863 individuals, or about 37 per cent of the population, would have to be regarded as being in this situation. This figure is obviously far from accurate; the figures are not broken down by age group and level of education, dealing only with a group of residents three or more years of age. In table 4.3, by contrast, in which the figures are broken down by age group and school attendance, it is clear that 97 per cent of the residents between 5 and 14 years of age attend school, with a marked equilibrium between the sexes.

284. Further, we can refer to the work of Mariette Bolina, *Estatuto Educacional da Mulher em Macau* (The Educational Status of Women in Macau), which was prepared for the Workshop on Strengthening Information Base on Women for Integration in Macau Socio-Economic Development, 1993, and closely follow some of her conclusions on levels of literacy in Macau. She states that:

“Macau has a high rate of schooling of particularly, as we have already mentioned, in that section of the population which is between 5 and 14 years of age. But if we exclude those between 6 and 11 years of age, the overall rate of those who did not attend school rises to 10 per cent for females and 9 per cent for males. This data which seems to confirm the common belief that illiteracy is practically non-existent in Macau, does not explain the extent of literacy of the present adult population, especially when one considers the significant weight of the present adult population. It confirms that there is no statistical data on illiteracy in Macau. The levels of literacy and numeracy of the adult population in general,

and of women in particular, are still unknown”.

However, it is worth pointing out that there is published data on the rates of schooling. The rate of primary education is slightly over 100 per cent and, for secondary education, the rates of schooling in the academic years 1991/92 and 1992/93, were 95.6 per cent and 96.6 per cent respectively.

285. We are dealing with two important problems. The first is the lack of statistical data on important phenomena, although this situation is clearly improving. The second is connected with the great mobility of the population of Macau and the impact of this on all the social issues that have been analysed, not to mention the consequences for social infrastructure and security.

#### *Expenditure on education*

286. In 1992, a sum of MOP 458 million, around 6.8 per cent of the total budget, was allocated to education. In 1993 it exceeded MOP 514 million, 6.5 per cent of the budget, though in real terms this was an increase of 8 per cent in relation to the previous year. In 1994, there has been an increase of around 25 per cent in the figure allocated, which now represents 11 per cent of the total budget.

287. It is extremely difficult to break down the data in the Plan for Investment and Development Expenditures of the Administration (PIDEA) in order to estimate the total amount invested in education. According to the functional classification of PIDEA, in 1991 education represented about 3 per cent of the total investment, falling to 2.1 per cent in 1992 and 1.4 per cent in 1993, due to the comparatively stable situation of the network of public schools. In 1989, 1.2 per cent of the GDP was spent

on education. In 1992 the amount accounted for rose to MOP 524 million, a figure which, however, would seem to be an underestimate of the actual situation, since the calculation of public expenditure by sectors has not yet been completed for this year (see note 31).

288. The Department for Education and Youth assesses the need for new teaching establishments or their reorganization, although requests may also be brought forward by the management of private institutions. The construction of public establishments is carried out by the Office for Land, Public Works and Transportation. The construction of private establishments is highly subsidized by the Administration, which sometimes covers the total costs. The Administration approves or proposes projects according to the norms for each type of establishment. Besides subsidizing the construction of and works on private establishments, the Administration frequently provides plots of land for building on very favourable conditions.

289. To give an idea of the importance of the subsidies for work in the private educational sector, it can be pointed out that in 1993 the Government budgeted the amount of MOP 15 million for work on private schools, in addition to the MOP 130 million provided for their running expenses (out of a total expenditure for the Department for Education and Youth of MOP 364 million).

290. Since there are no rural areas in Macau, there are no difficulties concerning the distribution of schools. These are located preferentially next to the most densely populated and socially disadvantaged areas of the city. On the islands of Taipa and Coloane they are located in the towns and served by special school transport. In the new areas created by land reclamation there has sometimes been some delay in the construction of schools following the settlement of the new population.

*Access to education*

291. The steps taken by the Administration to reduce discrimination within the educational system have been mainly in the areas of aspects of economic discrimination and the prevention of academic failure. These have taken the form of support and supplementary educational assistance, consisting mainly of educational compensation, educational psychology and social assistance in education, not to mention many other activities in the field of school health and support for working students.

292. Educational compensation takes the form of additional classes and of supervised study rooms; however, there is little statistical data available on this, except on the use of study rooms. This shows a sharp increase in the attendance at study rooms between 1991 and 1992. Attendance at these rooms, which are mainly located in socially disadvantaged areas, rose from 15,109 to 33,090, an increase of over 100 per cent.

293. In the field of educational psychology there has also been a significant growth in the help provided, although total coverage is not yet possible. During the academic years 1990/91 and 1991/92, 3,471 and 5,154 students respectively, were given assistance of this type, also with the involvement of teachers, parents or tutors.

294. Social assistance in education is designed to implement measures of positive discrimination in favour of students with economic difficulties at different levels of education, with the aim of contributing to equality of opportunity in access to school and academic success. Various actions have been taken, principally in the form of allowances for tuition fees for non-higher education, for meals, for school insurance, for the



purchase of materials and scholarships for higher education. In addition to the data contained in the appendix, it is worth pointing out certain features of some of the allowances for tuition fees and for the purchase of materials and provision of study rooms.

295. The following are the figures for the allowances for tuition fees:

1990/91	4,023 students
1991/92	10,547 students
1992/93	12,043 students

From this table, we can note that between 1990/91 and 1992/93 there was a growth of around 300 per cent. During the same period, the majority of allowances were to pupils in primary education within the scope of developing free and universal basic education (45.9 per cent in 1990/91 and 58.2 per cent in 1992/93). The amount spent during the academic years 1991/92 and 1992/93 has not changed.

296. During the academic years 1991/92 and 1992/93, 8,019 and 8,892 students, respectively, received allowances for the purchase of materials. In the same academic years the total sums spent were MOP 5,212,560 and MOP 5,565,000.

297. There are no particular differences between men and women concerning attendance at school. The distribution of the student population by sex during the academic year 1990/91 is contained in table 12 in the Statistical Appendix. The only imbalance of some concern during this year was in higher education. However, this situation has been improving during recent academic years.

298. Among teaching personnel, there is a marked preponderance of female staff. In the academic year 1990/91, out of a total of 3,204 teachers, 1,024 were male (31.9 per cent) and 2,180 female (68.1 per cent).

299. On the question of access to education by vulnerable groups, it is worth mentioning special education for children with learning difficulties. Special education is one of the areas to which the Administration is most heavily committed. It is entirely free, doing away with enrolment and tuition fees, even in private schools which are almost wholly financed by the Administration.

300. In the academic year 1991/92, there were 144 pupils in official establishments, of whom 15 were integrated into normal classes, 102 in special classes and 27 in the educational and occupational unit of Coloane (U-2). There were 139 pupils attending private establishments which made a total of 283. The U-2 unit, which opened in 1991, deals with older pupils who are taught preoccupational subjects preparing these young people to lead, as far as possible, an autonomous existence.

301. In 1992/93 there were 367 pupils attending official establishments, of whom 45 were integrated into normal classes, 126 in special classes, 27 at U-2 and 170 supported by the "Lar S. Luís Gonzaga". There were 180 pupils attending private establishments, making a total of 547.

### *Languages of instruction*

302. The linguistic policy pursued by the Administration has been the fostering of a bilingual population. This topic has already been covered in the introductory section. As for the diffusion of the Portuguese and

Chinese languages and cultures, in 1990/91 there were 8,840, in 1992/93 10,283 and 1993/94 11,843 students of Portuguese language and culture (these figures are broken down in the annexes). For Chinese language and culture in the same academic years, and including the 31 participants in the CLAC programme (course of Chinese language and Administration) and the trainees at the Public Administration Office, there were 1,008,937 and 637 students respectively. The figures for courses run by PIM are not included, since figures for the year 1992/93 are not yet available.

303. Within the scope of diffusion of the Portuguese language as an extracurricular subject, there were 2,031 students in 1990/91 and 3,425 in 1992/93. As a curricular subject for the same period, there were 6,609 and 8,418 students respectively.

304. As for the diffusion of Chinese language, as a curricular subject there were 282 students (in secondary schools only) in 1990/91, and 1992/93 a total of 274 students, of whom 55 were in primary schools and 219 in secondary schools.

#### *Teaching staff*

305. The teaching staff of official establishments are either civil servants or agents of Public Administration, or have salaries equivalent to those in public administration. The special provisions on salaries of teaching staff in official establishments are published in the annexes to the decree-law on the careers and salaries of civil servants and agents of the Public Administration, Decree-Law 86/87/M, of 21 December, and the particular details are set out in Decree-Law 21/87/M, of 27 April. At

present the index 100 of the public administration corresponds to MOP 3,800.

306. The career of a primary or secondary teacher is equivalent to that of a senior officer, progressing through different stages with respect to the number of years of service and performance appreciation, since teachers have academic qualifications of higher level. The salaries in 1992/93 varied from MOP 16,340 (index 430) to MOP 24,000 (index 650).

307. Teachers without higher academic qualifications, as well as infant school teachers, have a career closer to that of an officer of Public Administration, though slightly lower in its last phases.

308. In the private sector, for the academic year 1992/93, salaries were about MOP 6,730 or 7,930 for secondary schools and MOP 6,150 or 7,450 for infant and primary school teachers. The second figure for each of these categories corresponds to the increase made by the subsidy granted by the Administration, with respect to the years of service and professional qualifications. The figures given are median salaries.

#### *Changes in educational policy*

309. Recently there have been many changes in education policy contained in ordinances which have already been published or are being drafted. Thus, article 53 of the Education Law 11/91/M, of 29 August, which has already been mentioned, includes the necessary regulating provisions for the reorganization of almost all of the main elements in the education system, allowing a major development of the system by, amongst other things, defining the scope of private education and of mainly free schooling, teaching staffs' careers and inspectors of education. This

reorganization will produce a greater harmony between various parts of the system, improve the funding in accordance with the social importance of the system, and direct the activities of the Administration towards fundamental aspects of the system. This will enable assistance to be given to private institutions in ways more consistent with the needs of the Territory, taking the form of a contractual relationship in which the rights and duties of the parties will be clearly stated.

310. The statute on private education has already been published, while the other ordinances referred to in article 53 are in the final stage of drafting, having already been submitted to the Council for Education.

*Compulsory and free primary education*

311. As has already been mentioned, the Education Law states in article 6 that a basic education (preparatory year for primary school, primary school and general secondary school) is a right to which all are entitled and is to be free of charge. The Law states that free education is guaranteed in public schools and in subsidized private schools. The same Law defines free education as exemption from tuition fees or any other charges related to enrolment in public schools and the provision of allowances for fees at any non-subsidized private schools. The implementation of universal free education will be carried out in stages.

312. Bearing this in mind, the main problems arise from the concept of free education in a network which is predominantly composed of private schools. Since it is possible to guarantee free public education, the Administration has endeavoured to help pupils in private schools, and in particular those who are undergoing basic education. Support to pupils

in private schools basically takes the form of subsidies for tuition fees but may also include other subsidies, for instance for the purchase of teaching materials. Nevertheless, it is not yet possible to cover the total costs of tuition fees, nor does such a measure seem advisable, since clearly defined procedures for the system of subsidized private education have not yet been implemented.

313. The Council for Education is presently debating the question of how to approximate the syllabi in private schools and the unification of the designation of the curricular subjects.

314. The efforts of the Administration for the next year are in the area of making pre-primary education free of charge.

315. On the other hand, in terms of subsidies, stronger links are developing between the Administration and those private schools willing to adhere to a proposal of curricular development.

316. In order to clarify a little more, it can be said that the expression “mainly free education” has three fundamental aspects: general support for education (for example subsidies for building works, to educational establishments, and direct payments to teaching staff); assistance to students in the form of scholarships; and the third aspect is personal, individual help to economically disadvantaged students, in the form of allowances for tuition fees, the purchase of school materials and school uniforms, extending beyond the coverage of tuition and enrolment expenses for students whose families have a very low income. Thus, we can say that education in public schools is free and it is progressively becoming so in non-profit-making private schools. The data concerning the principal forms of support is presented in table 13 of the Statistical Appendix.

**Article 15**

317. There is no specific legal framework for the general protection of cultural rights in Macau, in the sense of legal provisions to make effective the right of all citizens to participate in cultural life and manifest their own culture. In Macau, the right to enjoy and participate in cultural life is fundamentally defined by the cultural rights enshrined in the Constitution of the Republic of Portugal (arts. 73 and 78).

318. Although it is within the competence of the Macau Legislative Assembly (art. 31 (1) (b) of the Organic Statute) to deal with issues pertaining to rights, freedoms and guarantees, any restrictions imposed on those rights, freedoms and guarantees are subject to the provisions of article 18 of the Constitution of the Republic of Portugal.

319. Article 4 of the Basic Law of the future Macau Special Administrative Region of the Peoples Republic of China, which will come into force on 20 December 1999, guarantees the rights and freedoms of the residents and other persons in Macau, with the aim of safeguarding the existing cultural situation. Article 125 of the Basic Law states that the government shall define its own cultural policy, including policies connected with literature, art, radio, cinema and television, amongst others. It also states that the legitimate rights and interests of authors producing literature, works of art and other artistic activities are to be protected.

320. From the analysis of public expenditure (table 14 of the Statistical Appendix) we can conclude that in 1992 the amount spent for cultural purposes was MOP 215 million or 2.5 per cent of the total expenditure. The Cultural Institute of Macau, which is the main body in this area, was allocated the sum of MOP 100 million by the government

(through the General Budget of the Territory) in 1993. This sum is not only for the financing of activities in the public sector through the Cultural Institute of Macau, but is also for the support and promotion of cultural events organized by private initiative.

321. Tables 8 and 9 give a breakdown of these figures.

**Table 8**

CIM INTERNAL BUDGET

Years	Budget (MOP)	Growth rate
1989	40,000,000	
1990	65,943,000	37.4
1991	97,268,000	47.5
1992	81,800,000	-15.9
1993	96,592,000	18.1

Source: Cultural Institute of Macau.

**Table 9**

ALLOCATION OF RESOURCES FOR THE FISCAL YEAR OF 1993

Description	Budgeted expenditure (MOP)	Actual expenditure (MOP)	Coverage rate % (II/I)
Subsidy for the support of Cultural Activities	3,070,000.00	3,066,250.00	99.9
International Music Festival of Macau	6,700,000.00	6,700,000.00	100.0
Macau Art Festival	2,607,000.00	2,600,250.00	99.7

*Continue...*



Description	Budgeted expenditure (MOP)	Actual expenditure (MOP)	Coverage rate % (II/I)
Publicity and Advertising	149,000.00	143,967.70	96.6
Chamber Orchestra of Macau	1,444,300.00	1,441,569.60	99.8
Chinese Orchestra of Macau	929,000.00	928,717.80	100.0
Exhibitions	799,300.00	590,632.70	73.9
Cultural attachés to the Portuguese Embassies in the Indo-Pacific region	3,000,000.00	2,638,485.30	88.0
Congresses, Conferences and Seminars	2,500.00	2,345.00	93.8
Research (subsidies to private individuals)	586,000.00	533,624.80	91.1
Theatre, Dance and Cinema	22,500.00	6,215.00	27.6
Academy of Music	1,630,000.00	805,876.60	49.4
Dance Conservatory	85,000.00	155,479.20	183.0
Restoration of Buildings	1,056,205.50	1,054,739.10	99.9
TOTAL	22,080,805.50	20,668,152.80	93.6

Source: CIM (as of 8 June 1994).

322. The Government of Macau establishes the general outlines of cultural policy, safeguarding the principles and respect for rights, freedoms and guarantees contained in the Constitution of the Portuguese Republic. The Cultural Institute of Macau (CIM) is the body responsible for implementing the policy objectives in the area of culture. The CIM was set up by Decree-Law 43/82/M, of 4 September. Its main purpose is to support the formulation and implementation of cultural policy and scientific research in the Territory, by promoting displays linked to the

Sino-Portuguese cultural experience and the promotion of Portuguese language and culture.

323. With the beginning of the transition period marked by the Sino-Portuguese Joint Declaration, the CIM was restructured by Decree-Law 63/89/M of 25 September. However, it continues to carry out the threefold function of assisting the government in the formulation of cultural policy, ensuring the teaching of the arts, and as the body responsible for the promotion of cultural events.

324. The present Organic Law of the CIM dates back to 1989, with some minor revisions and alterations. It has the following responsibilities:

(a) To contribute to the enhancement of the cultural level of the Macau population;

(b) To stimulate the creation and support the operation of institutions which have among their objectives, the defense and promotion of cultural values;

(c) To promote, encourage and support cultural and artistic activities connected with the Sino-Portuguese cultural experience;

(d) To support the creation and diffusion of individual and collective artistic and cultural works;

(e) To promote the diffusion of books and reading;

(f) To defend, preserve and revitalize the historical and cultural heritage of the Territory and to formulate guidelines for its survival and enjoyment;

(g) To promote or support education and training in various arts, and to assist artists in the advancement of their skills and professional careers;

(b) To promote research in those areas of interest for the knowledge and preservation of Macau's cultural heritage;

(i) To contribute to the protection of integrity, truth and authorship of all works of the human spirit and all cultural creations, irrespective of the form or expression they take;

(j) To support the Administration in the coordination of cultural activities carried out by other public bodies of the Territory and to cooperate with them;

(k) To establish and strengthen, within cultural policy, cooperation with international organizations and the counterpart institutions of other countries;

325. Amongst the activities currently pursued by the CIM are the following:

(a) Technical and financial support for the cultural associations and artists of Macau;

(b) The promotion of conferences, seminars, debates and other meetings of cultural nature;

(c) The sponsorship and promotion of the production of literary and artistic works, particularly through the publication of books and magazines, and through film, radio and television;

(d) The organization and running of the teaching of various arts;

(e) Support for non-profit making educational establishments in the arts;

(f) The award of scholarships and other forms of support for the training and improvement of artists;

(g) The promotion of artistic and cultural displays, in particular those connected with the Sino-Portuguese experience, and the stimulation and support of the popular cultural displays;

(h) Assessment of the plans, programmes and budgets of cultural institutions which request financial, technical or logistical support;

(i) The submission for approval of the classification and registration of cultural assets, as well as implementing and managing measures for their protection;

(j) Carrying out programmes of cultural exchange, particularly between artists from Macau, Portugal and China;

(k) Signing agreements, protocols and other sorts of instruments of cooperation for the promotion of activities with international organizations, institutions or bodies in the territory, from Portugal, from China or other foreign countries;

(l) The organization and maintenance of libraries and archives, for the diffusion of reading and the support of research by museum centres;

(m) Publishing a cultural review, as well as the “Bulletin of the Cultural Institute of Macau”;

(n) Issuing licenses for the production of films, including advertising films;

(o) Taking or proposing the necessary precautionary measures whenever there are activities that endanger the cultural heritage.

326. The CIM also maintains the following institutions as dependent services: the Biblioteca Central (Central Library); the Arquivo Histórico (Historical Archives) and the Conservatório (Conservatory). The Central Library is made up of one branch of General Holdings and

Books and Documents on Macau (located in the Leal Senado Library), and a second branch of Chinese Libraries (Sir Robert Ho Tung Library, Mong Há Library, a mobile library, the Taipa Island Library and the Island of Coloane Library). The Conservatory promotes artistic and vocational training through beginners intermediate and advanced courses in music, dance and theatre.

327. During 1993 (Decree-Law 45/93/M, of 15 August), the Academy of Visual Arts ceased to be a dependent service of the CIM. However, it will continue to promote beginners and more advanced courses in painting, drawing engraving, serigraphy, sculpture, ceramics, photography, video and history of art.

328. The Leal Senado (the City Council) also plays an important role in the cultural life of Macau, not only by the direct promotion of cultural activities, but also through the provision of resources and, in particular, through the organization of exhibitions. To illustrate the activities of Leal Senado, the following tables show the number of exhibitions and visitors (1988-1992).

**Table 10**

EXHIBITIONS AT THE TEMPORARY DISPLAYS GALLERY

Year	Number of exhibitions	Number of visitors
1988	14	82,225
1989	12	46,497
1990	12	66,053
1991	10	74,608
1992	15	92,196

Source: Leal Senado Activities Report, 1992.

**Table 11**

## EXHIBITIONS AT THE LOU LIM IOC PAVILLION

Year	Number of exhibitions	Number of visitors
1988	2	33,035
1989	4	94,238
1990	3	60,461
1991	4	41,704
1992	4	67,175

Source: Leal Senado Activities Report, 1992.

329. The Câmara Municipal das Ilhas (CMI) (the Islands Council) also carries out various activities, staging or contributing to popular festivals, exhibitions, contests and publications. It also gives financial support to some of the activities of private associations which have aims and objectives in the areas of culture, education and social services. This is significant given the importance of cultural associations and institutions in this context.

330. The final element in the institutional infrastructure is the Portuguese Institute of the Orient (PIO). The principal objective of this body is to preserve and disseminate the Portuguese language and culture in the Orient, taking Macau as its central coordinating point. When it was first set up as a private institution, the underlying strategic idea was that of establishing a structure suitable for the transition period and able to overcome the changes foreseeable as a result of China resuming sovereignty. The PIO was intended to be an autonomous institution, in the Indian and Pacific regions, having Macau as the centre of its activities, which would continue beyond 1999.

331. On this basis PIO is considered as: a body which supports the teaching and dissemination of Portuguese language and culture; a space for research into the Portuguese presence in the Orient; a privileged space for cultural exchange and cooperation amongst the peoples of the Orient with historical ties with Portugal; a space open to the surrounding environment, assisting the exchange of ideas, experiences and cultural achievements.

332. In the area of the promotion of the Portuguese language, it is worth mentioning the following activities: the Portuguese Language Centre, which runs courses open to all the inhabitants of Macau and the occupational Portuguese language courses, designed for specific occupational areas, specifically in the areas of health and the mass media.

333. The Administration is involved in the provision of adequate juridical and institutional structures to meet present needs and future developments in the area of culture. Efforts have been made to strengthen the identity of the population of Macau, promoting respect for the collective memory and experience of the Sino-Portuguese, and encouraging the affirmation and assertion of their respective cultural values.

334. The CIM has been carrying out studies and cultural and artistic displays focusing on the encounter and intercultural experience of the two cultures. It has organized programmes of cultural exchange and signed protocols and other sorts of agreements for cooperation with international organizations and institutions from Portugal and China. Various initiatives have been realized, among which are seasons of films, exhibitions of painting and engraving, as well as other forms of artistic expression.

335. The CIM has taken the following measures to promote the enjoyment and enhancement of the cultural heritage:

(a) Cultural activities:

(i) Stimulating and supporting the creation of bodies and associations that will be engaged in cultural activities;

(ii) Supporting the activities of artists of the Territory, both in Macau and abroad, by supporting cultural tours to other countries and territories;

(b) Music:

(i) Sponsoring the activities and development of the Chamber Orchestra and the Chinese Orchestra;

(ii) Organizing concerts and recitals, assisting local musicians and promoting international musicians;

(c) Exhibitions:

(i) Organizing temporary exhibitions, promoting local artists and undertaking initiatives of an international character in the field of the plastic arts;

(ii) Organizing exhibitions with the aim of disseminating the cultural heritage of the Territory.

336. We can also note the Macau Annual Arts Festival in which all the local cultural associations participate (opera, theatre, music, dance, etc.).

337. The press, radio and television are the main means through which Portuguese and Chinese culture are promoted. According to data supplied by the Office for the Mass Media, the following newspapers are published in Macau:



(a) In Portuguese: 5 daily newspapers (with a daily circulation of between 700 and 2,000 copies)<sup>33</sup> and 5 weekly newspapers (with a circulation of between 1,500 and 3,000 copies);

(b) In Chinese: 7 daily newspapers (with a total average daily circulation of 147,500 copies) and 15 weekly newspapers (with a total average weekly circulation of 31,100 copies).

338. Radio and TV also broadcast in Portuguese and Cantonese. There are two radio channels and two TV channels which are run by TDM (Teledifusão de Macau). The Territory owns 50.22 per cent of the stock of TDM.

339. The Administration sponsors and promotes the production and circulation of literary and artistic works, through the publishing of books and reviews, films, radio and television.

340. The CIM has carried out the following activities and initiatives:

(a) Publishing or co-publishing in collaboration with other public and private bodies or institutions, works which contribute to a greater understanding of the culture of the community, by means of information and education;

(b) Promoting and supporting the publishing of works by Macanese authors and those of others dealing with themes connected to Macau;

(c) Making known those works that are essential to the understanding of both cultures, by translating Portuguese writers into Chinese and Chinese into Portuguese;

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<sup>33</sup> Data supplied by the editors.

(d) Promoting the reissue of works of cultural significance in Portuguese, Chinese and English, so that they may become a resource for education and reference;

(e) To promote and publicize publications of the CIM.

341. The existence of the Review of Culture, a quarterly magazine edited in Portuguese, Chinese and English, should also be noted.

342. Due to its history and geographical location, Macau is an open and a cosmopolitan environment where cultures meet. In this sense it is also an international space where mankind's cultural heritage is protected. To illustrate this the following activities took place in 1993:

An international symposium on the theme "Encounter of Peoples and Cultures: Macau and Ethnic Diversity in South-East Asia";

A travelling seminar on the theme "Les malentendus dans la recherche de l'universel" — Fundação transcultural;

The Macau International Music Festival.

343. The Administration of Macau preserves, with a special emphasis on Macau, the cultural heritage which it shares with the other Portuguese-speaking nations (Brazil and certain African countries), as well as other Portuguese communities all over the world.

344. Article 2 of the Organic Statute of Macau states that the principles, freedoms and guarantees enshrined in the Constitution of the Portuguese Republic are part of the legal order of the territory. In Macau, under articles 42 and 37 of the Constitution of the Portuguese Republic

all the citizens have the right to freedom of creative activity as well as freedom of expression and information. Article 42 states:

- “1. Intellectual, artistic and scientific creativity is free.
2. This freedom includes the right to the invention, production and dissemination of scientific, literary and artistic works, including the legal protection of copyright.”

Article 37 states:

- “1. Everyone shall have the right to express and make known his or her thoughts freely by words, images or any other means, and also the right to inform, obtain information and be informed without hindrance or discrimination.
2. The exercise of these rights shall not be prevented or restricted by any type or form of censorship.
3. Offences committed in the exercise of these rights shall be punishable under the general principles of criminal law, the courts of law having jurisdiction to try them.
4. The right of reply and rectification and the right to compensation for losses suffered shall be equally and effectively secured to all natural and artificial persons.”

There is therefore no limit to freedom of cultural creativity or freedom of expression and information.

345. The Administration has promoted research into records, registers, making inventories, classification, restoration, conservation,

protection and safeguarding of the assets which make up the Territory's cultural heritage, due to their archaeological, historical, artistic, ethnological, urban or landscape value. The CIM has also promoted research into and the collection of cultural information on Macau, such as practices, customs, traditions and festivals, studying and disseminating the collected information. As examples of this there is work in course to establish a museum of the so-called "Ruínas de S. Paulo" (the facade of the ruins of the Mater Deit Church, which is a classified monument) and also the following publications: *O Traje da Mulher Macaense — Da Saraça ao Dó das Nhonhonha de Macau* (A work on the historical costumes of Macanese women) — 1989; *Três Jogos Populares de Macau* (Three Popular Games of Macau) — 1984; and *P'ei P'chai* (Review of Culture, 1991).

346. The coordination of scientific and technological investigation in Macau is not supervised by a single entity. Responsibilities for scientific investigation are dispersed among various governmental departments, and are carried out by services whose functions are primarily of a practical nature. Thus, there are various governmental departments in the Territory with competences in the area of the scientific and technological investigation, the following being the most important.

347. In the field of Transportation and Public Works. At the Department for Marine Affairs, the Training School for Pilots undertakes studies and researches in the area of maritime and port activities. It collaborates with the Polytechnic Institute of Macau. It has recently held an exhibition on contemporary maritime training and certification, and in terms of international cooperation it has signed an agreement with the Nautical School of the province of Canton. At the same time the Maritime Museum of Macau carries out scientific research in the area of marine

archaeology, aiming at the restoration of sunken objects. It is currently preparing to sign agreements with the University of Macau, for the publication of books on the History of Macau, and with the Polytechnic Institute for the holding of exhibitions.

348. The Meteorology and Geophysics Services carries out shared scientific research with other services in the Pearl River Delta, namely Hong Kong and the province of Canton, on violent weather phenomena such as typhoons, floods, heavy rains and landslides. Seminars are held annually to present and discuss the research work produced by each body. There is also an agreement with the Faculty of Sciences and Technology at the University whereby final year students produce research work in collaboration with the scientists of the Service. One of these pieces of research, on the quality of air in Macau, was presented at a Congress in Beijing, in October 1993.

349. The Civil Engineering Laboratory of Macau is a non-profit-making body with financial and administrative autonomy. Although it is part of the Administration, one third of its capital is held by the Government of Macau. This Laboratory cooperates with the University of Macau by making its premises and equipment available to the Faculty of Sciences and Technology for the holding of practical classes. The Laboratory carries out scientific research at the request of various bodies in order to control the quality of the materials used in civil construction.

350. In the area of culture. It is the responsibility of the CIM to “elaborate, promote and support study and research work, in the fields of history, arts, literature and cultural heritage” (art. 23, para. a), Decree-Law 63/89/M of 25 September). In this area CIM’s activities include the

development of projects, the award of scholarships and the granting of subsidies.

351. The following are some examples of projects undertaken or completed during the year 1992:

(a) History: The Portuguese Quarter of Malacca; Macau. Cultural Interchange between East and West; History of the Archdiocese of Goa; Various Themes on the History of Macau; Macanese Families; The Cemetery of Chala; A Chronology of the History of Macau; A Translation, Annotation and Critical Edition of the Work, Ou-Mun Kei-Leok; A Selection of Bibliographic Sources and References on the Relations between Macau and Thailand; A Selection of Documents on Macau from the Historical Archives of Bombay;

(b) Sociology: The Present and Future of the Church in China and Macau; State, Society and the Development of Education in Macau; A General Survey of Macau;

(c) Ethno-linguistics: The Portuguese Language in the Orient; The Portuguese Heritage in Malacca;

(d) Architecture: Urban Structures of the Discoveries Period — A Database; Portuguese Urban Structures — Origins, Development and Morphological Characteristics;

(e) Literature: A Cultural History of Macau — An Annotation of Ancient Chinese Poetry on Macau; A Concise History of the Literature of Macau;

(f) History of art: The Art of the Society of Jesus in China.

352. Scientific research in the field of education is one of the main principles of the University of Macau. As we have already mentioned,

the University of Macau is a new institution with eight research centres which cover the different subject areas that are taught: Business Research Centre; Research Centre on the Chinese Economy; Centre of Japanese Studies; Research Centre in Educational Science; Research Centre for Science and Technology; Centre for Juridical Studies; Research Center on East-West Relations; and the Macau Studies Centre.

353. In 1993, MOP 283,605 was distributed among projects that had already been approved, and at the planning stage, in the following academic areas: Faculty of Sciences and Technology — (The Environment, Electronics, Quantitative Methods); Faculty of Human Sciences (Religious Organization in Macau, Security in China and Asia, Public Services in China); Faculty of Education Sciences (Pre-school Teaching, Computers and Education, Children and Mathematical Reasoning); Law Faculty (History, Sociology and Politics of Law in Macau).

354. Scientific research projects are also supported by the Macau Foundation which spent MOP 253,000 on such projects in 1993. Masters students at the University were awarded scholarships totalling MOP 676,600. The Institute of Software is also funded by the Macau Foundation.

355. In the field of protection and promotion of the environment and the quality of life of the population various actions have been taken to raise the interest and awareness of the community towards local and global problems.

356. In the area of basic sanitation, an incineration plant for treatment of solid wastes is already operational. A sewage treatment plant is currently under construction. Two other basic sanitation plants for the islands of Taipa and Coloane are currently being planned.

357. Actions to control environmental risk are also being undertaken, at the local and regional levels, both in relation to the use of energy resources and to urban and industrial development, aiming always at the achievement of quality of life in a sustainable environment.

358. The analysis and control of environmental pollution is also carried out by the local councils. The municipal laboratory of the Leal Senado carries out:

(a) Systematic control and analysis of the quality of the water in the public water supply (4 to 6 samples per day);

(b) Chemical control of the quality of the water in swimming pools, to verify the efficiency of the systems of circulation and renewal of the water (20 swimming pools);

(c) Analysis of the quality of the water obtained from wells, in both Macau and the islands (115 samples per year);

(d) Analysis of the coastal waters of Coloane island in support of the local council with the aim of controlling environmental pollution;

(e) Analysis of the quality of air in Macau in collaboration with the Meteorology and Geophysics Service of Macau (samples at different times and frequencies).

359. The Portuguese Constitution also protects freedom of intellectual, artistic and scientific creation (art. 42).

360. The Copyright Code approved by Decree-Law 46,980 of 24 April 1966, published in the Official Gazette No. 2 of 8 January 1972, protects the intellectual property of any creator. The author's right to dispose of, use or profit from his work is recognized regardless of whether it has been registered or undergone any other formality (arts. 1, 4 and 8).



The author of intellectual property shall enjoy the right to assert his role as creator of the work and safeguard its integrity for the duration of his life (art. 55).

361. Law 4/85/M of 25 November follows the same pattern in offering protection against illegal copying of records and videos.

## STATISTICAL APPENDIX

- Table No. 1 — Main Economic Indicators.
- Table No. 2 — Number of Students in Higher Education, by institution.
- Table No. 3 — Number of Students in Higher Education, by courses followed.
- Table No. 4 — Students attending the University of Macau by nationality.
- Table No. 5 — Graduates; cumulative data.
- Table No. 6 — Number of grants awarded by academic year.
- Table No. 7 — Number of grants awarded by country of study.
- Table No. 8 — Number of grants by nationality.
- Table No. 9 — Number of grants by area of studies.
- Table No. 10 — Number of grants by type of grant.
- Table No. 11 — Teaching staff in Higher Education.
- Table No. 12 — Distribution of students according to levels of education.
- Table No. 13 — Scholarships and allowances granted for purposes of education.
- Table No. 14 — Breakdown of Public Expenditure.

## LIST OF THE ANNEXED PUBLICATIONS

1. Dossier of the Legislation on the status and general legal framework of Macau.
2. “XIII Census of the Population, 3<sup>rd</sup> Survey on Housing — Overall Results”, Department for Statistics and Census (March 1993).
3. “The Education System in Macau” (2), Office for Higher Education (March 1992).
4. “Legislation on Higher Education in Macau”. Office for the Support of Higher Education (1992).



**‘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 (km<sup>2</sup>) (approximately 5.8 km<sup>2</sup> is land reclaimed from the sea). The total length of Macau’s coastline is 37,489 metres (m) (Peninsula: 11,350 m; Islands: 26,139 m).

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

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

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

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

122. The population density is 18,380 inhabitants per km<sup>2</sup>. The majority of the population (more than 95%) lives in urban areas. The annual growth of the population was 0.2 % in 1996, 1.5% in 1997, 2% in 1998 and 1.6% in 1999. The average annual growth was 1.5% for the period 1996-1999. This population growth is a result of a natural increase, i.e., a higher rate of births over deaths. Immigration is also a factor due to the constant rise in the number of people coming from the 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 2004 INITIAL REPORT UNDER  
ARTICLES 16 AND 17 OF THE COVENANT  
CONCERNING THE APPLICATION OF THE  
ICESCR TO MACAU \***

**(PART III)**

**MACAO SPECIAL ADMINISTRATIVE REGION**

**Introduction**

780. The present report is the first to be submitted by the People's Republic of China under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights (hereinafter referred to as "the Covenant") for the application of the Covenant to its Macao Special Administrative Region (hereinafter referred to as the MSAR). It

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\* E/1990/5/Add.59, 4 of March.

covers the period from 20 December 1999 to 31 December 2002.

781. The report, prepared in accordance with the Guidelines on the Form and Content of Reports to be submitted by States Parties to the International Human Rights Treaties (HRI/GEN/2/Rev. 1), should be read in conjunction with Part III of the second revision of the Core Document of the People's Republic of China (HRI/CORE/1/Add.21/Rev.2). The third parts of China's reports on the implementation of the International Convention on the Elimination of all Forms of Racial Discrimination (CERD/C/357/Add.4 (Part III)) and of the Convention on the Rights of the Child (CRC/C/83/Add.9) should also be taken into consideration regarding concurring subject matters.

782. The Covenant entered into force for Macao on 27 July 1993<sup>1</sup>. Its text was published in the *Macao Official Gazette*, No. 52, I Series, 3rd Supplement, of 31 December 1992.

783. On 2 December 1999, the People's Republic of China notified the Secretary-General of the United Nations of its assumption of the responsibility for the obligations arising from the continuous application of the Covenant to the MSAR. Upon that notification China made the following declaration:

“1. The application of the Covenant, and its Article 1 in particular, to the Macao Special Administrative Region shall not affect the status of Macao as defined in the Joint Declaration and in the Basic Law.

2. The provisions of the Covenant, which are applicable to the Macao Special Administrative Region, shall be implemented in

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<sup>1</sup> On 27 April 1993, the Portuguese Republic notified the Secretary-General of the United Nations of the extension of the Covenant to Macao.

Macao through legislation of the Macao Special Administrative Region.

The residents of Macao shall not be restricted in the rights and freedoms that they are entitled to, unless otherwise provided by law. In case of restrictions, they shall not contravene the provisions of the Covenant that are applicable to the Macao Special Administrative Region.

Within the above ambit, the Government of the People's Republic of China will assume the responsibility for the international rights and obligations that place on a Party to the Covenant.”

784. As the People's Republic of China resumed the exercise of sovereignty over Macao, on 20 December 1999, the MSAR was established and its Basic Law was put into effect.

785. The Basic Law, which has constitutional value, enshrines several principles, policies and provisions under the principle of “*One country, Two systems*”. According to this principle, the socialist system and policies are not to be practiced in the MSAR and its previous capitalist system and way of life shall remain unchanged for a period of 50 years.

786. The Basic Law establishes that the laws, decrees, administrative regulations and other normative acts previously in force in Macao should be maintained, except for those that contravene the Basic Law or are subject to any amendment by the legislature or other relevant organs of the MSAR (Article 8). Furthermore, it also provides that international agreements to which the People's Republic of China is not a party but which are implemented in Macao may continue to be implemented in the MSAR (Article 138 (2)).

787. With specific regard to the Covenant, Article 40 of the Basic Law prescribes that:

“The provisions... of the International Covenant on Economic, Social and Cultural Rights... as applied to Macao shall remain in force and shall be implemented through laws of the Macao Special Administrative Region”.

788. The Committee expressed great concern as to residents’ unfamiliarity with the judicial system as well as insufficient dissemination of the principles and rights enshrined in the Covenant. Other issues of concern were related with the lack of social security protection to non-residents and the lack of special programmes for physically disabled persons regarding employment, education and access to public facilities.

789. It is worth mentioning that great efforts and important steps have been taken since Reunification in order to ensure the full enjoyment by the MSAR population of the rights enshrined in the Covenant. Examples of these are the widening of the scope of social security protection, the provision of better conditions and quality of life to disabled persons and the intensive and extensive work of promoting and disseminating human rights.

## **Article 1**

### **The MSAR autonomy**

790. As previously stated, the Basic Law has constitutional value and it sets forth the general principles regarding the MSAR, as well as the norms regarding the relationship between the Central Authorities and the MSAR, the fundamental rights and duties of the MSAR residents, the political structure of the Region, the economy, cultural and social affairs, and external affairs. It also contains rules on its own interpretation

and amendment, supplementary provisions and three Annexes. The first two Annexes relate respectively to the methods for the selection of the Chief Executive and for the formation of the Legislative Assembly. The third one lists the national laws that currently apply to the MSAR.

791. Under the Basic Law, the MSAR exercises a high degree of autonomy, except for foreign and defence affairs, which are the responsibility of the Central Government of the People's Republic of China, and it enjoys executive, legislative and independent judicial powers, including final adjudication.

792. By stipulating that the executive authorities and legislature of MSAR shall be composed of permanent residents of Macao (art. 3), the Basic Law also ensures that the Region is ruled by its own people.

793. In accordance with the Basic Law, the Government of MSAR is responsible for the management, use and development of the land and natural resources within the Region and for their lease or grant to natural or legal persons, except for the private land recognized as such according to the laws in force before the establishment of the MSAR. The revenues derived therefrom are exclusively at the disposal of the Government of the Region (art. 7).

794. MSAR is entitled to decide and to formulate, by itself, its own policies on the economic and financial, cultural and social fields, determining priorities and respective mechanisms of implementation. Also underlining the exercise of autonomy is the fact that MSAR remains a separate customs territory. All financial as well as all fiscal revenues of MSAR are managed and controlled by the Region itself and are not handed over to the Central Government, which does not levy any taxes in the Region.

795. Further information regarding the MSAR political and institutional framework can be found in Part III of the second revision of China's Core document (HRI/CORE/1/Add.21/Rev.2).

## Article 2

### Recognition and application of Covenant rights

#### A. Non-discrimination in the safeguarding of rights

796. Respect for human rights and fundamental freedoms is deeply rooted in the MSAR legal system.

797. One of the general principles of MSAR, in itself, is that the rights and freedoms of its residents and of other persons in the Region shall be safeguarded in accordance with law (Article 4 of the Basic Law).

798. The main substantive provisions on fundamental rights are contained in Chapter III of the Basic Law. However, Article 41 foresees other rights and freedoms as safeguarded by law, and other chapters of the Basic Law also ensure some more fundamental rights, in particular, economic, social and cultural ones. This range of fundamental rights and freedoms is also protected under various treaties that are in force in the MSAR. Applicable international treaties are a direct part of the MSAR legal order.

799. The enjoyment of the fundamental rights of the MSAR residents prescribed in Chapter III of the Basic Law is guaranteed to non-residents in accordance with the law (Article 43 of the Basic Law).

800. The right to equality without discrimination as to nationality, descent, race, gender, language, religion, political persuasion or ideological belief, educational level, economic status or social conditions is expressly enshrined in Article 25 of the Basic Law. On the other hand, Article 44 establishes that all persons in MSAR have the obligation to abide by the laws in force in the Region.

801. Notwithstanding the fact that it is a fundamental individual right, equality, along with legality and publicity, is also one of the main

positive principles of the MSAR legal system.

802. The protection of human rights and fundamental freedoms safeguarded in the Basic Law is further bolstered by ordinary legislation.

803. In relations between the Government and individuals, the Government shall not privilege, benefit, prejudice, deprive of any rights or exempt from any obligations any party, by reason of descent, gender, race, language, territory of origin, religion, political or ideological belief, educational level, economic status or social condition (Article 5 (1) of the Administrative Procedure Code approved by Decree Law 57/99/M, of 11 October).

804. The same principle is also expressly retained in several other laws, as for example in the Legal Framework on Family Policy (Law 6/94/M, of 1 August), the Legal Framework on Employment and Labour Rights (Law 4/98/M, of 27 July) and the Legal Framework on Education System (Law 11/91/M, of 29 August).

805. The Government of MSAR is fully committed to the implementation of human rights and fundamental freedoms in the Region.

## **B. Measures for achieving economic, social and cultural rights**

806. As mentioned, all persons in MSAR, regardless of race, origin, religion or gender, are equal before the law and are subject to the same law. No government authority or official and no individual is above the law.

807. The Basic Law grants to everyone the right to resort to law and to have access to the courts, to assistance from a lawyer in protecting their lawful rights and interests, and to judicial remedies. Everyone has the right to file legal proceedings in the courts, including those against acts by the executive authorities and their personnel (Article 36 read together with Article 43). Individual human rights may, as an integral part of the



MSAR legal order, be directly invoked before the courts.

808. Nevertheless, safeguarding and enforcing human rights is also ensured through quasi-judicial and non-judicial remedies. It should be noted that a growing body of norms presently exists as means of protecting individual fundamental rights in this context, such as: the right to lodge complaints with the Legislative Assembly, which though it existed before is now expressly recognized at the constitutional level (in Article 71 (6) of the Basic Law), the petition right under Law 5/94/M, of 1 August which is maintained, as well as the right to lodge complaints with the Commission Against Corruption (CAC), also possible before Reunification and equally reinforced by means of the new law on the competencies and powers of the CAC (Law 10/2000 of 14 August) and finally the administrative complaint reformulated under Decree Law 57/99/M of 11 October.

809. The role and powers as *Ombudsman* have been expanded. CAC still promotes the protection of the rights, freedoms, safeguards and legitimate interests of individuals, ensuring that the exercise of public powers abides by criteria of justice, legality and efficiency, but nowadays it also has independent powers of criminal investigation within the scope of its activity.

810. The applicable human rights treaties have been extensively disseminated in recent years. The Covenant was published in both official languages (Chinese and Portuguese) and was distributed to the population, in February 1997, in April 1999, in July 2001, in June 2002 and August 2002.

811. Brochures and leaflets specially focused on human rights were also distributed, such as: basic rights (1996, 2000, 2001), children's rights (1998 and 2001), family rights (1998, 2001 and 2002), labour law (1998-

-2001), property rights (1997), the importance of law to children/teenagers (2000-2002), the legal aid system (1997 and 2002), the MSAR legal system (1997 and 1999-2002) and the social security system (1999 and 2002).

812. In May 2001, the Legislative Assembly compiled and published the most important laws regarding basic human rights, such as freedom of association, legal framework on family policy, employment and labour rights, freedom of speech and freedom of religion.

813. Other measures have been carried out by the Government of MSAR, aiming at promoting information and public awareness on fundamental rights among the local community and school activities, not only through the media but also by means of contests, inquiries and interactive programmes, as well as the web site of the Government and the official press and a compilation of legislation on CD-Rom (in both the official languages and English).

814. In the above-mentioned web site, one can find the texts of several international treaties, applicable National Laws, the Basic Law and all major codes of the Region (such as the Civil Code, the Criminal Code, the Civil Procedure Code and the Criminal Procedure Code).

815. During the last few years, the media has played an important role in the community by implementing awareness campaigns, particularly aimed at the major ethnic group (Chinese) so as to provide them with the basic information related to fundamental human rights and to explain the legal system in force in the Region.

### **Article 3**

#### **Equal rights of men and women**

816. As mentioned before, Article 25 of the Basic Law prohibits

all forms of discrimination, including on grounds of gender. In addition, Article 38(2) of the Basic Law specially foresees the protection of the legitimate rights and interests of women. Furthermore, the legal system, as a civil law system, is shaped by positive principles, such as equality, which underline its contents.

817. Regarding equality of gender, there are several treaties that are applicable in the MSAR, as for example the Convention against Discrimination in Education of 1960, the International Convention on the Elimination of All Forms of Racial Discrimination of 1965, the Convention on the Elimination of All Forms of Discrimination Against Women of 1979, the Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value of 1951 (ILO Convention No. 100) and the Convention concerning Discrimination in Respect of Employment and Occupation of 1958 (ILO Convention No. 111).

818. The civil law makes no distinction between men and women insofar as concerns legal personality and capacity, particularly marriage and marital status, capacity to own property, right to enter into a contract and right to inheritance.

819. Gender equality is also one of the key principles of the MSAR education system, to which access is guaranteed on an equal basis for women and men.

820. Referring specifically to labour law, there is a set of norms that prescribes anti-discriminatory measures (prevention and control) by stating that all workers shall be treated equally without any gender discrimination or other forms thereof. This principle of non-discrimination covers equal job opportunities, equal treatment at the workplace, equal remuneration for work of equal value and equal access to professional training. This

issue is addressed in more detail in the present report in relation to Articles 6 and 7.

821. It should be noted that positive discrimination in order to correct inequalities is admissible through the enactment of special provisions on the grounds that preference towards one gender should be established (Article 34 (3) of the Law on Labour Relations, Decree Law 24/89/M, of 3 April).

822. In relation to immigration laws, there are no legal provisions that may be considered as discriminatory towards women. Women are equal to men in rights and duties and no restrictions are imposed on their entry into or exit from the MSAR.

#### **Article 4**

##### **Permissible limitation of Covenant rights**

823. Under Article 14 of the Basic Law, the Central Government is responsible for the defence of MSAR while the MSAR Government is responsible for maintaining public order in the Region.

824. In the event that the Standing Committee of the National People's Congress decides to declare a state of war or, by reason of turmoil within the Region which endangers national unity or security and is beyond the control of the MSAR Government, decides that the Region is in a state of emergency, the Central Government may issue an order to apply the relevant national laws in the Region (Article 18 (4) of the Basic Law).

825. Under the Law on Internal Security, Law 9/2002 of 9 December, the adoption of measures of an exceptional nature that will eventually restrict certain civil rights is admitted without prejudice to Article 40 of the Basic Law and thus to Article 4 of the Covenant.

826. The regime for civil protection, regulated under Decree Law 72/92/M, of 28 September as amended by Administrative Regulation 32/2002, of 16 December, allows for the adoption of emergency measures in the case of dangerous situations or serious accidents, catastrophes or disasters. All eventual restrictive measures should observe the criteria of necessity, proportionality and suitability for the intended objective and abide by the general principles of law.

## **Article 5**

### **Restrictions on the rights recognised in the Covenant**

827. Several rights and freedoms to individuals are guaranteed by the MSAR legal system. Derogating measures can only be taken to the extent that is strictly required by a given situation and in accordance with the law.

828. Article 40 of the Basic Law reaffirms the application of the Covenant, the International Covenant on Civil and Political Rights as well as the International Labour Conventions in the MSAR and stipulates that any restrictions on the rights and freedoms of the MSAR residents shall be prescribed by law and shall not contravene the aforesaid treaties.

## **Article 6**

### **Right to work**

#### **A. Legal framework**

829. Article 35 of the Basic Law determines that “Macao residents shall have freedom of choice of occupation and work”.

830. The MSAR Government is responsible for the implementation of policies that seek to attain economic growth and aim to find a fair balance between labour parties (Articles 114 and 115 of the Basic Law).

831. Insofar as concerns the private sector, the three main laws on labour are: Decree Law 24/89/M, of 3 April, which governs labour relations; Decree Law 52/95/M, of 9 October, which sets forth the Law on Equal Opportunities and Equal Treatment, and Law 4/98/M, of 27 July, which sets out the Legal Framework on Employment and Labour Rights.

832. It is worth noting that the MSAR Government is undertaking a number of legal reforms in this field, such as: the Legal Procedural Regime for Labour Conflicts, the Regime for Imported Labour, the Regime on Labour Relations and the Regulation on Safety and Hygiene Conditions for Labour. The new legislation aims to improve labour relations and working conditions and also to set out a minimum wage system.

833. Labour in the public sector is governed by the Statute of the Public Administration Employees (SPAÉ), Decree Law 87/89/M, of 21 December as last amended, which is also currently under revision.

834. Besides ILO Convention No. 111 referred to above, the Convention concerning Employment Policy of 1964 (Convention No. 122) also applies to the MSAR.

## **B. Employment, unemployment and underemployment**

835. The rise in unemployment after 1998 is mainly due to the Asian financial crisis, along with the need for structural adjustment in the economic sector, which increased the demand for a specialised labour force within the tertiary market sector. As a result, a slowdown in both the economy and employment were observed, resulting in job losses

mainly in the secondary sector.

### Employment, unemployment and underemployment rates

Rates	1999	2000	2001	2002
Activity rate (%)	65.5	64.3	64.8	62.3
M	76.4	74.6	74.7	70.6
F	56.1	55.3	56.2	55.1
Unemployment rate (%)	6.3	6.8	6.4	6.3
M	8.0	8.6	8.1	7.9
F	4.4	4.6	4.4	4.5
Underemployment rate (%)	1.3	3.0	3.6	3.4

Source: Employment Survey, Statistics and Census Department.

836. The above reasons also contributed to a rise in underemployment, given the impossibility of allocating jobs according to workers' qualifications.

837. Accordingly, the MSAR Government adopted new measures and programmes to increase job promotion such as qualifying workers and upgrading vocational and technical training in order to overcome this tendency and to face the new market needs. Signs of economic recovery during the years 2001-2002 are already noticeable as a positive outcome arising from such measures.

838. Law 4/98/M referred to above establishes that all workers within MSAR have the right to be remunerated according to the nature, quality and quantity of their work, to equal pay for work of equal value, to hygienic and safe working conditions, to a maximum limit to be set on a day's work, to a weekly rest and periodic paid holidays, as well as to receive remuneration for local holidays and to join associations that represent their interests (art. 5).

839. Assistance in case of illness or pregnancy, insurance against

work accidents and professional illnesses are also provided to non-resident workers (Articles 15 and 37 of Decree Law 24/89/M).

840. In this respect, it should be pointed out that ILO Convention concerning Equality of Treatment for National and Foreign Workers as regards Workmen's Compensation for Accidents (Convention No. 19) of 1925 is applicable in MSAR.

### **Gradual development of the number of non-resident workers**

Year	1999	2000	2001	2002
Entry	9,988	7,334	7,542	7,720
Exit	9,818	12,296	8,838	10,185
Balance	32,183	27,221	25,925	23,460
Annual growth rate (%)	+0.5	-15.4	-4.8	-9.5

Source: Demographic Statistics, Statistics and Census Department.

### **Employed population by gender and nationality**

2001	Total	Chinese		Portuguese		Filipino		British		Other	
MF	202,807	181,725	89.60%	14,881	7.34%	4,457	2.20%	497	0.25%	1,247	0.61%
M	106,749	95,902	89.84%	8,030	7.52%	1,783	1.67%	282	0.26%	752	0.70%
F	96,058	85,823	89.34%	6,851	7.13%	2,674	2.78%	215	0.22%	495	0.52%

Source: 2001, Employment Survey, Statistics and Census Department.

## **C. Major employment policies and measures to guarantee the right to work**

### *Promotion of employment*

841. The Labour and Employment Department (LED) is responsible for the implementation of the employment policies and



measures, which aim at promoting job allocations and a stable/competitive market environment. Its primary purpose is to tackle large-scale unemployment rates and to respond to the actual needs of the labour market.

842. The focuses of major concern are youth employment, low salary levels and educational and technical (re)qualifications.

843. To undertake such a task, LED provides different types of services tending towards market needs, including vocational guidance services and professional training; workshops on occupational hygiene and safety, improvement of labour legislation, job centres, monitoring of labour relations, seminars/conferences and social service.

844. In June 2000, the LED Promotion of Employment and Occupational Relations Division designed the new “*One Stop Service*” to assist job-seekers and to collect data to be forwarded to the Social Welfare Institute (SWI). This service envisages a more efficient and quicker response to the job applicants and workers who benefit from social welfare. In December 2001, LED adopted the “*Quality Certificate*” that aims at improving services such as attendance.

845. LED also created a job centre that operates on a free-of-charge basis to assist job-seekers and employers.

846. One of its objectives is to help workers in finding a better job, promoting contacts (interviews) between companies and job-seekers and providing information according to the needs of the labour market. In 2001, 25,491 job offers, 37,140 job interviews and 1,289 job allocations were registered.

*Support for employment of vulnerable groups*

847. The employment policy includes measures as well as technical and financial incentives to promote the professional integration of the

disabled in the labour market other than the creation of alternative work opportunities, in particular, self-employment, pre-professional training, re-adaptation to work and protected labour (Article 21 (2) of Decree Law 33/99/M, of 1 July).

848. In order to achieve social and labour reintegration of unemployed persons with physical or behavioural disability, the Social Security Fund (SSF) provides technical and financial support to private institutions.

849. Within this area, it has to be pointed out that activities are carried out by two private institutions: the “Centre for Social Welfare and Protected Workshop for the Disabled” and the “Macao Special Olympics Training Centre”. The former provides professional training to the moderately mentally disabled and to the physically disabled of both sexes aged over 16 years, while the latter promotes the professional training of self-supporting mild to medium mentally disabled persons over 16 years.

850. In 2000, LED organized its first training course for 10 disabled workers, who were later integrated into the labour market. In 2001, another course was set up for 10 trainees, who are still waiting for employment. In 2002, the LED organized 4 courses for 40 disabled trainees. These courses are still under progress.

851. Prisoners are also provided with work and vocational training, together with teaching and re-education.

852. Aiming at creating, maintaining and developing the prisoner’s capacities to carry out an activity that might facilitate his/her social rehabilitation, the prison establishment promotes adequate training and professional improvement of prisoners (articles 51 and 56(1) of Decree Law 40/94/M of 25 July).

853. All prisoners are remunerated for their work, degree of

professionalism and type of performance.

**D. Vocational and training programmes**

854. The core system of professional training is set up through Decree Law 51/96/M, of 16 September, by developing new employment areas and training in order to create better job opportunities and skilled workers. Target groups are mostly apprentices, the unemployed and job-seekers.

855. Vocational guidance and training are offered to all without discrimination.

*Private sector*

856. In 2001, the Occupational Training Centre of LED offered (directly or in collaboration with other entities) 134 courses, registering 3,224 trainees, representing an increase of 100% compared to the previous year. The large number of trainees is justified by the implementation of courses in Chinese culture, targeted at the unemployed.

857. LED conducted 20 training courses inside numerous companies with the aim of creating more job opportunities. Within this programme, the number of trainees increased from 458 in 2000 to 1,693 in 2001.

**Attendances at the Occupational Training Centre in 2000 and 2001**

Training systems	Courses modalities	Total number of trainees	
		2000	2001
Initial training (Young people and people looking for first job)	Learning (14 to 24 years old)	113	110
	Qualification	20	100

*Continue...*

Training systems	Courses modalities	Total number of trainees	
		2000	2001
Continuous training (Active young people or adults)	Improvement	117	311
	Conversion	1,201	633
	Conversion actions in the work-place	113	234
	Course in Chinese culture (Unemployed 40 year-olds and older)	--	1,321
		--	515
Courses organised by the LED or in collaboration with other entities (total)		1,564	3,224
Courses organised for in-house company training given at OTC facilities		458	1,693
Total		2,022	4,917

Source: 2001 Activity Report, Labour and Employment Department.

*Public sector*

858. Public sector workers are also entitled to receive on-going education and training to improve their efficiency and effectiveness when dealing with the increased demands of the public.

859. The Public Administration and Service Department provides several training programmes for public workers, divided into specialised training, language training and technical-professional training. Language training is mostly in Mandarin, Cantonese and Portuguese. The technical-professional training is divided into the following areas: Information Systems, Management, Human Resources Management, Administration, Public Relations and Communication.

860. The Tourism Department also offers some vocational training programmes targeted at students and employees of the tourism sector to

improve service quality. Related information can be found at [www.macautourism.gov.mo](http://www.macautourism.gov.mo).

861. The Institute for Tourism Studies offers the general public courses comprising vocational and professional training programmes. The Professional and Continuing Education School is specialised in the continuous link with the industry and the local community. In this kind of course local participants usually account for 99% and overseas participants for 1%, with male participants representing 54% and female participants 46%. More information can be found at [www.ift.edu.mo/mecats/index.htm](http://www.ift.edu.mo/mecats/index.htm).

862. The Macao Polytechnic Institute has a Centre for Continuing Education and Special Projects, which offers a number of training courses. The School of Public Administration, the Training Centre of the School of Language Translation, the School of Health Sciences and the School of Physical Education and Sports also conduct several courses. More information can be found at [www.ipm.edu.mo](http://www.ipm.edu.mo).

## **E. Restrictions on the right to work**

### *Gender equality*

863. As previously mentioned, there are no restrictions under the MSAR legal order on labour rights, employment and vocational training. Legislative improvements have taken place in the last few years.

864. Labour law, both in the private and the public sectors, expressly recognises that all workers shall be treated equally without discrimination based on gender, marital status or family situation, access to job opportunities and treatment at the workplace, upholding the non-existence of direct or indirect discrimination towards women and the principle of

equal pay for work of equal value.

865. These principles were subsequently reinforced by means of the adoption of the Law on Equal Opportunities and Equal Treatment, Decree Law 52/95/M, of 9 October. Under this law, the rights of non-discrimination based on gender (Article 4), equal right to work (Article 5), equal opportunities, access to professional training and equal treatment at the workplace (Article 6), equal remuneration for work of equal value (Article 9) and equal job opportunities (Article 10) are expressly determined.

866. The Legal Framework on Employment and Labour Rights also establishes the need to comply with the principles of non-discrimination, equal payment and equal treatment at the workplace.

### Employed population by gender and age

Years	By gender	Employed population ('000)						
		Age						
		Total	14-24	25-34	35-44	45-54	55-64	65+
1999	MF	196,1	24,7	55,8	68,2	35,7	8,9	2,7
	M	104,2	9,3	25,7	38,8	22,0	6,4	2,0
	F	92,0	15,5	30,1	29,4	13,8	2,4	0,8
2000	MF	195,3	23,0	54,4	68,3	38,2	9,0	2,4
	M	103,2	9,1	25,2	37,4	23,5	6,3	1,7
	F	92,1	13,9	29,2	30,9	14,7	2,7	0,7
2001	MF	202,8	24,3	53,6	67,1	43,5	10,6	3,8
	M	106,7	9,7	24,3	36,4	26,0	7,4	2,8
	F	96,1	14,5	29,3	30,7	17,5	3,2	0,9
2002	MF	200,6	21,7	51,2	65,7	46,4	12,4	3,2
	M	104,1	8,8	23,2	34,3	27,1	8,4	2,3
	F	96,5	12,9	28,1	31,5	19,3	4,0	0,9

Source: Employment Survey, Statistics and Census Department.

### Unemployed population by gender and age

Years	By gender	Unemployed population ('000)						
		Age						
		Total	14-24	25-34	35-44	45-54	55-64	65+
1999	MF	13,2	3,2	2,9	4,4	2,2	0,5	0,1
	M	9,1	2,0	1,8	3,2	1,7	0,3	0,1
	F	4,2	1,2	1,1	1,3	0,4	0,2	----
2000	MF	14,2	2,7	2,8	5,2	2,9	0,5	0,1
	M	9,8	1,7	1,7	3,8	2,2	0,4	0,1
	F	4,4	1,1	1,1	1,5	0,7	0,1	----
2001	MF	13,9	2,7	2,7	4,9	3,0	0,5	----
	M	9,4	1,7	1,7	3,1	2,5	0,4	----
	F	4,5	1,0	1,0	1,8	0,5	0,1	----
2002	MF	13,4	2,7	2,3	4,5	3,1	0,8	----
	M	8,9	1,7	1,5	2,9	2,2	0,6	----
	F	4,5	1,0	0,5	1,6	0,9	0,2	----

Source: Employment Survey, Statistics and Census Department

867. In order to combat discriminatory situations at the workplace, several mechanisms were developed such as awareness campaigns and monitoring by LED. This Department is responsible for ensuring that work relations are in conformity with the law and that worker's rights are protected (Article 16 of Decree Law 52/95/M).

868. All workers are entitled to lodge complaints with LED under Article 16 of the above Decree Law. No complaint has been filed pointing towards the existence of discrimination.

#### *Positive discrimination*

869. The recognition of the fact that some population groups need

special protection is clearly stated under Article 38 (2) and (3) of the Basic Law, whereby special protection is granted to women, minors and disabled persons.

870. Positive discrimination in favour of women, minors or disable persons is admissible with the purpose of restoring *de facto* inequalities or abusive situations.

871. In this respect, labour legislation prohibits or limits certain working activities which may endanger (or create a potential risk to) the physical, spiritual and moral development of minors (Articles 35 and 40 of Decree Law 24/89/M) or the conditions of pregnancy or childbirth in women (Article 34 (3) of Decree Law 24/89/M and Article 5 (2) of Law 4/98/M).

872. The Law on Equal Opportunities and Equal Treatment also foresees special provisions for women in relation to pregnancy or childbirth by limiting or forbidding certain types of work, if it poses a potential risk to their condition (Article 8).

873. Without prejudice to judicial remedies, if the above provisions are violated, LED can fine employers up to 12,500 Macao patacas (MOP) per worker for each infraction (Article 50 of Decree Law 24/89/M and Article 15 of Decree Law 52/95/M).

## **Article 7**

### **Right to enjoy just and favourable conditions of work**

#### **A. Legal framework**

874. The following ILO Conventions are all applicable in MSAR:

- Convention concerning the Application of the Weekly Rest in Industrial Undertakings of 1921 (No. 14);



- Convention concerning Labour Inspection in Industry and Commerce of 1947 (No. 81);
- Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value of 1951 (No. 100);
- Convention concerning Weekly Rest in Commerce and Offices of 1957 (No. 106);
- Convention concerning Occupational Safety and Health and the Working Environment of 1981 (No. 155).

875. There are several legal instruments in MSAR that stipulate a system of minimum conditions of occupational health and safety, *inter alia*, the Regulation on Health and Safety in Industrial Work Sites (Decree Law 57/82/M, of 22 October), the Regulation on Health and Safety in Commercial Establishments, Offices and Services (Decree Law 37/89/M, of 22 May), Regulation on Health and Safety in Civil Construction (Decree Law 44/91/M, of 19 July) and the Regulation on Occupational Noise (Decree Law 34/93/M, of 12 July).

876. One should also mention in this respect Decree Law 40/95/M, of 14 August, which establishes the right to compensation for damage caused by accidents at work and occupational diseases.

877. These laws provide a framework whereby all workers benefit from healthy and safe working conditions and employers have the responsibility of managing the risks at the workplace, based on a set of incentives and sanctions.

878. The principle of the enjoyment of minimum working conditions is stipulated in Article 14 of the Law on Labour Relations (Decree Law 24/89/M) and in Article 5 (1) (c) of the Legal Framework on Employment and Labour Rights.

879. The LED Labour Inspection Division is responsible for the

implementation of the legal provisions on occupational health and safety referred to above. This Division and the LED Health and Safety Labour Division conduct regular inspections and have the power to apply fines for infringements of the law.

## **B. Information on wages**

### *Wage setting*

880. Within the public sector, salaries are fixed according to an index, which determines the remuneration of each professional category. The minimum salary is MOP 5,000.

881. In the private sector, there is no statutory minimum wage scheme. According to the Law on Labour Relations in the Private Sector, wages are fixed by agreement between the employer and the worker (Article 27 of Decree Law 24/89/M).

882. Nevertheless, Article 25 of the above law establishes the general principle of a fair wage, which means that contractual freedom is limited by its definition, calculation and compliance with standards of good faith.

883. It is important to point out that one of the objectives of the current revision of the Labour legislation is to introduce a minimum wage system.

884. The principle of equal pay for work of equal value is expressly stated within the MSAR labour legislation, both in the public and the private sectors.

885. There is no statistical information regarding the distribution of income in the public and private sectors. The data provided by the Statistics and Census Department shows the median remuneration for employees (M/F) is MOP 5,221 per month in 1997 and MOP 4,772 in

2002. From 1999 to 2002 the average public sector employee remuneration was MOP 14,643.

### C. Health and safety at work

886. As pointed out earlier, legislation was enacted to promote health and safe working conditions while practical measures were introduced to ensure them.

887. Another task of LED is to undertake preventive measures to avoid work-related accidents and diseases, namely through education, training and dissemination of minimum standards amongst workers and employers.

888. In addition, LED, within its powers of labour inspection, may take samples of any material or substance at the workplace, order workers to be attended by the LED medical department, elaborate safety reports and issue certificates.

889. In spite of the growing number of victims of work-related accidents and diseases during the last 10 years (35.3%), one could observe that the increase between 1997 and 2001 was only 2.4%, which means a considerable improvement in working conditions. On the other hand, the number of mortalities decreased significantly from 1991 to 2001.

#### Work-related accidents and diseases

Accidents per year	1997	2001	2001/1991 (%)	2001/1997 (%)
Victims of work-related accidents — TOTAL	3,567	3,651	+35.3	+2.4
Fatal accidents	8	6	-50.0	-25.0
Occupational diseases	-	-	-	-

Source: Labour and Employment Department, 2002.

#### **D. Principle of equal opportunity for promotion**

890. Promotion depends solely on the result of an assessment made on the basis of the quality of the performance and experience of the worker.

891. Equal access to vocational courses and training is expressly guaranteed under the Law concerning Technical and Vocational Training (Article 4 (a) of Decree Law 51/96/M, of 16 September).

892. In the public sector, the principle of equal opportunities is also promoted on the premise that the public sector should set an example for positive action to the private sector.

#### **E. The right to enjoy periodic holidays, rest leisure, reasonable limitation of working hours, regular paid leave and remuneration for public holidays**

893. In the private sector, the daily working period is 8 hours and the working week 48 hours, while in the public sector, civil servants must work 36 hours within a week, a minimum of 7 hours per day.

894. In the private sector, workers have the right to a weekly rest of one day after 7 days of work without loss of remuneration while, in the public sector, there is a weekly rest of 2 days.

895. In the private sector, workers are entitled to annual leave of 6 working days and minimum annual paid leave of 6 working days. They also enjoy 10 statutory holidays per year. In the public sector, workers are entitled to annual leave of 22 working days and paid leave in the amount equal to the remuneration corresponding to the post held.

## Article 8

### Right to trade union membership

896. The MSAR Basic Law expressly enshrines the residents' right and freedom to form and join trade unions, as well as the right to strike (Article 27).

897. Workers are free to form associations by themselves or to join associations. In fact, labour associations have long been an active group within Macao society, acting politically and defending the interests of the working class. In MSAR, there are 79 workers' associations involved in trade union activities; 5 of them are associations of civil servants.

898. The freedom of association is regulated under Law 2/99/M, of 9 August. Any group of persons may form an association without the need for authorisation, provided that its object is neither the promotion of violence nor the infringement of criminal law, nor is contrary to public order.

899. No data is available concerning the size of membership. However, it should be pointed out that 8 labour associations were constituted after the establishment of MSAR, 6 of which were formed during 2002.

900. The right to collective bargaining is also recognised. In fact, representatives of the employers and labour associations have a seat in the Standing Committee for Social Affairs, which is the advisory committee of the MSAR Government assigned to promoting dialogue between all labour partners and social development. This entity gives advice on socio-labour policies, in particular, salaries, labour regime, employment strategies and social security.

901. The ILO Convention concerning the Freedom of Association and Protection of the Right to Organise of 1948 (Convention No. 87) and the Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively of 1949 (Convention No.

98) are applicable in MSAR.

902. There is no discrimination against those who are members or wish to become members of labour associations and no restrictions are placed upon the exercise of the rights enshrined in the MSAR legislation.

903. Restrictions or repressive measures with regard to the exercise of the right to strike by any worker are illegal. The right to strike is exceptionally restricted for the militarised personnel of the Security Forces of the MSAR (Article 32 of the Statute of Militarised Personnel of the Security Forces, Decree Law 66/94/M, of 30 December).

## **Article 9**

### **Right to social security**

#### **A. Legal framework**

904. The right to social security is expressly stipulated under Article 39 of the Basic Law, which states:

“Macao residents shall have the right to social welfare in accordance with law. The welfare benefits and retirement security of the labour force shall be protected by law.”

Furthermore, according to Article 130 of the Basic Law, one of the MSAR Government’s responsibilities is to formulate policies and develop measures towards a comprehensive welfare system.

905. In this regard, a number of legal changes are currently being undertaken in order to improve the present social security system.

906. In addition, major financial support by the Government was targeted at the problem of unemployment and re-qualification of the labour force.

907. It should be pointed out that significant progress has been

made in the area of social security since Reunification. The main purpose has been to correct visible anomalies and to provide assistance to the most needy, such as low-income earners, unemployed workers and disabled workers, thus a new type of benefits was created (Order 199/2000, of 16 October by the Chief Executive).

908. Local private organisations may also provide social services in MSAR as long as they do not contravene the law.

## **B. Social security schemes, benefits and method of financing**

909. There are two main systems of social security: one for public sector workers and the other for private sector workers.

### *Public sector*

910. In the public sector, workers are entitled to a number of benefits, which are conferred according to their family situation, such as family benefit, residence allowance, marriage benefit and maternity benefit. Other social security benefits are also granted, such as holiday allowance (including Christmas), shift subsidy, retirement benefit, survivor's benefit, death allowance, funeral benefit and medical care benefits (health services and medicines).

911. In the case of retired workers, these benefits are granted through the Macao Pension Fund (MPF), which is an autonomous agency of the MSAR Government.

912. The public administration's retirement scheme is a defined benefit scheme. The main source of its funds comes from regular contributions by employees and from a percentage of the MSAR budget (Article 259 of SPAE). The retirement pension value depends on the number of years of service in the administration and on the category of remuneration at the date of the retirement of the worker.

### Public Administration social security scheme

Name of benefits	Main features
Medical care	Beneficiaries: workers and retired workers, and other dependent family members not covered by another health care protection scheme; or families under the Survivor's benefit scheme. The contribution of the worker is fixed at 0.5% of total wages, salary or retirement pension.
Marriage benefits	Each beneficiary is entitled to a fixed amount of MOP 2,300 when he/she marries.
Maternity benefits	Each beneficiary is entitled to a fixed amount of MOP 2,300 per childbirth.
Retirement benefits	There are two types of retirement benefit: voluntary and compulsory. The first is given for civil servants aged 55 and with a minimum of 30 years' service. The latter is given at age 65, with a minimum of 15 years' service. Each beneficiary is entitled to an amount equal to the 36 <sup>th</sup> part of the civil servant's salary, multiplied by the number of years counted for the retirement, up to a maximum of 36 years. Pensions are revised in proportion with changes in the income levels of active workers.
Invalidity benefits	This benefit is available to workers with permanent and total disability, as certified by the Medical Board (a minimum of 15 years' service is also required), or for permanent and total disability resulting from occupational accident or illness contracted in the performance of one's work, or in the performance of humanitarian acts or actions on behalf of the community. In this case, no minimum number of years of service is required. Each beneficiary is entitled to an amount equal to the 36 <sup>th</sup> part of the civil servant's salary, multiplied by the number of years counted for the retirement, up to a maximum of 36 years. Pensions are revised in proportion with changes in the income levels of active workers.
Funeral benefit	An amount of MOP 2,700 is paid on the death of the retired worker in order to cover funeral expenses.
Death allowance	An amount equivalent to 6 times the month's salary prior to the date of death is paid to the family relatives.
Surviving spouses and dependants benefit	This benefit is available to the surviving spouse and unborn children, as well as other successors who are entitled to benefit from the family allowance. The amount of the survivors benefit is equal to half the retirement benefit that the member of the MPF was entitled to receive at the date of his death, or that he would have been entitled to if he had left the job at that time in order to retire.

*Continue...*



Name of benefits	Main features
Family benefits	This benefit is a monthly allowance of MOP 170 per each dependent whenever the retiree's spouse and/or parents receive a monthly income of less than half of the amount corresponding to 100 index points of the salary index (i.e. MOP 2,500). Each beneficiary is entitled to a monthly allowance of MOP 220 per each child, whenever: children aged between 18 and 21 attend secondary school or equivalent education, and those under 24, enrolled in any undergraduate courses.
Housing allowance	Each beneficiary living in Macao is entitled to receive a monthly allowance of up to MOP 1,000.

Source: Macao Pension Fund and Public Administration and Civil Bureau, 2002.

*Private sector*

913. SSF provides the social security schemes for workers of the private sector, while the Health Department (HD) mainly provides medical care. The SSF is an autonomous agency of the MSAR Government. Under Decree Law 58/93 of 18 of October, only workers registered at the Fund are beneficiaries and their employers should be registered as contributors.

**Social Security Fund benefits**

Name of benefits	Main features
Medical care	Each beneficiary must have minimum 9 months of contributions in the 12 months prior to the quarter that the illness begins. Benefits are calculated on a daily basis and is payable in a consecutive or alternate manner; hospital stay is MOP 70 per day (up to a maximum of 180 days per year) and non-hospital stay is MOP 55 per day (up to a maximum of 30 days per year).
Marriage benefits	Each beneficiary is entitled to a fixed amount of MOP 1,000. The beneficiary must have a minimum of 9 months of contributions in the 12 months prior to the quarter of marriage.

*Continue...*

Name of benefits	Main features
Maternity benefits	Each beneficiary is entitled to a fixed amount of MOP 1,000 per childbirth. The beneficiary must either have a minimum of 9 months of contributions in the 12 months prior to the quarter of childbirth, or a minimum of 15 months of contributions in the 24 months prior to the quarter of childbirth.
Old-age benefits	This benefit is a monthly payment of MOP 1,150 available to a beneficiary aged 65 or above; with minimum 7 years of permanent local residence; and minimum 60 months of contributions.
Invalidity benefits	This benefit is a monthly payment of MOP 1,150 available to a beneficiary aged 18 or above; with certification of permanent loss of earning capacity minimum 7 years of permanent local residence; and minimum 36 months of contributions prior to the quarter of disability.
Funeral benefits	The person proven to have paid for the funeral expenses is entitled to a fixed amount of MOP 1,300.
Pneumoconiosis benefits	This benefit is available to a beneficiary who infected with Pneumoconiosis under the circumstances defined by legislation.
Social assistance benefits	This benefit is a monthly payment of MOP 750 available to local residents who are incapable of maintaining a basic living but are ineligible for both the old-age benefits (age 65 or above) and the Invalidity benefits (age 18 or above).
	Complementary allowance provides additional money; on top of the Social assistance benefits, to a person certified by the SWI as requiring more than the social assistance benefits to cover his/her basic living costs.
Additional allowances	This is a one-month bonus payable each January to beneficiaries under the old-age benefits, the Invalidity benefits and the Social assistance benefits.
Unemployment benefits	This benefit is available to a beneficiary who is unemployed against his/her will. The beneficiary must be registered at the LED and have a minimum of 9 months of contributions in the 12 months prior to the quarter of unemployment. The benefit is calculated on a daily basis of MOP 70 per day up to a maximum of 90 days per year.

Source: Social Security Fund, 2002.

914. The three income sources of the SSF are: (1) Government subsidies; (2) social security contributions from employer and employees; and (3) investment income. One percent of government revenue must be

allocated to the SSF every year (Decree Law 59/93/M, of 18 October).

915. Each worker contributes MOP 15 each month; each employer contributes either with MOP 30 or 45 depending on whether the worker is resident or not and self-employed people must contribute MOP 45 every month.

### Unemployment benefits for local residents

Type of unemployment benefits	Main features
Vocational training scheme	This benefit is available to the unemployed who participate in the training courses offered by designated institutions. A participant who has achieved a minimum of 60% course attendance each month is eligible for a training allowance of MOP 80 per day, but not exceeding a total of MOP 1,800 per month.
Social assistance benefits for the unemployed	This benefit is available to the unemployed who participates in the Cultural education programme. A participant who has achieved a minimum of 80% course attendance each month is eligible for a monthly payment for a maximum of 12 months. Payment is calculated based on family members: from MOP 1,800 for family with 1 member up to MOP 6,800 for family with 6 members and over.
Employment arrangement for the unemployed scheme	Employer will receive a grant of MOP 13,800 (paid over 6 months) for the employment of every unemployed who is registered at the LED.
Assistance for the unemployed with disabilities scheme	A maximum amount of MOP 500,000 will be granted as a subsidy to organisations and non-government entities that offer or organise activities (such as, vocational training programmes, sheltered workshops, job arrangements and removal of encountered difficulties programmes, etc.) for the unemployed with disabilities.
Young job-seekers scheme	This is a fixed amount of MOP 12,000 subsidy (paid over 6 months) to an employer that employs a youth aged under 26, who is registered at the LED and seeking first employment.

Source: Social Security Fund, 2002.

### C. Expenditure on social security

916. Over the last ten years, social security expenditure remained quite steady. However, due to the economic recession of recent years, there was a sudden rise in the period 2000-2001. As a result, SSF received special subsidies from the MSAR Government to carry out several temporary relief programmes for the unemployed.

#### Share of social security expenditure in the MSAR budget (in thousand patacas)

Years	1999	2000	2001	2002
Social security expenditure	349,577	382,803	519,485	483,347
Government contribution to Pension Fund	318,076	316,617	323,420	332,723
Total	667,653	699,420	842,905	816,070
Share in the MSAR budget	6.81%	7.98%	8.9%	8.5%

Source: Finance Department, 2003.

#### Subsidies to the Social Security Fund (in thousand patacas)

Years	1999	2000	2001	2002
One percent share in the MSAR budget	81,746	84,571	78,553	78,000
Special subsidies	--	12,000	122,540	224,372
Total	81,746	96,571	201,093	302,372

Source: Finance Department, 2003.

### D. Supplementary arrangements for public social security schemes

917. SSF offers social security schemes for employees.

Notwithstanding, employers can also set up their own provident funds for their employees (Decree Law 6/99/M, of 8 February as amended by Law 10/2002, of 2 July). On the other hand, employees can choose to purchase retirement schemes from insurance companies to extend their benefit coverage.

### **E. Non-enjoyment of the right to social security**

918. The social security benefits are open to all MSAR residents and are free from gender and racial discrimination.

919. Contribution to SSF is mandatory for all workers in the public sector not registered at the MPF (Article 259 (9) of SPAE).

920. Under Order of the Chief Executive 227/2002, of 15 October, the social security scheme was extended to self-employed people so as to achieve the MSAR objective of providing benefits to all employed and self-employed.

## **Article 10**

### **Protection of the family**

#### **A. Legal framework**

921. In MSAR, the family is regarded as the fundamental unit of society. Men and women are considered as equals in marriage and have the right to enter into marriage by their own free will and consent. Maternity and paternity constitute human and social values, respected and safeguarded by law.

922. Article 38 (1) of the Basic Law stipulates the freedom of marriage of the residents and their right to form and raise a family freely. On the other hand, Article 103 grants individuals and legal persons the

right to acquire, use, dispose of and inherit property.

923. The law on the Legal Framework on Family Policy, Law 6/94/M, of 1 August, sets up the basic framework on family policies, while the MSAR Civil Code regulates the family rights. In both laws the right to constitute a family and to enter into marriage in conditions of full equality is reaffirmed.

924. According to the Legal Framework on Family Policy, family policy has the following objectives: 1) to guarantee the right to constitute a family, protecting maternity and paternity as eminent human and social values; 2) to ensure the protection, development and right of a child to education; 3) to foment the living conditions relating to housing, health and education, in order to enable the integral development of the family and each one of its members; 4) to support, in particular, economically challenged families, as well as single parent families; 5) to co-operate with parents in the education of their children, promoting within families the exercise of their full responsibilities in regard to education; 6) to favour the integration and the participation of the aged in the family life and promote solidarity and mutual support between different generations; 7) to ensure the effective participation and the organic representation of the families in decisions that affect its moral and material existence; and 8) to promote the participation of families in the community development process.

925. The term “family” can have several meanings, the most common being the relationship derived from marriage and adoption. However, the term family can also mean a group of people who live under the same roof and/or share the same economic environment, a de facto marriage and their children and single parents.

926. Both spouses have the responsibility of running the family and should agree as to the way in which family life is lived, taking into

account the well being of its members and each other's interests (Article 1532 (2) of the Civil Code and Article 2 of Law 6/94/M).

927. The Civil Code sets the legal majority at 18 years (Article 118). However, whenever a minor enters into marriage, emancipation is automatic under Article 120 of the Civil Code.

928. In principle, the minimum legal age for marriage concurs with the of legal majority. However, a person aged between 16 and 18 may marry provided that the consent of the parents or guardians is given (Article 1487 of the Civil Code). In the absence of the consent of the parents or the guardians, the court may give the minor authorization to marry. The court's decision depends upon the existence of serious reasons for the marriage to take place and evidence of the minor's ability of carry out his/her life with sufficient physical and mental maturity being produced.

## **B. Family assistance**

929. The MSAR Government, together with associations concerned with the family, have a special responsibility to promote the quality of family life and the moral and material well being of families and their members (Article 1 (2) of Law 6/94/M).

930. To achieve this target, the MSAR Government, either on its own or in collaboration with such private associations, has created family support centres aimed at helping families in special situations, such as: women refugees, family service centres and day care centres.

931. These centres provide, among other things, special assistance to single parents and prisoner's families and also target developing efficient mechanisms for dealing with crisis situations provoked by any member of the family, in particular those situations arising from marital or family break-ups and domestic violence, especially when children are involved.

932. In November 1998, a new division of the SWI, the Bureau for Family Action, was created to support families with problems or at risk. This Division has a team of specialised technical staff, such as social workers, psychologists, nursery teachers, legal advisers, and so on.

933. SWI provides several support services to families in need or vulnerable families or families at risk, such as economic assistance, marriage counselling, family education and meal services.

934. Families with financial difficulties are assisted under the social security system as stated in this report in relation to Article 9.

### **C. Protection of mother and child**

#### *Maternity protection system*

935. Specialized personnel and care services at the public hospital and Health Centres provide mother and child with several health care services.

936. Before and during pregnancy, information and services for family planning; prevention of sexually transmitted diseases, tetanus immunisation, antenatal registration, minimum of 6 consultations during pregnancy; advice regarding nutrition and diet and early detection and management of complications are offered. Safe delivery in hospital is provided.

937. Services for the early detection of post-partum complications at hospital/health centres; consultations and post-partum care; promotion of breastfeeding and management of breast complications; information for family planning and tetanus immunisation are provided to mothers after delivery.

938. With regards to newborns, early detection and prevention



of neonatal infections; TB immunisation, early and exclusive breastfeeding information and support; early consultation at health centres to register for immunisation and infant surveillance plans are also offered.

939. In 2001, maternity care at health centres consisted of 8 consultations per expectant mother, a coverage rate of 72.8% of the general female population of reproductive age.

940. The MSAR Government promotes the creation and operation of a mother-infant network system and nurseries. Nurseries accept children aged between 3 months to 3 years, providing adequate conditions for the development of children as well as appropriate support to families (Article 3 (1) (a) of Decree Law 90/88/M, of 27 September).

941. Proper training and family planning that ensure planned births is fully supported by the MSAR Government.

942. Family planning is intended to improve the health and well-being of the family, and consists of providing individuals and couples with information, knowledge and the means that will enable them to decide freely and in a responsible way the number of children they wish to have and when. Consultation programmes on family planning are also organised in schools and community associations. Family planning includes pre-marriage and genetic counselling, information on birth control methods, treatment of infertility and prevention of genetic and sexually transmitted diseases (Article 10 (2) of Law 6/94/M).

943. Health centres offer a family planning programme. All medication and devices used in family planning are free of charge and provided at the expense of the Government (Articles 6 (2) and 7 (1) (d) of Decree Law 24/86/M of 15 March).

944. In the private sector, the Labour Law states that pregnant women who have been in employment for over one year are entitled to

35 days of maternity leave without loss of remuneration or employment; out of these 35 days, 30 must be taken after the birth and the remaining 5 may be used either before or after birth. This period of 35 days can be increased in exceptional cases. Nevertheless, the right to maternity leave without loss of remuneration is guaranteed for up to three births (Article 37 of Decree Law 24/89/M). During pregnancy and for 3 months following the birth, women should not engage in any tasks that could cause discomfort or a risk to their condition (Article 35 (2) of Decree Law 24/89/M).

945. In the public sector, workers have the right to a maternity leave of 90 days, 60 of which shall be enjoyed after the birth, and the other 30 before or after the birth, without limitation on the number of births. They also have the right to take one hour off each working day to breastfeed their children until the infant is one year old (Article 92 of SPAE).

946. In the public sector, male workers have the right to 5 days of paternity leave, which shall be enjoyed after the child's birth (Article 93 of SPAE).

947. As already mentioned, both labour laws are currently under revision. The MSAR Government has proposed in relation to the private sector law, *inter alia*, to omit the limit of up to three births as requisite to the maternity leave and to increase the duration of maternity leave.

948. More information on other social security benefits is given relating to Article 9.

#### **D. Protection of children and young persons**

949. The Basic Law expressly determines that minors shall be taken care of and protected by the Region (Article 38 (3)).

950. Apart from the Convention on the Rights of the Child of

1989 and the Convention concerning the Minimum Age for Admission to Employment of 1973 (ILO Convention No. 138), other treaties relevant to the protection of children are also applicable in the MSAR. These include, among others, the Convention concerning the Night Work of Young Persons Employed in Industry of 1919 (ILO Convention No. 6); the Hague Convention on the Law Applicable to Maintenance Obligations towards Children of 1956; the Hague Convention concerning the Recognition and Enforcement of the Decisions relating to Maintenance Obligations towards Children of 1958; the Hague Convention concerning the Powers of Authorities and the Law Applicable in respect of the Protection of Minors of 1961; and the Hague Convention on the Civil Aspects of International Child Abduction of 1980.

951. The MSAR Government, in cooperation with associations related to family interests and institutions of social solidarity, promotes a policy for the protection of minors deprived of a normal family environment, trying to provide them with better living conditions, family unity and integration within the community.

952. The Education and Youth Affairs Department (EYAD) and SWI jointly provide educational and community based programmes on health and children's rights. The dissemination of family and children's rights is also made through these bodies as well as others.

953. The MSAR Government pays particular attention to orphans, children who do not live with their biological parents, young girls, children who are abandoned or deprived of their family environment, as well as physically or mentally handicapped children.

954. In this regard, several social institutions provide shelter and assistance to minors of different ages who, for whatever reason, have been forced out of their homes. The residential childcare service offers

supervision and care for vulnerable children and young persons who cannot be adequately looked after by their families.

955. In the MSAR, there are 15,437 infants aged 0 to 3 (3.7% of the total population), some of them are taken care by their families, while others enjoy day care service in 51 nurseries supervised by the SWI. By the end of June 2002, a total of 3,673 infants received care from these Nurseries.

956. The MSAR labour legislation foresees the adoption of measures aimed at eradicating child labour and establishes the rules concerning the minimum age for work, which is 18 years for the public sector, and 16 years for the private sector.

957. In the private sector, the employment of persons under 16 years of age but no less than 14 is exceptionally authorized by law if the minor's physical capacity required for the exercise of the work is previously attested. At least once a year, minors undergo regular and periodic physical robustness and health examinations (Articles 38, 39, 40 and 42 of Decree-Law 24/89/M). In relation to this issue see the information given in respect to Articles 6 and 7.

*Training and rehabilitation of young offenders and delinquents*

958. In the MSAR, the age of criminal responsibility is 16 years. Minors are criminally responsible starting from that age, and they are consequently subject to the criminal law should they be accused of having infringed it. Minors under the age of 16 are not criminally liable according to Article 18 of the Criminal Code.

959. The MSAR Juvenile Justice system determines that minors under 16 years of age who have committed an act that qualifies as a criminal offence under the law shall be subject to an educational regime and that adequate measures shall be applicable depending on their social and

educational needs (Articles 6 and 67 of Decree Law 65/99/M, of 25 October).

960. The Minors Institute (MI) is the entity under the Legal Affairs Department responsible for the teaching, education and re-education, vocational guidance and training of juvenile offenders. EYAD assists MI in providing basic education.

### **E. Protection of the elderly**

961. The MSAR Government devotes great attention to the impact of the ageing population on the Region. In 1998, the “*Macao Declaration and Plan of Action on Aging for Asia and the Pacific*” of the Economic and Social Commission for Asia and the Pacific was launched. This was the first Regional Action Plan focused on the aging issue. At the moment, a research report for long-term development strategy is being prepared in this field.

962. SWI provides the elderly with health education and services with the support of other governmental departments and private associations. This support includes the provision of adequate services by establishing full time professional teams composed of physical therapists, social workers and personal attendants who guarantee elderly household care and day care services for the elderly.

963. HD cooperates closely with SWI in providing primary health care and attention service to the elderly, in particular to those living alone or suffering from chronic illness.

964. SWI also provides special support for families to assist them in how to take care of old persons in poor health through the establishment of new facilities which provide to the elderly health care and other services, such as household care and meals.

965. In addition, the MSAR Government, aware of the need to strengthen community-based support and family values, promotes joint activities with the elderly, particularly with those living alone. Hence, recreational, cultural and occupational activities for old persons have also been implemented.

## **Article 11**

### **Right to an adequate standard of living**

#### **A. General description**

966. In MSAR, there are a number of mechanisms established by law that allow residents to live with dignity, even in situations of particular difficulty or adversity. Thus the problem of poverty is not a striking one in the Region. Even so, the MSAR Government is strongly committed to reducing poverty and social exclusion as much as possible, particularly through wide-ranging social security benefits and a comprehensive social welfare system.

967. SWI is designed to protect individuals/families in conditions of indigence and to create better socio-economic living conditions as well as community development (Decree Law 52/86/M, of 17 November).

968. SWI is based on the principles of equality, efficiency, solidarity and sharing and provides financial and social assistance in the form of equipment and services, *inter alia*, social housing, shelters, free access to health services, education, meals and nursery services. Through its social welfare centres, scattered around the city of Macao and the two islands, SWI offers, amongst others services, financial assistance to individuals/families that live below the poverty line.

969. In MSAR, there are 3 Meal Service Centres, which assisted

around 1,170 persons in 2001.

970. As previously mentioned, support to individuals/families takes the form of financial subsidies granted to the elderly, needy families, the disabled who are not covered by the social security system and to all those who are not beneficiaries of social security benefits. Subsidies can be permanent (on an annual basis) or temporary.

971. The permanent subsidies include: old age or old-aged supplementary benefits; benefits for those living in seriously poor conditions, disability, unemployment and sickness; pneumoconiosis benefits; and benefit for single parent families.

972. Temporary subsidies include: funeral benefits, household remodelling benefit, support for victims of catastrophes, subsidies for the purchase of furniture, prosthetics and other specific equipment, subsidies for the expenses of staying at nursing homes or hospital, and subsidies for education fees and public transportation. Currently, the sum of a permanent subsidy to be allocated to a single person is set at MOP 1,300 per month.

973. In 2001, SWI granted permanent benefits to 5,035 individuals/families (involving 13,069 persons) totalling MOP 65,686,144, while in 2000, it granted such benefits to 4,235 individuals/families (involving 12,029 persons) totalling MOP 47,606,226. In 2001, 315 individuals/families (involving 831 persons) received temporary benefits, totalling MOP 791,822, while in 2000, SWI granted such benefits to 258 individuals/families (involving 724 persons) with a total amount of MOP 755,778.

974. To be entitled to the above benefits, the following conditions must be met: one should be an MSAR resident or have lived in MSAR for 18 months before claiming the benefits. Afterwards, SWI evaluates if the individual/family is living below the poverty line (i.e. the family income

is lower than the minimum living standard).

975. Since May 2002, SWI has provided special assistance to poor families in the following categories: single parent family, family member with a chronic disease or with disabled family member. Those benefits are granted by SWI to ease the economic pressure on these families (Order 21/2002, of 8 April by the Secretary for Social and Cultural Affairs).

976. Whenever an individual or his/her family receiving the benefits is still in need of assistance, SWI can prolong the time to one year at most on a case-by-case basis. Likewise, if the individual or family concerned is not eligible for benefits (for example: holding a Macao resident ID but under age), SWI can analyse his/her situation and provide adequate assistance.

977. To sum up, SWI offers some financial assistance in order to ensure the minimum basic living needs such as food, accommodation and other daily necessities of deprived people. In case of special need, the individual or family concerned can ask for assistance from SWI or from private associations.

## **B. The right to adequate food**

978. There is no data available on malnutrition. However, the percentage of low birth weight can be a useful indicator. In 1999, the percentage of low birth weight (< 2 500 g) was 5.4%, in 2000, 5.3% and in 2001 it was 5.6%.

979. The MSAR Government acknowledges that the quality and security of food consumption plays a vital role in the psychological and physical development of children and young people.

980. Therefore, the importance of breast-feeding and a balanced diet are emphasised to the future mother during health checks within maternal and child health consultations. Mothers are encouraged to start



breast-feeding their babies as soon as they are born. Guidance and support continue in the hospital's maternity wards and Health Centres.

981. Periodic evaluation of the growth, the nutritional education and instruction as well as supply of multivitamins and other supplements to infants are part of the child health programme guaranteed free of charge to all children.

982. At nurseries and kindergartens, food is generally well prepared and adequate to the child's age, both in terms of quality and quantity (Article 20 of Administrative Rule 156/99/M, of 24 May).

983. In the Homes for Children and Young People, young persons have a balanced diet that incorporates good quality food with varied ingredients, adapted to their age (Article 26 (1) of Administrative Rule 160/99/M, of 24 May).

984. SWI supplies daily meals to students coming from families with financial difficulties. These meals are free of charge or might merely bear a symbolic cost. SWI also provides students from 7 different schools with additional food supplements (in 2001, this service covered a total of 1,193 students, with an expenditure of MOP 1,149 526).

985. On the other hand, the EYAD carries out together with SWI and HD educational and community based programs, at schools and Health Care Centres, focusing on food safety, healthy diet programmes and lifestyles, chronic diseases and health risk behaviour.

986. The Civic and Municipal Affairs Institute (CMAI) has the specific duty of controlling the safe production of food and sanitary conditions of food production and the overall environmental and industrial hygiene of food in the domestic market.

987. Food monitoring and surveillance are carried out through regular inspections by CMAI. Moreover, CMAI implemented mechanisms

to ensure that hygiene conditions across all aspects of production, conservation and distribution of food are observed. Those mechanisms, by making use of technical and scientific knowledge, increase food security standards and thus contribute to the full enjoyment of the right to adequate food.

988. CMAI has promoted several training courses and seminars on food hygiene during the last 3 years (4 in 2000, 3 in 2001 and 2 in 2002) targeted at professionals, food hygiene inspectors and food suppliers.

### **C. Right to adequate housing**

989. The MSAR Government provides economic low-cost or temporary housing to individuals who have financial problems and are incapable of acquiring or renting accommodation or have housing reallocation problems.

990. The public housing allocation scheme is divided into two major categories: economic houses and social houses.

991. Low-cost Houses are those constructed under a special land concession contract between the MSAR Government and the private estate developers. The main purpose is both to reduce the shortage in the provision of local housing and to support the construction industry by increasing the supply of affordable houses in accordance with local needs, by offering houses at a lower price as compared with houses in the private sector.

992. The application to buy low-cost Houses is open to the public every three years and is organised by the Housing Institute (HI). To be eligible, local residents should be 18 years old and have lived in Macao for a minimum period of 5 years (Decree Law 26/95/M, of 26 June).

993. In 1999, of a total of 7,309 applications, 6,835 were accepted.

By September 2002, there were about 3,800 applications on the waiting list.

994. Social Houses are houses owned by the MSAR Government, and are rented to local families living in difficult economic conditions. In determining eligibility, the socio-economic conditions of the applicants are taken into consideration as well as the number of the family members and/or family members who are sick or have a mental/physical disability (Decree Law 69/88/M, of 8 August).

995. The application to rent Social Houses is open to the public every 3 years and is also organised by HI.

996. In 2000, of a total of 3,986 applications, 3,628 were accepted. By September 2002, there were about 800 applications in the waiting list. Normally, the waiting period for obtaining a social house is less than 3 years.

997. In some exceptional cases, families can be allocated a social house without going through the general application procedure, namely when there is a social, physical or mental danger, or when there is a need for urgent resettlement (Decree Law 45/88/M, of 13 of June).

998. The general concern of HI is to shorten the length of time on the waiting list in order to achieve a balance between the supply of and demand for public housing. By September 2002, a total of 28,200 families occupied about 30,000 public housing units, representing a total of 79,400 residents (18% of the MSAR population).

999. Squatter huts are houses with inadequate conditions, such as the lack of waste disposal or sanitary facilities. The legislation that regulates squatter huts is Decree Law 6/93/M, of 15 February.

1000. Nowadays, there are about 1,000 huts with 3,600 people. Some residents do not accept the resettlement offered by HI because

they do not want to leave the area that they are familiar with.

1001. Most of the squatter huts are located on private land, which poses major difficulties as far as the relocation of the people and the demolition the huts are concerned.

1002. The MSAR Government is indeed determined both to provide housing for genuinely needy people and to encourage financially sound persons to purchase their own houses.

1003. Decree Law 35/96/M, of 8 July, as amended by Administrative Regulation 24/2000, of 26 June, regulates the interest subsidy scheme for housing programme. The main objective of this scheme is to facilitate home ownership by residents and to help the real-estate market (with excessive vacant flats) by giving 4% interest subsidy to local people so that they could purchase their own housing property.

1004. The first stage of this scheme ended in December 1999 (1996-1999), whereby approximately 8,300 families benefited from such a programme. The second stage was extended from July 2000 till June 2002, whereby nearly 5,800 families bought their own houses.

*Household situation of vulnerable and disadvantaged groups*

1005. As is the case anywhere in the world, there are some street sleepers in MSAR in spite of the availability of 3 Shelter Centres. In 2001, 71 persons benefited from such accommodation as each shelter accommodates 34 persons. Nonetheless, and according to SWI, there are some persons who refuse to live in the shelters.

1006. SWI grants financial and technical assistance and encourages private associations to set up homes for children and young persons at risk (i.e. persons under age without or lacking family care; children and young persons who are in a crisis resulting from family or social conflicts)

with accommodation service, thus enabling them to grow normally and be integrated into the society.

1007. Up to now, there are 7 Homes for children and young persons and 1 Boarding school that can accommodate a total of 540 children and young persons. By the end of June 2002, there were 392 children and young persons who lived in these homes and school.

1008. This policy also applies to old people through the creation of homes for the elderly and the provision of specialised care for the elderly who are unable to take care of themselves, cannot care for another, or cannot live in a community.

1009. There are now 8 homes for the elderly and 1 care and attention home that can accommodate 784 elderly persons. By the end of June 2002, 662 elderly lived in these homes. In addition, the MSAR Government has set up 5 public buildings for single old persons or elderly couples to live in. There are now about 600 elderly persons living in these buildings.

1010. Such assistance is also given to disabled persons who lack independence, lack care from others and cannot live in a community. So far, there are 4 Rehabilitation homes for the disabled that accommodate disabled children, retarded persons or chronic mental patients.

1011. In addition, there is one halfway boarding house that provides mental patients who are recovering from illness with transit accommodation service. The 5 homes mentioned above can lodge 355 persons in total, and by the end of June 2002, 329 disabled persons were living in these homes.

#### *Land legislation*

1012. The use of land is regulated by Law 6/80/M, of 5 July, urban

construction by Act 1600 of 13 July of 1963, land expropriation by Law 12/92/M, of 17 August, and Decree Law 43/97/M, of 20 October and horizontal property by Law 25/96/M, of 9 September.

1013. It should be stressed that there is legislation concerning building codes, building regulations and standards and the provision of infrastructures, such as the laws on Suppression of Architectural Barriers (Law 9/83/M, of 3 October), Car Parking in Buildings (Decree Law 42/89/M, of 26 June), Safety Against Fires (Decree Law 24/95/M, of 9 June), Water Supply and Drainage of Residual Water (Decree Law 46/96/M, of 19 August), Safety and Actions on Structures of Buildings and Bridges (Decree Law 56/96/M, of 16 September), Standard of Cement (Decree Law 63/96/M, of 14 October) and Standard of Reinforcement Steel Bars (Decree Law 64/96/M, of 14 October).

1014. With regard to environmental planning and health, housing and human settlements, the Regulation on Solid Residues and Cleanliness and Town Planning, the Legal Framework on Environment Policy (Law 2/91/M, of 11 March) and the Noise Protection Law (Decree Law 54/94/M, of 14 November) it should be pointed.

#### *Town planning and management*

1015. CMAI is the local authority responsible for the development and promotion of environmental planning and health in housing and human settlements and town planning.

1016. In order to improve the living environment, CMAI regularly carries out projects to expand green and leisure areas. In recent years, the Region expanded its green areas: 5,538,275 m<sup>2</sup> in 1999, 5,690,489 m<sup>2</sup> in 2000 and 5,669,870 m<sup>2</sup> in 2001.

1017. The north side of the Macao peninsula, where a large

proportion of the population lives, was the focus of a site upgrading in 2002 adding to the existing green and leisure areas, 5 empty lots of temporary playgrounds for the enjoyment of the people.

1018. CMAI also carries out projects to renovate some old town sites in order to renovate the business environment of the surrounding areas. For instance, the old town centre of the Taipa Island project includes the repainting of old houses, re-paving of streets and alleys, decorating the whole area with flower pots and hanging baskets, and classic street lamps. A Sunday flea market is also held there. This project successfully attracts local and foreign tourists back to the island and most of all improves residents' quality of life.

1019. Furthermore, MSAR is at present deeply engaged in projects to upgrade and renewal urban sites in order to host the 4<sup>th</sup> East Asian Game in 2005. CMAI has formed a special team consisting of landscape architects and engineers to set up plans to beautify the city with intensive landscaping among others.

## **Article 12**

### **Right to health**

#### **A. Population's state of physical and mental health**

1020. Health statistics from 2001 show that the Macao population had an annual growth rate of 1.2% in relation to the previous year (436,686 in 2001 as against 431,506 in 2000). Men accounted for 48% and women for 52%.

1021. The population is ageing as a result of the decline in the crude birth rate (8.9% in 2000 and 7.5% in 2001) and the increase in life expectancy over the past 10 years.

1022. Between 1996 and 1999, average life expectancy at birth in MSAR was 76.2 years for men and 80.2 years for women.

### Major demographic indicators

Indicators		1999	2000	2001
Natural growth rate	‰	6.5	5.8	4.4
Crude birth rate	‰	9.7	8.9	7.5
Sex male birth rate	%	103.4	111.7	103.1
Crude death rate	‰	3.2	3.1	3.1
Infant mortality rate	‰	4.1	2.9	4.3
Neonatal mortality rate	‰	3.4	2.1	2.5
Perinatal mortality rate <sup>(a)</sup>	‰	6.0	6.7	5.8
Late foetal mortality rate	‰	2.4	3.1	2.5

Source: 2001 Statistics Yearbook, Statistics and Census Department.

<sup>(a)</sup> including those weighing 500 grams or more.

### Main causes of death, evolution by reported incidence

Year	1999	2000	2001
Heart failure	94	156	104
Malignant neoplasm of trachea, bronchus and lung	85	96	125
Malignant neoplasm of liver and intrahepatic bile ducts	59	69	44
Pneumonia organism and unspecified	28	37	40
Other forms of chronic ischaemic heart disease	47	44	38

Source: 2001 Demographic Statistics, Census and Statistics Department

1023. In 2002 a Centre of Physical Fitness Evaluation was created, with the purpose of setting up research and evaluation of the physical fitness of the population. The Centre offers a free service to test individual



functions, capacity and constitution, so as to promote health and sports development. Scientific programmes and sports medicine equipment and services, medical care, rehabilitation and physiotherapy treatments, combine to support the physical fitness of Macao's citizens, to improve the quality of life.

1024. All the population has access to safe tap-water. Safety and quality control is made at two different levels: one by the CMAI and another by the HD through strict analytical laboratory control.

1025. CMAI monitors and controls local drinking water quality from the public water supply system, which is administered by the Macao Water Supply Company (MWSC). Raw water samples and treated water samples from the treatment plants and distribution network are collected in order to conduct bacteriological and physico-chemical analysis to ensure that the supplied water quality meets the standards.

1026. CMAI also carries out sanitary inspections in public swimming pools, swimming pools of hotels and swimming pools located in private buildings but open to the public. On average, every year about 1,600 samples of drinking water and 1,300 samples of swimming pool water are collected and tested.

## **B. Health policies**

1027. According to Article 123 of the Basic Law, the MSAR Government formulates the appropriate health policies to promote general public health and provides the necessary health and medical services to achieve such an aim. The health-care system offers a comprehensive range of preventive, curative and rehabilitative services. One of the main measures is to provide medical services and medical care and to improve access to Health Centres.

1028. All the population has access to primary health care at Health Centres and follow-up and specialised care at the Public Hospital for the treatment of common diseases and injuries. Nevertheless, primary health care is particularly aimed at women of reproductive age and to infants/children.

1029. Primary health care for the elderly tends to improve the quality of life by assessing the level of dependence (functional dependence) and establishing nurse/doctor home visits in situations of incapacity, and in collaboration with Social Welfare Institute.

1030. For vulnerable and disadvantaged groups, intervention is also made at the level of the Health Centres with the collaboration of SWI. Mentally and physically disabled persons have access to a Mental Health Centre, which provides specialised psychiatric care and social care.

1031. Within the overall health policy, the MSAR Government focused on Health Promotion and Education programmes for prevailing health problems, *inter alia* Dengue Fever prevention, HIV/AIDS, Drugs and Smoking prevention, Diabetes prevention, Tuberculosis prevention and Hepatitis B prevention.

1032. There are selective approaches to vulnerable and risk groups that may develop some health problems: physical/mental health issues (preventive approach near the family/support groups in the community, secondary prevention and support at mental health centres); geriatric functional problems (cognitive function assessment to early recognition of quality of life by nursing home visits); infectious diseases: tuberculosis (TB screening offered for high risk groups, early detection and treatment), hepatitis B; chronic/degenerative diseases; osteoporosis and cervix/breast cancer (in women); heart-associated diseases (in adults).

1033. Health programmes aimed at women of reproductive age and infants/children cover a variety of aspects, such as nutrition, family

planning, vaccination campaigns and health education. The surveillance during pregnancy, infants/children, delivery at hospitals by trained and specialised personnel and the immunisation programmes are some of the measures, which have been implemented, thus contributing to the declining infant death rate and safe pregnancies.

1034. The MSAR Government launched an immunisation programme specially focused on children from childbirth up to 6 years. The following are the vaccination statistics for major infant communicable diseases.

### Vaccinations record

Vaccination	1999	2000	2001
Diphtheria and tetanus (double vaccination)	5,881	5,949	5,616
Measles	3,723	3,823	3,486
B.C.G	4,315	4,440	1,902
Rubella	993	41	20
Measles, mumps and rubella	14,158	14,330	15,962
Diphtheria, tetanus and whooping cough (triple vaccination)	15,500	14,367	13,618
Anti-poliomyelitis	24,321	22,773	21,941
Tetanus	21,275	24,612	19,797
Yellow fever	5	24	18
Hepatitis A	60	20	85
Hepatitis B	25,612	28,680	23,271
Varicella	2	147	306
Influenza	133	603	2,221
Others	1,201	2,793	5,289 <sup>a</sup>
Total	117,179	122,602	113,532

Source: 2001 Statistics Yearbook, Statistics and Census Department.

<sup>a</sup> Including 5 087 TUB and 141 IgHB.

1035. The subject of child health care is exhaustively addressed

in the part of China's report on the implementation of the Convention on the Rights of the Child in MSAR.

1036. In 2001, there were 3,655 cases of notifiable communicable diseases reported to the Health authorities. Among them 1,490 cases were of varicella, 1,418 cases of classic dengue fever, 410 cases tuberculosis of lung and 92 cases of acute hepatitis C.

1037. Control and education-based programmes/campaigns on the prevention of pests and animal diseases such as dengue fever and other environmental hygiene activities are addressed in coordination with HD by several entities such as CMAI and the Environment Council (EC).

*Prevention and control of HIV/AIDS*

1038. Until now, MSAR has enjoyed a low HIV prevalence but the spread of this virus is growing rapidly throughout Asia. Increasing cross-border movements and changing behaviours among youth and other vulnerable/risk groups have generated major concerns. The Health authorities have had to respond with high-level awareness campaigns on HIV/AIDS providing basic knowledge to the general public and to target groups. They also assist HIV/AIDS patients and their families. Education, information and professional counselling are seen as basic elements in handling the problem of HIV/AIDS.

1039. The HD launched a campaign for the years 2002-2003 (within the framework of the World AIDS Day) in co-ordination with other institutions, based on the non-discrimination principle and the protection of fundamental human rights of HIV/AIDS patients. The idea is to raise a sense of solidarity and respect among the community and to promote the well being of HIV/AIDS patients.

1040. Up to the end of October 2002, a total of 255 HIV infections

had been reported in the MSAR, among them 21 cases which have developed into AIDS and are being monitored by the Health authorities.

1041. The majority of the HIV infected population are temporary residents employed in the entertainment industry (67.8%). The principal means of transmission is sexual contact (78.4%), with predominance in heterosexual transmission (69.4%) followed by homosexual transmission (9%) and by intravenous transmission among drug users (5.1%).

1042. Special units in the Public Health Laboratory and in HD were recently created. An AIDS counselling hotline was established to provide psycho-social support to HIV/AIDS patients and their families. Pre- and post-test counselling services, educational sessions, assistance from social workers and social welfare are also made available. HIV antibody blood tests are confidential and free of charge.

### *Drug addiction*

1043. Of major concern is drugs consumption. The MSAR Government has adopted a balanced and integrated approach to counter the drugs problem, based partly on prevention, risk/harm reduction measures and free treatment programmes for drug addicts, and partly on strengthening control and law enforcement to combat illegal drug trafficking.

1044. A free medical service is given to drug addicts, including medical check-ups for infectious diseases, (e.g. HIV, hepatitis B and C, TB), and other biochemistry check-up, (such as blood and urine tests), treatment and rehabilitation programmes.

1045. The health situation of drug addicts is significantly worse than that of the majority of the population, as is shown by higher rates of hepatitis B, hepatitis C, sexually transmitted diseases amongst intravenous

drug users and other organic infectious diseases.

1046. Harm reduction programmes, including the prevention of sharing needles and safe sex, are implemented in most of the treatment programmes. These measures are aimed at reducing and controlling the rate of infectious disease transmission within this group.

1047. All measures described above are limited to those addicts who voluntarily seek treatment (treatment is not compulsory but is strongly recommended).

1048. In 2001, there were about 330 drug addicts registered in voluntary treatment programmes (male (85%), average age: 30-35, unemployed, heroin dependence, and low education).

#### *Health education*

1049. As mentioned before, health education plays a fundamental role in the Government's health policy. Since 1994, health education has been included in the Pre-primary, Primary and Secondary School Curricula. It is focused on health prevention, treatment and education. Community education and extracurricular activities are also promoted at schools.

1050. Health institutions, schools and private associations strengthen community participation within school activities and at the workplace in order to prevent high-risk behaviours and promote healthy lifestyles.

1051. Health information is disseminated to the general public and targets selected groups through the mass media, the distribution of pamphlets, newspapers, CDs, etc.

### C. Health system

1052. A total of 367 public and private establishments in MSAR provide medical and health care to the population. Of the 365 health-care centres, 95.9% are private establishments while 4.1% are public.

#### Health care establishments

Classification	1999			2000			2001		
	Total	Public	Private	Total	Public	Private	Total	Public	Private
Total	386	14	372	360	13	347	367	16	351
Hospital	2	1	1	2	1	1	2	1	1
Health centres	384	13	371	358	12	346	365	15	350

Source: 2001 Statistics Yearbook, Statistics and Census Department.

1053. The two hospitals provide a total of 1 099 beds (980 beds for internment and 119 for emergency situations) plus 4 delivery rooms and 15 operating rooms. The rate of hospital stay is of 71.2%.

1054. The demand for hospital services has been increasing. The emergency units of both hospitals attended in 2001 a total of 250,073 cases, a rise of 13.8% compared with the previous year. The majority cases involved sickness (94.5%) followed by pregnancy (1.6%). Medical consultations at the public hospital totalled 175,360, the majority being in obstetrics/gynaecology, ophthalmology, orthopaedics and traumatology.

1055. In addition, there is a Centre for the Prevention and Control of Diseases with 5 functional areas: Infectious Disease Prevention Unit, Food and Environment Unit, Health Planning Unit, Health Education and Chronic Diseases Control Unit and Occupational Health Unit.

1056. In MSAR, there is a total of 891 doctors (including several medical specialities) and 960 nurses. The hospitals' manpower totalled 2,160 in 2001.

1057. HD supports the on-going training of specialised health care personnel and direct collaboration with social workers. The Department is undertaking some reforms such as re-organising services, re-allocating technical resources, rationalising practices, upgrading the database system and improving attendance rates.

1058. Emergency health care is free of charge. The cost of medical consultations is affordable to most of the population.

#### **D. Expenditure on health care**

1059. HD guarantees access to health care services and free health care for the entire population of MSAR. The principle of free universal access to health care is stipulated by law. Health care costs are fully or partly covered by the Region's budget, depending on the type of illness or the socio-economic condition of the patient or other private health care protection schemes (Articles 3 and 14 of Decree Law 24/86/M).

1060. Health care is provided free of charge: in public health centres (medical care, nursing and medication); reasons of public health to those who are suspected of carrying infectious or contagious diseases, to drug addicts and people suffering from cancer or needing psychiatric assistance; family planning; risk groups, (e.g. pregnant women); for childbirth and post-natal care; to children in primary and secondary schools; to prisoners; to families/individuals living below the poverty line; and individuals over the age of 65.



**Share of health expenditure in the MSAR budget (in thousand patacas)**

Years	1999	2000	2001	2002
Health expenditure	954,614	1 133,583	798,988	639,208
Share in the MSAR budget	9.74%	12.93%	8.5%	6.7%

Source: Finance Department, 2003.

**E. Other policies and measures on health prevention and control**

*Improvement of environmental and industrial hygiene*

1061. Health Department and CMAI have made significant efforts to improve aspects relating to environmental and industrial hygiene, including food and hygiene preventive projects at restaurants and food suppliers. In this respect, they also conduct regular inspections in order to control the safety of products and check if industrial activities are healthy in terms of environmental pollution and working conditions.

*Solid waste management*

1062. CMAI is responsible for solid waste management, in other words controlling the final disposal of residue from the incineration plant, inspecting garbage collection, and enforcing the municipal city cleaning regulations.

1063. Waste recycling, recovery and reuse are not yet sufficient to offset the increasing trend of waste generation. The population has been growing at a much slower rate and this implies that each inhabitant is producing greater quantities of waste. Major sources are households, businesses and commercial activities (shops, hotels and offices), industries

and health services (hospitals and health care facilities).

*Emission pollution and fuel standards*

1064. The existing data demonstrate that the major sources of pollution as a result of human activities are power generation and road transport.

1065. Given that MSAR has a small geographical area with typical urban features, in the absence of alternative sources of energy (such as wind, solar, hydroelectric and biomass), fuel combustion is used to respond to the demand for energy. This represents the main source of emission of pollutants.

1066. The analysis of lead emissions demonstrates that these have been decreasing since the introduction of unleaded petrol into the market (Decree Law 44/94/M, of 22 August). The effect of Executive Order 49/2000, of 7 August, which limits the sulphur content in light diesel for motor vehicles to 0.05% in weight, will certainly be seen in future inventories.

1067. Despite the technological advances in the automobile industry (such as the introduction of catalytic converters and the reduction of sulphur and lead content in fuels), which reduced some adverse effects on the environment, there is still a problem of traffic pollution.

1068. To improve the eco-efficiency and safety of transport, the MSAR Government has enacted legislation and technical standards while introducing new policies on prices and taxes on fuels and parking planning aspects. Adequate parking places have been built and people's awareness has been raised to the advantages of using a good public transport network and pedestrian zones in order to avoid the harmful effects on the environment, health and quality of life caused by the increasing number of

vehicles.

*Control of air pollution*

1069. The Meteorological and Geophysical Department (MGD) has been monitoring atmospheric pollution over the last decade. The levels of local air pollutants collected are usually compared with internationally recommended limits (e.g. WHO and European Union).

1070. The air quality is affected by the high concentration of sulphur dioxide together with smoke, and dust from industrial emissions as well as suspended particles transported by wind affecting the region, which results in acid rain.

1071. The production of substances that could affect the depletion of the ozone layer is banned (Decree Law 62/95/M, of 4 December).

1072. The Economic Department (ED) supervises the import and export of substances and equipment (such as sprays, air conditioners, refrigerators, fire extinguishers, etc.) containing substances that may affect the ozone layer. ED has to inform and request opinions from the EC concerning environment-related situations.

*Control of noise pollution*

1073. Although Macao is small, it is a densely populated city. The constantly increasing numbers of vehicles, accompanied by economic growth, have intensified problems caused by traffic, and these are very difficult to overcome.

1074. There are direct and indirect approaches to reducing road traffic noise. The direct measures include studying the implementation of a vehicle noise standard, the installation of acoustic barriers and the

construction of anti-noise road surfaces. Traffic flow management, traffic planning and restructuring of road networks are among some of the indirect measures.

1075. With a view of diminishing discomfort caused by traffic noise, acoustic barriers of 511 metres were installed along the flyovers of Macao's two main streets. This project started in 2000 by the Lands, Public Works and Transport Department and finished in May 2001.

1076. The reduction of noise pollution depends on several factors, *inter alia* the enactment of environmental legislation (e.g. Decree Law 54/94/M); the introduction of specific and rigorous evaluation criteria; the provision of specialised human and technical resources; and the promotion of civic and environmental education.

1077. CMAI and EC are the entities responsible for monitoring the noise level and for setting up a database to assess feasible noise control standards for Macao.

#### *Coastal water quality*

1078. Outlying factors are the main coastal water pollution sources of Macao. However, there are also direct discharges into the estuary from local sources, especially during the rainy season when the combined sewers and drains cannot handle the amount of both wastewater and rainwater. This is also due to the fact that part of the wastewater sewage system has not been connected to the wastewater treatment plants.

1079. During the year 2000, HD (responsible for the monitoring of coastal water quality) introduced a new index system to assess the coastal water quality. The analysis of the pollution index reveals that coastal water pollution has become a concern in Macao and some sampling points have even reached critical levels. Therefore, it is necessary to cooperate with

the relevant authorities in the nearby regions and research methods to solve environmental problems and control pollution sources.

*Water quality at beaches*

1080. The monitoring of water quality in the beaches is the responsibility of the Public Health Laboratory (PHL) of HD. From April to October each year, the sampling frequency is twice per week at two locations on each beach (other samples are taken within the same week whenever the microbiological levels exceed standards). Microbiological and physicochemical parameters are analysed and, whenever possible, the results are compared with the legislated limits of mainland of China, Hong Kong SAR and the European Union.

*Environment management*

1081. The MSAR Government pays careful attention to environmental problems. Effective measures for environmental protection and education and adequate standards for improving the environment have been introduced. These environmental policies aim at raising the population's environmental awareness and to improve consumption patterns.

1082. CMAI, EC and HD are responsible for environmental management. EC analyses urban planning and conducts environmental impact studies. It has a specific division for research and development project.

1083. For example, at present CMAI and EC are engaged in creating an Environmental Geographic Information System (database) and implementing the environmental management systems (the conservation

of natural resources by controlling the use of resources and raw materials, wastewater and generated waste with lower medium- or long-term production costs). Environmental information is available to the general public through electronic means (VCD and Internet).

1084. Most of the important environmental treaties applicable in MSAR and there are several laws governing each of the different aspects of the environment. The Legal Framework on Environment Policy, Law 2/91/M, of 11 March, sets up the main principles and policies for environmental protection as a whole. Whenever pollution creates a serious danger to the physical integrity or life of a person or to property, it constitutes a criminal offence provided for and punished by Article 268 of the Criminal Code.

1085. Moreover, international and inter-regional cooperation are regarded as vital and the MSAR Government has joined efforts towards a sustainable regional environment with Hong Kong, Guangzhou, Shenzhen, Zhuhai and other cities of China.

1086. Another important factor is that the MSAR residents are becoming more aware of environmental problems and a higher standard of living, thus more complaints have been lodged with the competent authorities (CMAI and EC) in recent years.

#### *Environmental education*

1087. Bearing in mind that the environment is closely related to human activities and social development, CMAI and EC rely on education and environmental promotion to increase public awareness and willingness to change lifestyles and pay attention to the need for ecological balance.

1088. Environmental issues are integrated within the school curricula. In co-operation with the CMAI and EC, several wide-ranging

activities have been implemented by EYAD, aiming at developing students' respect for the environment.

1089. For example, in the period 2000-2001, the following campaigns were launched: "*The Adventures of Mr. Garbage*", "*A Path for Growth: Saving the World*", "*Emissions and Energy*", "*Camp on Environmental Protection*" and the "*Scientific Summer Camp*".

1090. CMAI also organised, together with other entities, the Waste Recovery and Recycling Programme targeted at schools and public gardens, involving 23 schools and 6 public gardens. The scheme was successful, considering that the amount of recycled waste has increased and that new types of waste containers are being introduced.

## **F. Measures to develop international contacts and cooperation**

1091. As mentioned above, the more important health and environment treaties apply in MSAR, and representatives of the Region participate in several international scientific meetings, seminars, conferences and cooperation interchange at different levels as well as engaging in specific training.

1092. Moreover, MSAR itself is a member of the International Federation of Sport Medicine (IFSM), the International Council of Sport Science and the Physical Education (ICSSPE) and the Asian Federation of Sport Medicine (AFSM). The publications of scientific research articles contribute for the development of the scientific field.

## Articles 13 and 14

### Right to education

#### A. Legal framework

1093. Without any kind of discrimination, everyone has the right to education in accordance with Article 37 of the Basic Law and Article 2 of the Legal Framework on Education System, Law 11/91/M, of 29 August.

1094. The freedom to choose an educational institution and to pursue education outside the Region is also safeguarded under Article 122 (2) of the Basic Law and Article 15 (2) of the Legal Framework on Family Policy.

1095. Article 122 (1) of the Basic Law also guarantees that all educational institutions, including private ones, shall enjoy autonomy and teaching and academic freedom in accordance with the law.

1096. The Government respects the autonomy of private schools and does not interfere with their programme of education. It also strictly observes the application of the principle of equality of opportunities in access to and achievement in education.

1097. Two essential targets of the MSAR educational policy are the phased setting up of a compulsory education system (Article 121 (2) of the Basic Law and Decree Law 42/99/M, of 16 August) and the generalisation of the concept of universal and free education (Article 6 (2) of Law 11/91/M and Article 13 of Decree Law 62/94/M, of 19 December).

1098. EYAD is the main governmental body responsible for the promotion of education, ensuring equal opportunities in access to education, establishing standards and guidelines, seeking general and free education, making compulsory education effective, and working with



private educational institutions, other governmental departments, private associations, parents and educators, etc.

1099. The educational system comprises: pre-school education, the preparatory year for primary school, primary school, secondary school, higher education, special education, adult education, and technical and professional education.

1100. Compulsory education in the Region comprises pre-school education, primary school and general-secondary school and is provided by public or private educational institutions. It covers children and young persons between the ages of 5 and 15 (Decree Law 42/99/M).

## **B. Education system**

1101. For more detailed information on this issue, please refer to Part III of China's Report on the implementation of the Convention on the Rights of the Child. The following is an update regarding new data on education.

1102. In the school year of 2001/2002, there were 17 public as against 73 registered private kindergartens and primary, secondary, vocational and technical schools in Macao. For historical and social reasons, the public schools represent a very small part of the overall school network (17 out a total of 90). There were 93,691 students enrolled in private schools at the start of the 2001/2002 school year, accounting for 94% of the total student population.

1103. According to a survey conducted by the EYAD in 2001, 75.8% of students successfully graduated from supplementary-secondary education in the 2001/2002 school year and enrolled in higher education in and outside Macao.

1104. With regard to higher education, during the school year of 2001/2002, there were 7 769 local students enrolled in PhD, MA and 3-year

degree programmes, as well as other diploma programmes in the 11 tertiary education institutions.

*Vulnerable and disadvantaged groups*

1105. The promotion of literacy and equal educational opportunities for adults is also a major objective of EYAD (Article 14 of Law 11/91). Decree Law 32/95/M, of 17 July, regulates the continuing and adult education system. “Back to school” schemes are included in the MSAR free education system at all levels.

**Establishments of adult education, teachers, students and results of study by gender**

Year	No of Facilities	Teachers			Students					
					Enrolled			Completed the courses		
		MF	M	F	MF	M	F	MF	M	F
1990 / 2000	124	1,091	644	447	46,432	19,396	27,036	38,946	16,584	22,362
2000/ 2001	122	1,234	775	459	65,695 <sup>a</sup>	22,307	32,162	49,795 <sup>a</sup>	17,481	24,503

Source: 2001 Statistics Yearbook, Statistics and Census Department.

<sup>a</sup>Sub-totals of gender do not add up to the grand totals because a few establishments could not provide the relevant data.

1106. Apart from the education system, in 2001, a number of culture and literacy courses were organized with the Association of Fishermen and the Association of Women as a stimulus for their members to take up studies at a higher level in the “back to school” scheme.

1107. Teaching materials to enhance the basic skills in the reading and writing of the Chinese language, basic arithmetic and personal financial management skills of adults were published in 2001/2002. The lack of self-confidence in some adults is the main obstacle that prevents them from joining and succeeding in literacy programmes.

1108. Regarding special education, in the school year of 2001/2002, a total of 644 students were registered within the school system as students with special needs, which included physical, permanent or transitory, emotional and adaptation difficulties. Some of those students with special needs were integrated into normal classes and the rest in special training units located either in normal schools or in independent units.

1109. One public school and 4 private institutions within the public school network cater exclusively to students with special educational needs. All staff working under the special education regime have special qualifications in this area, given by EYAD in collaboration with local and foreign higher education institutions.

1110. With respect to the education of prisoners, a prisoner aged under 25 years old who is illiterate or has not finished compulsory education has the right to attend classes of the respective education programme either in Portuguese or Chinese and to participate in other educational activities organised by the establishment. Prisons also facilitates prisoners' access to educational courses taught through correspondence, radio or television (Article 58 of Decree Law 40/94/M).

1111. The education of minors who have committed a criminal offence is ensured by the Juvenile Rehabilitation Centre (Decree Law 65/99/M).

### **C. Share of education expenditure**

1112. The share of education expenditure in the MSAR budget

increased from 7.44% in 1991 to 15.19% in 2001, owing to the recent implementation of the free education system of the MSAR Government.

**Share of education expenditure in the MSAR budget (in thousand patacas)**

Years	1999	2000	2001	2002
Educational expenditure	1 210,461	1 317,878	1 426,563	1 289,189
Share in the MSAR budget	12.35%	15.04%	15.19%	13.5%

Source: Finance Department, 2003.

**D. Promotion of education**

1113. To guarantee the full enjoyment of right of education to all students in the MSAR, including young girls, children of low-income groups, children who are physically or mentally disabled, children of immigrants, children belonging to linguistic, ethnic, religious or other minorities, several measures have been implemented, including for example, the establishment of new school places, financial assistance for needy students/families, support for the social integration and education of newcomers (namely immigrants) and the promotion of on-going training of teachers to deal with different needs and cultural backgrounds.

1114. Some immigrant children, mostly from Mainland China, experience difficulties in adjusting to living and school conditions in MSAR. EYAD organises various learn-the-local-culture activities, and courses in traditional Chinese characters, Cantonese and English courses for immigrant children in order to better integrate them into the local schools.

1115. It should be noted that simplified characters are used in Mainland China, where the medium of instruction is Mandarin, while in

MSAR it is Cantonese.

1116. Outward immigration also creates difficulties in locating and assisting students leaving the school system.

1117. EYAD has also developed a special mechanism designed to assist drop-out students looking for new schools and new residence. The department successfully assisted over 1,600 persons between 2000 and 2002.

1118. The main effort of the MSAR Government is focused on improving the performance of schools and students, ensuring access and satisfactory academic performance.

#### **E. Fees and financial assistance to students**

1119. Basic education is universal, free of charge and compulsory in public educational institutions and in those subsidised by the MSAR Government. This assistance covers exemption from fees or other charges concerning enrolment, attendance or certification, and the granting of subsidies for tuition to students of unsubsidised private schools (Article 6 of Law 11/91/M and Article 1 of Decree Law 42/99/M).

1120. The MSAR Government assumes the responsibility of financing the educational levels covered by the free education system within the public school network. This network includes public and private schools that offer free education under an agreement with the education authorities (EYAD). Thus, MSAR residents enjoy a reduction in tuition fees of between 40% and 85%, depending on the courses and establishments.

1121. Students from low-income families enrolled in private schools outside the public school network are eligible to receive a school tuition subsidy. They can apply for subsidy for learning materials (books, stationary,

school uniform, special equipment for the handicapped, etc.). Grants and loans are also offered to students of higher education.

1122. Within primary education, the MSAR Government subsidised up to MOP 6,100 of the tuition fees of pre-primary and primary students attending private schools in the school year 2002/2003. Private schools within the public school network can collect up to MOP 1,160 per student/per school year as a supplementary service charge (Administrative Regulation 20/2002, of 9 September).

1123. Pre-primary and primary schools outside the public school network charge tuition fees and other charges. Students enrolled in these schools are entitled to receive MOP 2,900 per school year from the MSAR Government as a basic subsidy. Besides this basic subsidy, students in financial difficulties can apply for further subsidy ranging from MOP 1,600 to MOP 3,200. This subsidy is extended to pre-school education.

1124. Needy students can also apply for a grant for learning materials (including school uniform) ranging from MOP 425 to 850. Handicapped students have access to a fund for grants with no pre-defined limit. Applications are handled on a case-by-case basis.

1125. All lower secondary students, including those who attend technical and vocational secondary education, enrolled within the public school network are entitled to receive free education and supplementary service charges. The MSAR Government provided fee-paying private schools with subsidies of up to MOP 9,200 per lower secondary student in the school year 2002/2003. The schools can collect up to MOP 1,760 per student/per school year as supplementary service charges.

1126. Lower secondary students enrolled in schools outside the public school network are entitled to receive MOP 4,300 as a basic subsidy per school year.

1127. Supplementary grants for tuition fees (MOP 2,475 to 4,800) and learning materials (MOP 625 to 1,300) are also available for needy students.

1128. The number of students benefiting from the public school network at the secondary education level has increased substantially in recent years.

1129. Financial assistance is also provided for students attending higher education (Order 18/2001, of 14 May by the Secretary for Social Affairs and Culture). According to data provided by EYAD in 2002, scholarships, student loans, special student loans, travel and rent allowances for students attending higher education in the academic year of 1999/2000 totalled MOP 59,888,967 with a total number of 2,905 beneficiaries; in 2000/2001 totalled MOP 61,874,179 with a total number of 3,040 of beneficiaries and in 2001/2002 totalled MOP 59,701,332 with a total number of 3,060 beneficiaries.

**Scholarships in high education**

Years	Total	China Mainland	Macao	Taiwan	Portugal	USA	Others
1999/2000	2 905	1,130	1,208	475	36	26	30
2000/2001	3 040	1,120	1,392	437	31	25	35
2001/2002	3 060	1,020	1,524	452	18	18	28

Source: Education and Youth Affairs Department, 2002.

## F. Language policy

1130. Chinese and Portuguese are both the official languages of MSAR. Consequently, public schools can only adopt Chinese or Portuguese as their medium of instruction, and the ones using Chinese as a teaching medium shall adopt Portuguese as their second language and vice-versa (Article 35 (7) and (8) of Law 11/91/M).

1131. The exercise of pedagogic autonomy implies that private educational institutions have total freedom in choosing the medium of instruction, as well as the second language to be included in their respective curricula (Article 35 (6) of Law 11/91/M).

1132. Cantonese is the most commonly used language in teaching.

### Students divided by language of instruction

School year 2000/2001	Chinese	Portuguese	English	Others
Pre-school	14,775	107	96	--
Primary	42,350	339	2,785	--
Secondary	31,328	561	3,721	240
Technical vocational	2,306	--	--	--

Source: 2001 Census, Statistic and Census Department.

1133. In terms of language facilities, the MSAR Government provides courses in the mother tongue of the students, such as Chinese and Portuguese, through the Centre of Continuing Education and Special Project of the Polytechnic Institute, and the School of Language and Translation.

## G. Teaching staff

1134. Under the MSAR educational system, teachers and educators



carry out an activity considered as being in the public interest and one that benefits from a status that is dignified and compatible with their professional qualifications and social responsibilities (Article 25 of Law 11/91/M and Decree Law 15/96/M of 25 March).

1135. By law, teachers and educators have the right and duty to receive professional training, and the MSAR Government is responsible for promoting the conditions and creating the necessary means of achieving this aim. Teacher training assumes varied and flexible forms, ranging from the initial training (the traineeship) to on-going training (Articles 25 (2) and 26 of Law 11/91/M).

1136. All training provided to teachers should guarantee scientific-pedagogic knowledge and skills. It should also integrate a component of personal and social training that is adequate to the curricular needs of the respective levels of education and teaching.

1137. In 2001, 133 teacher training courses were provided by EYAD, in which 8,873 teachers participated. In the 2001/2002 school year, EYAD also provided a subsidy of MOP 3,427,310 to pre-service and in-service teachers to participate in teacher training programmes organised by various higher education institutions.

1138. The total number of teachers has increased and the student-teacher *ratio* has decreased gradually over the past few school years. According to data provided by EYAD (not including higher education) the total number of teachers was 3,983 in 2000/2001 and 4,050, in 2001/2002 while the total number of students was 99,576 in 2000/2001 and 99,990 in 2001/2002.

**Number of teachers by education level**

Education level(s) instructed	1999/2000	2000/2001	2001/2002
Pre-school (kindergarten)	531	494	472 <sup>(1)</sup>
Primary	1,496	1,530	1,527 <sup>(1)</sup>
Secondary	1,465	1,599	1,716
Special education	83	83	89
Others	271	277	246
Total	3,846	3,983	4,050

Source: Education and Youth Affairs Department, 2002.

(1) The number of pupils at kindergartens and primary schools is diminishing.

1139. The average monthly salary of teachers in private and public educational institutions is around MOP 10,000. Teachers benefit from free health services.

*Education standards*

1140. Respect for human rights and fundamental freedoms is enshrined in the Legal Framework on Education Policy. Equally relevant is that human rights, respect for cultural identity and values and the natural environment, and healthy lifestyles occupy a crucial place in the subject “*Personal and Social Development*” integrated in the school curriculum.

1141. These principles and values are recognised within the MSAR educational policy and are thus developed and strengthened at all levels of education (Legal Framework on Education System and Article 2 of Decree Law 11/91/M, of 4 February).

1142. As a result, activities that complement the curricula aim at

cultural and civic enrichment, physical and sports education, artistic education and student integration within the community and are regularly promoted.

1143. It should be mentioned that Article 49 (2) of Law 11/91 recommends educational institutions to allow teachers, parents, students and associations to be involved in the education process. The role of parents and educators in education is also recognised by Decree Law 72/93/M, of 27 December.

#### **H. Measures to develop international contacts and cooperation**

1144. In relation to education and youth affairs, the MSAR Government encourages government departments, other educational institutions and private associations to participate in international and interregional activities.

1145. As an example, the University of Macao is a member of many international higher education associations, including the International Association of Universities and the Association of Universities of Asia and the Pacific. The University organizes a number of seminars and international conferences and invites the participation of prominent international scholars. At present, the University has co-operation and partnership agreements with over 50 foreign universities/institutions.

1146. There are also various types of exchange programmes for students. In the academic year 2001/2002, the University of Macao had 91 exchange students from over 40 universities of 11 countries while it sent out 87 local students. It also organises annual Portuguese summer programmes for about 150 students from Asian countries as well as activities such as the International Week and the International Cultural Exchange Day.

## Article 15

### Right to cultural life and scientific progress

#### A. The right to take part in the cultural life

1147. In accordance to Article 37 of the Basic Law, “*Macao residents shall have freedom to engage in academic research, literary and artistic creation, and other cultural activities*”. It should be noted that the freedom of speech, of the press and of publication are also guaranteed under Article 27 of the Basic Law.

1148. MSAR valuable cultural heritage is a result of 500 years of cross-cultural characteristics of eastern and western cultures. This unique cultural identity has remained intact after Reunification and efforts have been made to strengthen it, encouraging the affirmation and assertion of its respective cultural values.

1149. The MSAR Government is thus deeply committed to the promotion and protection of residents’ cultural rights, and is responsible for formulating policies on culture, including literature and art (Article 125 (1) of the Basic Law).

1150. The Cultural Institute (CI) is the governmental body entrusted with the task of contributing and reinforcing the cultural identity and diversity of the Region. It embraces the areas of cultural heritage, cultural activities, training and research (Decree Law 63/94/M, of 19 December).

1151. The areas mentioned above cover other diverse subjects, including the maintenance and revitalisation of historical, architectural and cultural heritage, research and publication of works, organisation and maintenance of libraries and archives, promotion and support of cultural and artistic activities, responsibility for teaching of music, dance and drama.

1152. There are other governmental bodies (e.g. the Tourism Department and CMAI), entities (e.g. the Macao Foundation) and private

associations engaged in promoting and diffusing cultural rights through the execution of a number of relevant activities.

1153. The MSAR Government recognises the important role of education in the preservation of cultural heritage, at present as well as in the future, especially among young persons.

1154. Decree Law 4/98/M, of 26 January establishes the principles, structures and guidelines of implementing artistic education and the enjoyment of artistic creativity within the Macao education system. Studies of culture, science and art are included in the formal kindergarten, pre-primary, primary, secondary, technical and vocational (namely visual and commercial art) education curricula and are present in many extracurricular activities.

1155. Together, EYAD and youth associations carry out several types of activities such as “Youth Singing and Composing Competition in Macao” and “Expecting a Bright New World: Youth Outdoor Painting Series”. EYAD also subsidises various culture and art projects organised by associations, which offer lessons in, among other things, violin playing, choral, *guzheng*, pottery, photography, Chinese paintings, Chinese calligraphy, ballroom dancing, martial art, Chinese lion dance, flower arrangement studies.

1156. Additionally, CMAI supports educational, cultural and arts activities by working with the associations and inviting accomplished professionals to workshops in schools. Sponsorships are granted to amateur groups including theatre, visual arts and dance groups as an encouragement for regular competitions and interactive performances, such as the theatre-sports group and the Macao Fringe.

1157. In terms of professional cultural education, the Macao Conservatory is a professional college under the coordination of CI, which provides systematic training programmes in music, dancing and drama

(Administrative Rule 184/89/M, of 31 October). CI provides scholarships to talented people who wish to develop their cultural knowledge and study in relevant areas in the Region or overseas.

1158. Furthermore, the Macao Polytechnic Institute has a School of Arts while the Institute of European Studies of Macao offers 2 specific postgraduate programmes on Cultural Tourism and Management of the Arts. The Cultural Tourism postgraduate programme was jointly launched with the Institute for Tourism Studies. This programme is considered unique in Asia as it offers for the first time a programme of study shaped to its specific characteristics and cultural resources, with the intend of reinforcing professionalism vis-à-vis cultural tourism.

1159. The Macao Cultural Centre (CCM) does not provide professional education on a regular basis but it presents around 30 educational activities every year in the performing arts and the audiovisual field ranging from small lectures, conversations with artists to workshops. These educational activities are either conducted by artists or by educators. They target children, adolescents and the elderly.

1160. The Macao Museum of Art offers teaching services and educational and promotional activities to meet the needs of those in the community who suffer from hearing and speech deficiencies, as well as other social groups.

1161. In line with the objectives of encouraging the full participation of the population in the cultural life of MSAR and of forming a consciousness regarding the protection of the cultural heritage and values including the respect of minorities' cultural rights, CI organises a wide range of activities, which include performances; concerts; exhibitions; film cycles, conferences and seminars.

1162. During the year 2002, CI carried out many events together with other entities as can be observed in the following table:

**Public shows/Exhibitions**

Type of event	No. of shows			No. of seats		
	1999	2000	2001	1999	2000	2001
Ballet	15	18	13	8,848	11,515	10,387
Concerts	167	210	216	121,120	105,015	88,495
Operas/variety shows	84	77	116	173,146	169,093	171,408
Chinese operas	59	51	72	22,401	19,505	28,960
Theatre	81	54	40	19,336	23,001	31,772
Contests	42	32	36 <sup>a</sup>	10,214	16,511	6,038 <sup>a</sup>
Film shows	9,525	9,920	10,233	155,410	207,191	215,744
Exhibitions <sup>b</sup>	111	120	125	196,646	237,286	415,758
Others	196	214	188	62,583	40,536	29,057
Total	10,280	10,696	11,039	769,704	829,653	997,619

Source: 2001 Statistics Yearbook, Statistics and Census Department.

<sup>a</sup> The data on attendances at twenty-one contests were not available.

<sup>b</sup> The data on entrants to 16 exhibitions, 7 exhibitions and 15 exhibitions in 1999, 2000 and 2001 respectively were not available.

1163. In addition to the great number of cultural activities for the general public, more specialised workshops were also organised, such as painting or ceramics techniques, dance, pantomime and video courses, seminars on popular culture, history and culture, paintings in Chinese ink, calligraphy, literature and the Collective Artists of Macao exhibition for promoting local art.

1164. CMAI has also a specific department for cultural activities and recreation, focusing on cultural heritage and conservation, museology, animation of historical spaces with intrinsic patrimonial value for Macao, organization of exhibitions, editions and publications, folk culture promotion and annual popular festivities, as well as the organization of

sporting and recreation activities, workshops, fairs, shows and management of infrastructures and parks.

1165. In order to accommodate and represent the different ethnic expressions of the population, a number of cultural events and festivities are held on an annual basis. Traditional Chinese festivities belonging to the Chinese calendar are held, such as: the Chinese New Year celebration, the Chong Ieong event, the innumerable folk song and Chinese Opera, the Green Week games, the Lotus flower festival, the Lunar Cake festival, the Dragon Boat Racing, the traditional Chinese martial arts, the workshops on Chinese traditional medicine, traditional games and several literature events.

1166. Local communities also promote other events, namely the Macanese Culture week, the Lusofonia Festival, Gastronomy and Folk Festivals, Theatre, and guided tours through historical places.

1167. The tourism industry has been used to promote the MSAR cultural heritage with the theme “*City of Culture*”. The idea is to promote the culture and historical identity that differentiates Macao from the rest of Asia, preserving and revitalising its cultural heritage along with tourism activities.

1168. CI promotes, organises and supports research projects, produces studies concerning Macao’s culture, grants subsidies for training in arts, holds competitions for research scholarships in the fields of history, literary studies, cultural heritage, anthropology and sociology, organises and supports seminars, conferences and lectures. It also publishes books, studies and a magazine, the Culture Review.

1169. In order to promote people’s participation in cultural activities, newspapers, some periodicals and broadcasting stations undertake cultural projects and disseminate cultural issues. A total of 11 daily newspapers in Chinese and Portuguese and seven weeklies in Chinese, Portuguese and



English, two radio stations and one free-to-air TV station carry out various cultural projects, including literary contests and musical and theatrical performances.

1170. Despite its relatively small size, MSAR has a sophisticated and well-developed media industry.

1171. The Government Information Bureau (GCS) provides assistance to Government departments and the media by disseminating information and arranging interviews.

1172. The Government has an official web site with information and updates on the Region, to which several websites of public departments and public entities are linked, in both the official languages and English (<http://www.macau.gov.mo>).

*Infrastructures for the enjoyment of cultural rights*

1173. The MSAR Government has expanded its cultural facilities significantly in recent years while maintaining others in order to ensure that the public in general and youth and children in particular are provided with the suitable conditions for the effective enjoyment and development of cultural rights.

1174. The first Cultural Centre was inaugurated in March 1999 representing an investment of MOP 960 million, with a construction area of 45,000 sq. m., on a 15,000 sq.m. site. It features an Auditoria building, an Art Museum and a Library of Art. The Library of Art is a multimedia Reference Library, with information on the Western and Eastern cultural art.

1175. The Auditoria building has a grand auditorium and a small auditorium with seating for 1,500 persons as well as the usual modern facilities. The Art Museum has a total area of 20,000 sq.m. of which 5,000 sq.m. are exhibition areas open to the public, housing seven exhibition halls.

1176. MCC was designed to accommodate touring troupes of Performing visual and Audiovisual Arts and their programmes range from classical to contemporary art, presenting a balanced and eclectic cultural agenda.

1177. Other institutional infrastructures such as 9 public libraries, 3 movie-theatres with a capacity of 2,727 persons, galleries, traditional arts and crafts fairs and movable structures are available to the population.

1178. MSAR has another important facility called the Historical Archives, responsible for preserving public records of historical value and for operating the public record system. The current archives facilities offer excellent conditions for safe storage of microfilms, particularly of rare works, and can be consulted via a computerised system. The Historical Archives Bulletin is a precious source of information for researchers.

1179. Another infrastructure is the Macao Maritime Museum, Library and Archive, which displays a considerable collection of material related to maritime history.

1180. The Macao Museum, with a total area of 2,800 sq.m includes an Auditorium. It is an example of the preservation of cultural heritage since it is located inside the ancient Monte Fortress, built by the Jesuits in 1626. It displays a number of items related to Macao's historical background and culture traditions.

## **B. Funding for cultural activities**

1181. A special public fund, the Cultural Fund, was created to assist financially the promotion and the development of cultural activities and the popular participation in cultural life. This fund mainly supports cultural projects and private initiative programmes, having increased its budget significantly in recent years. In 2000, the budget of the Fund was MOP 67,669,000 while in 2001 it was MOP 72,122,000 and in 2002 MOP 83,920,000.

1182. CMAI budget for the cultural area was MOP 11,500,000 in 2001, including support for private initiatives. In fact, the CMAI supports local associations, individual artists and groups, and several traditional and contemporary artistic expression groups. Activities range from theatre to jazz, and from occupational activities of the young to sport events for all.

1183. The MCC 2001 general budget was MOP 56 million, in addition to MOP 14 million for cultural activities such as performing arts and audio-visual programmes.

1184. In addition, CI annually offers scholarships and financial or other kinds of assistance to individuals/organisations carrying out studies, research and other creative activities in the field of culture.

1185. Other institutions such as the Tourism Department, Sports Development Institute and the Macao Foundation also allocate funds to support private initiatives engaged in cultural and scientific activities. The Macao Foundation has a special significant role, as can be seen in the following table.

**Subsidies granted by the Macao Foundation**

Areas of intervention	Year 2001 (11/7/2001 – 31/12/2001)	Year 2002 (1/1/2002 – 30/09/2002)
Cultural area	5,241,800	4,895,700
Social area	1,480,000	3,266,025
Economic area	60,000	4,169,384
Educational area	18,216,400	24,035,900
Scientific area	388,700	1,489,000
Academic area	91,000	3,645,945
Philanthropic area	30,000	1,495,000
Promotion of Macao	2,455,000	3,235,295
Total	27,962,900	46,232,249

Source: Macao Foundation, 2002.

### C. Cultural and scientific conservation and diffusion

1186. The MSAR Government attaches great importance to the protection of “scenic spots, historical sites and other historical relics as well as the lawful rights and interests of the owners of antiques”, in conformity with Article 125 (3) of the Basic Law.

1187. Ordinary law also protects the historic, cultural and architectural heritage of Macao, as is the case of Decree Law 56/84/M, of 30 June.

1188. A total number of 128 monuments, classified buildings and sites are considered to be cultural property and are specially protected sites under Decree Law 83/92/M, of 28 December.

1189. IC, through its Cultural Heritage Division, is focused its activities on the preservation of the cultural heritage of different ethnic groups and on classifying, restoring, renovating and up-grading Macao’s cultural heritage, including both buildings and artefacts.

1190. For the last two decades the value of heritage preservation has been emphasised and the MSAR Government has drawn guidelines in order to strike a sustainable balance between cultural preservation and social and economic progress.

1191. Important steps were taken, such as efficient monitoring, classification and protection of sites or those forming part of a complex in classified sites or in protected areas, restoration, maintenance of archaeological and artistic vestiges, dissemination and archaeological/cultural heritage studies.

1192. In 2001, CI trained 58 young persons as “Young Heritage Ambassadors”, with the purpose of spreading the cultural heritage and values of Macao to other countries.

#### **D. Right to benefit from scientific progress**

1193. The right to pursue scientific and technological research is enshrined in Article 37 of the Basic Law. The Legal Framework on Science and Technology Policy, Law 9/2000, of 17 July, reaffirms this right in its Article 2.

1194. Furthermore, Article 124 of the Basic Law entitles the Region to formulate, on its own, policies on science and technology as well as to protect by law achievements in scientific and technological research, patents, discoveries and inventions.

1195. The MSAR Government determines the scientific and technological standards and specifications applicable in the Region. Its policy has been targeted, in particular, at increasing and developing scientific and technological knowledge and local resources, raising productivity and competitiveness, promoting social and economic development, information technology, familiarisation with computer's networks, data protection, environmental protection, and scientific and technological research (Article 3 of Law 9/2000).

1196. Such objectives have been accomplished by adopting several measures, such as granting special incentives to establish institutions dedicated to scientific and technological research and development, provision of qualified personnel, supporting specialised training within private entities; the teaching of science and technology within schools curricula, as well as the creation of the Scientific and Technological Development Fund (Law 9/2000).

1197. The MSAR Government has been encouraging the development of high technology and high value-added business by identifying priority areas, facilitating technology transfer and development, providing specialised human resources and funding programmes.

1198. In March 2000, a new university, the Macao University of Science and Technology, was created. This private institution is specially engaged in training local human resources, scientific and technological development and research (Executive Order 20/2000, of 27 March).

1199. Under Administrative Regulation 16/2001, of 27 August, the Science and Technology Council was set up in 2001, with the purpose of advising the MSAR Government on drafting and implementing policies that would foster the scientific and technological modernisation and development of the Region.

1200. The Macao Productivity and Technology Transfer Centre supports companies to use an efficient approach, new concepts and standards of modern technology and information society as well as resources, in order to enhance the added value of its products and services, resulting in stronger productivity and competitive capacity.

1201. Science and education technology are covered in the area of sciences within the basic school curricula.

1202. EYAD is entrusted with promoting science and technological progress in schools, encouraging students and teachers to participate in extra-curricular activities, such as the “IT Week” and the annual technology fair.

1203. Moreover, starting from 2001, the MSAR Government allocated special funds in the amount of MOP 26,723,192 to schools to enhance teaching and learning in information and communication technology.

1204. EYAD also promotes scientific, literary and artistic activities, as well as the protection of intellectual property rights, by organising youth activities such as “Youth Civic Education Competition” and participation in national and international scientific exchange programmes

and contacts.

1205. EYAD has taken several measures to promote the diffusion of information on scientific progress following the MSAR Government policy of actively assisting young persons in broadening their knowledge and increasing common scientific knowledge, namely by sponsoring youth associations to install computers. Through this action, EYAD guarantees to young persons access to computers and Internet connections at the Information Technology Centres.

1206. Furthermore, the Fourth National Computing and Network Physics Teaching Conference was held in Macao from 6 to 11 November 2002, in addition to workshops and exhibitions, such as “Multiple Dimensions of the Internet Workshop Series”.

1207. Briefly, at higher education level, the University of Macao offers one course on Science and Technology while the Macao University on Science and Technology offers a course on Information Technology and a course on Chinese Medicine. Both provide postgraduate studies. The Macao Polytechnic Institute has, *inter alia*, a School of Health Sciences. There is also the Kiang Wu Nursing College.

1208. Research papers and publications are also important components in the promotion and dissemination of scientific and technological knowledge. Several governmental bodies and private institutions in the Region promote scientific and technological investigation.

1209. For example, in the academic year 2001/02 the University of Macao sponsored, a total of 74 research projects, which resulted in the publication of 60 papers in international journals and 140 presentations at international conferences. In the first half of 2002 it sponsored 32 projects and 39 participations in international conferences. The University also holds projects in cooperation with the University of Washington and

with European and Mainland institutions, having completed four “Eureka” projects.

### **E. Intellectual property**

1210. The right to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic work is enshrined in Article 125 (2) of the Basic Law.

1211. Intellectual property is fully protected in the MSAR legal system. In fact, the relevant legislation was drawn up according to modern international standards as Macao is an original full member of the World Trade Organization and fully complies with the Agreement on Trade Related Aspects on Intellectual Rights (TRIPS).

1212. The legal framework on intellectual property is regulated in a number of laws. The protection of copyrights is foreseen by Decree Law 43/99/M, of 16 August, the regime for industrial property is set forth in Decree Law 97/99/M, of 13 December and the rules regarding competition and consumers’ rights are governed by Articles 156 to 173 of the MSAR Commercial Code.

1213. The effective protection of intellectual property is also enforced through administrative and criminal sanctions, as for instance Articles 215 to 218 of Decree Law 43/99/M (copyrights) and Articles 299 to 304 of Decree Law 97/99/M (industrial property).

1214. The fight against violations of property rights, in particular, piracy and counterfeit, has been strengthened in recent years. The Customs Service of the MSAR Government has recently been assigned with this task and has achieved great results.



## **F. Measures to develop international contacts and cooperation**

1215. In February 2002, a formal proposal to the World Heritage UNESCO List was submitted, covering an urban route linking the old Chinese inner harbour to the centre of the old Christian city (12 monuments) of Macao. At present, the Macao sites are at the top of the provisional list of the Chinese sites waiting for the evaluation of UNESCO.

1216. MSAR participates in various international organizations, such as the World Tourism Organization, the International Congress & Convention Association, the Asia Pacific Economic Cooperation Working Group, the International Federation of Library Associations and Institutions (IFLA), and the International Council of Museums.

1217. Interested parties, including scientists, writers, artists and others involved in scientific research or creative activity are frequently invited by the MSAR authorities to participate in international scientific and cultural conferences, seminars, symposiums, meetings and forums.

1218. The role of associations in the field of education, science, technology, culture, media, is recognised under the Basic Law. Associations may maintain and develop relations with their counterparts in foreign countries and regions and with relevant international organisations based on the principles of no-subordination, non-interference and mutual respect (Articles 133 and 134 of the Basic Law).

**WRITTEN QUESTIONS & ANSWERS TO THE LIST  
OF ISSUES TO BE TAKEN UP IN CONNECTION  
WITH THE CONSIDERATION OF THE INITIAL  
REPORT OF THE PR OF CHINA CONCERNING  
RIGHTS COVERED BY ARTICLES 1 TO 15 OF THE  
ICESCR \* \*\***

**(PART III)**

**MACAU SPECIAL ADMINISTRATIVE REGION**

**I. General legal framework within which the Covenant is  
implemented**

**1. Please provide information on the extent to which the**

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\* E/C.12/Q/CHN/1,7 of June.

\*\* HR/CESCR/NONE/2004/9.

**public at large is aware that the ICESCR may be invoked before the courts of the Macau SAR. Please cite cases in the past five years when the Covenant has actually been invoked before the courts.**

As previously mentioned in Part III of China's report, the ICESCR has been widely disseminated in the Macau SAR. And it is undoubted that in recent years the Macau SAR population is increasing its ability to understand the nature and extent of individual rights and freedoms.

In fact, apart from the publication of the ICESCR in the *Official Gazette* in both official languages, several other means of dissemination such as television broadcastings, radio advertisements, newspapers articles, publication and distribution of free brochures and leaflets, fun fairs, school promotion and seminars, *etc.*, have been used by the Macau SAR Government in order to enlarge public awareness of the rights provided for therein.

Furthermore, there is specific entity within the Macau SAR Government, the Division of Legal Dissemination of the Legal Affairs Department, whose primary responsibility is to promote and disseminate the Law to the general public, including the Covenant and other applicable international treaties, which are an integrant part of the Macau SAR legal system.

In accordance with Article 40 of the Basic Law, the provisions of the ICESCR are implemented through the laws of the Macau SAR. Indeed, most of the rights enshrined in the ICESCR already existed under the Macau legal system and were — and still are — fully safeguarded. For instance, civil law regulates equality of rights between men and women, such as freedom of marriage, freedom to contract and equal right to succession, while labour law ensures, *inter alia*, equal working conditions, equal

remuneration for men and women workers and the legal framework on educational policy ensures the right to free education without discrimination, *etc...*

Within this context, it should be pointed out that both residents and non-residents have the right to resort to law and to access to the courts, to lawyers' help and to judicial remedies. Access to Law and to the courts comprises legal information, legal protection, legal consultation and legal aid. No one is restrained or obstructed to seek justice.

All persons, without discrimination, who demonstrate that they do not possess sufficient financial means to support lawyer fees or to support, in full or in part, the legal expenses of a legal case are entitled to legal assistance, which can either take the form of legal advice or legal aid. The legal aid system covers the full or partial exemption of the payment of legal expenses, or its postponement and the appointment of a lawyer free of charge.

Concretely in relation to cases which have been invoked before the Macau SAR courts within the past five years, it should be stressed that, as the rights provided for in the ICESCR are also enshrined in other laws which also regulate their exercise, litigants tend to invoke before the Courts the latter.

Nevertheless, since 20/12/1999, the Court of Second Instance has judged 2 cases whereby the provisions of the Covenant were directly invoked, although in a very abstract manner.

Those 2 cases were criminal appeals involving a request to invalidate an accessory penalty. The defendants worked at a casino and were accused of illegal lending of money. Under the due process of law, they were judged and sentenced. The accessory penalty of prohibition to enter into any casino in Macau for a fixed period of time was also applied. The ICESCR

provisions on the right to freely choose one's occupation were directly quoted in the appeals. However, the Court considered that the accessory penalty did not contravene the right to freely choose one's occupation and, thus, the appeals were denied.

**2. Please indicate which institutions in Macau SAR are responsible for the protection of the rights stipulated in the Covenant.**

The main Macau SAR institutions responsible for the protection of the rights stipulated in the Covenant are the following:

— Publication, public awareness and dissemination of the ICESCR — Legal Affairs Department;

— Right to work — Labour Department and the Public Administration and Service Department;

— Right to social security — Macau Pensions Fund and the Social Security Fund;

— Protection of the family — Social Welfare Institute, Education and Youth Affairs Department and the Minors Institute;

— Right to an adequate standard of living — Social Welfare Institute, Civic and Municipal Affairs Institute, Health Department and the Housing Institute;

— Right to health — Health Department, Civic and Municipal Affairs Institute and the Environment Council;

— Right to education — Education and Youth Affairs Department, Social Welfare Institute, Civic and Municipal Affairs Institute, Macao Polytechnic Institute, Minors Institute, Macao University of Science and Technology and the University of Macao;

— Right to cultural life and science progress — Cultural Institute, Historical Archive, Civic and Municipal Affairs Institute.

## II. Issues relating to general provisions of the Covenant (Articles 1 to 5)

### *Article 2.2: Non-discrimination*

**3. Please provide information on the conditions in which migrant workers work and live in Macau SAR and whether there are special measures taken by the Government to protect the full range of their economic, social and cultural rights.**

One of the main characteristics of the Macau SAR is being highly populated. People of different nationalities live together and share a wide variety of ethnic, religious, linguistic and cultural backgrounds. Every ethnic group has the same dignity and its entitled to its own cultural life, to profess and practise its own religion and to use its own language.

As stated in Part III of China's report, all persons in the Macau SAR other than the Macau residents, including migrant workers, enjoy in accordance with law the rights and freedoms of Macau SAR residents prescribed in Chapter III of the Basic Law.

There are no special measures on the protection of the economic, social and cultural rights of migrant workers. Equality and non-discrimination are cornerstone principles of the Macau SAR legal system that bind legislative, administrative and jurisdictional powers. Discrimination is censured at all levels, including by means of criminal law. Several criminal offences related to hatred and discrimination based on nationality, ethnicity, race or religion are provided for and severely punished.

Complains, being it administrative or judicial, lodged by migrant workers are dealt in the exact same manner as any other complain lodge by residents.

**4. Please describe the practical application of Article 25 of the Basic Law, which prohibits all forms of discrimination including on the grounds of sex, and describe the difficulties encountered in the implementation of the law, if any.**

As mentioned, all individuals are equal before the law and enjoy the same rights and freedoms, regardless, particularly of the gender. Several examples and concrete information was provided in Part III of China's report related to the full enjoyment of the rights established in the Covenant.

The fundamental right of non-discrimination, including on the grounds of the gender, contained in Article 25 of the Basic Law is reproduced and regulated in many other laws. Theoretically there are no difficulties in their implementation. In practice, as in any other free and developed society, it depends upon the individuals themselves, and their will of exercising their own rights.

At present, the persistence of gender inequalities is due solely to cultural factors, mainly the population's level of education. In this respect, it should be stressed that, since long, the Macau SAR Government has adopted a strong policy of supporting education, in particular through the institution and enlargement of the compulsory education system, allocation of funds to schools and students as well as the granting of other benefits.

The situation is improving gradually. Women achieved more and better means of education. In recent years, the total percentages of female and male students in the various education levels are almost the

same and the female drop out percentage is much lesser than that of male students. As a result, the proportion of men and women in top positions at work became more equitable. In regard to unskilled jobs the trend is not yet inverted.

*Article 3: Equality between men and women*

**5. What legislative provisions are in place to address sexual harassment in the workplace in Macau SAR?**

There is no specific law on sexual harassment in the workplace. However, the Criminal Code provides for and punishes some criminal coercion, sexual abuse, practice of exhibitionist acts, etc... Moreover, Article 171 of the Criminal Code, which applies to all criminal offences against sexual freedom and sexual auto-determination, foresees the aggravation of the respective penalties, *inter alia*, whenever the victim is in a situation of dependence in the framework of an hierarchical, economical or of a work relationship and the criminal offence is committed by taking advantage of that relationship.

There is no registry of complaints or participations of sexual harassment in the workplace.

**III. Issues relating to specific provisions of the Covenant (Articles 6 to 15)**

*Article 8: Trade union rights*

**6. Please provide information on the decrees introduced in 1999 which replaced the laws protecting workers' rights to collective bargaining and their freedom of association**



No legislation concerning workers' rights to collective bargaining and association was enacted after the establishment of the Macau SAR. Law 2/99/M, of 9 August, which regulates the right of association, is still in force.

Nonetheless, it is worth mentioning that the labour law is currently under revision, and it will include a new chapter on collective bargaining.

### *Article 10: Protection of the family, mothers and children*

#### **7. Please provide updated information on the issue of family reunification**

In the Macau SAR, the issue of family reunification is closely linked to the issues of the status of residence and of the right of abode.

According to Article 24 of the Basic Law, the concept of Macau residents includes permanent residents, who have the right of abode and are qualified to obtain Macau permanent identity cards, and non-permanent residents, who are qualified to obtain Macau identity cards in accordance with the laws of the Region but have no right of abode. Subsequently, it was adopted Law 8/1999 on the permanent residents and the right of abode, Law 8/2002 and Administrative Regulation 23/2002 that establish respectively the regime and the regulations on the resident identity card, Law 4/2003 and Administrative Regulation 5/2003 that establish respectively the general framework principles and regulations on entry, stay and residence in Macau SAR.

The Macau SAR Government cautiously planned for the smooth operation of these laws, especially in what concerns children from Mainland China born to permanent residents (at the time of the child's birth) of the Macau SAR. In 2000, both competent authorities of the

Central People's Government and the Macau SAR Government agreed to establish a separate quota of 400 persons per month for this category of migration and an efficient channel of eligibility confirmation. The first child arrived in Macau SAR in 2001 and the operation so far is satisfactory. Various relevant departments of the Macau SAR Government (Health Department, Social Welfare Department, Housing Department, Migration Department and Identification Department) met and adopted measures to enhance coordination and cooperation to help the integration of all the new migrants from Mainland China (including the above-mentioned children) in the Macau SAR society.

According to the above-mentioned laws, children of Macau residents who were:

— born in Macau are residents of Macau if either the father or the mother, at the time of their birth, was resident of Macau; if both the father and the mother were not residents of Macau at that time, and if they are at present residents of the Mainland, they may apply to the Public Security Department in their domicile for departing to Macau for the purpose of settlement; if, both the father and the mother were not residents of Macau at that time, and if they are at present residents in other regions or countries, they may request to the Macau SAR Chief Executive/Migration Department for an authorization of residence.

— born outside Macau (excluding the Mainland) and have been verified to have the status as permanent residents may directly apply for the Macau permanent resident identity card, while those who have been verified not to have the status as permanent residents may apply to the Macau SAR Chief Executive/Migration Department for an authorization of residence;

— born in the Mainland but without the status of Mainland residents, if they have been confirmed to have the status as permanent residents of Macau, may request directly the permanent resident identity card in the Macau SAR, while those who have been confirmed not to have the status as permanent residents of Macau may request to the Chief Executive/Macau SAR Migration Department for an authorization of residence;

— born in the Mainland with the status of Mainland residents may apply to the Public Security department in their domicile in the Mainland for departing to Macau for the purpose of settlement.

Regarding other persons, applications for authorization to reside in the Macau SAR must state, *inter alia* the applicant's professional activity or the one that he/she wishes to perform in the Region, aims and feasibility of stay, means of subsistence, nuclear family (if any) and must include, among other documents, a valid travel document, a former residence certificate, a criminal record, and a formal declaration that he/she shall abide by the Macau SAR laws.

Furthermore, the Macau SAR Chief Executive can grant a special authorization of stay, *inter alia*, for purposes of family reunification or other situations duly substantiated as well as an exceptional authorization of residence for humanitarian reasons or for exceptional cases duly substantiated.

In conclusion, from 20/12/1999 to 17/6/2004, 48,257 persons obtained their first Macau resident identity card. Among them, 30,440 persons (i.e. 63% of the total of 48,257) are due to reunification with their families. The subtotals of these 30,440 persons are as follows:

— 15,040 persons were born in Macau to the parents of Macau residents;

— among those (*14,000 persons*) who held Single Departure Permit issued by the Authorities in Mainland China to come to reside in the Macau SAR, 5,500 entered to reunify with their father or mother and 8,100 entered to reunify with their spouse or other family members (children);

— among those (*2,000 persons*) who live in the Macau SAR by means of an authorization of residence, 300 entered to reunify with their father or mother and 1,500 entered to reunify with their spouse or other family members (children).

**8. Please indicate the extent of the problem of trafficking of women into Macau SAR from the neighbouring Asian countries and provide information on the initiatives taken by the Government to address the situation.**

It is very difficult to assess the extent of the problem of trafficking in women into the Macau SAR as it is well known that, in this Region, such phenomenon is connected to prostitution, and prostitution does not constitute a criminal offence under the Macau SAR law. Therefore, in the absence of complains and/or of the commission of a crime, only estimation is possible.

Nevertheless, procurement is a criminal offence and by means of repressing procurement the law enforcement authorities have been actively committed in the fight against the traffic in human-beings, in particular women. In addition, effective measures to strengthen border control have also been implemented. It was also created a working group with the neighbouring regions of Hong Kong and Guangdong with the purpose of sharing information regarding criminal investigations as well as specific training on cross-border activities.

The penalty foreseen for the criminal offence of procurement, which consists of instigating, favouring or facilitating the practice of prostitution or of relevant sexual acts by another person, exploiting their state of abandonment or necessity, for the purposes of profit or as a way of life is of 1 to 5 years of imprisonment. If the offender uses violence, serious threat, trick or fraudulent manoeuvre, or takes advantage of the mental incapacity of the victim, it constitutes another criminal offence — aggravated procurement — and the penalty is of 2 to 8 years of imprisonment.

Complaints lodged regarding sexual crimes against women				
Crimes/Years	2000	2001	2002	2003
Rape (Article 157 of the Criminal Code)	6	9	13	13 <sup>(1)</sup>
Procurement (Article 163 of the Criminal Code)	23	20	22	18 <sup>(2)</sup>
Sexual Coercion (Article 158 of the Criminal Code)	0	2	1	1
Others crimes against sexual liberty	2	3	0	0
Total	31	34	36	32

Source: Office for Security Co-ordination, 2004.

Notes: <sup>(1)</sup> 13 cases involving 14 victims: 4 from Macau SAR, 3 from Vietnam and 7 from Mainland China. <sup>(2)</sup> 18 cases involving 41 victims: 8 cases of procurement connected with voluntary prostitution and involving 21 women from Mainland China and 2 from Vietnam; and 10 cases of procurement connected with involuntary prostitution (misleading or tricking with false promises of work), involving 11 women from Mainland China and 7 women from Vietnam.

**9. In Macau SAR the rights of children are currently protected only in the general framework of civil and political rights legislation that is aimed to protect all citizens at large. Please indicate whether**

**the state party intends to introduce legislation that is specifically aimed to protect children.**

The Macau SAR Government intends to introduce some new legislation specifically aimed to protect children.

At the moment, the legal framework of adoption is being revised in order to modernize it as well as to ensure its compliance with the 1993 Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption. The main aspects are the following:

— to ensure that the consents for adoption are not induced by payment or compensation of any kind and is not withdrawn;

— to ensure that the consent of the mother, where required, is given only after the birth of the child;

— to criminalize the inducement of undue consent and the sale for adoption, including the extension, under certain circumstances, of the Macau SAR criminal jurisdiction to offences carried out abroad.

It is also being drafted a law on pornographic content materials aiming to fulfil the obligations arising from the 2000 Optional Protocol on the Rights of the Child, on Sale of Children, Child Prostitution and Child Pornography. Special sanctions related to child pornography and rules forbidding the production, distribution, import, export, exhibition, publicity, sale, offer, possession or any other form of making available the disclosure or commercial exploitation of this material shall be foreseen.

**10. To what extent does the Government provide access to education for children of migrant workers, including immigrants without official papers?**

In the Macau SAR, the right to education is guaranteed to all residents. Children of legal migrant workers are entitled to the Macau

SAR educational system. Persons without official papers are illegal immigrants. As in any other territory or State, the Macau SAR law does favour situations of illegality.

Notwithstanding, under Article 8 (1) of the above mentioned Law 4/2003, the stay in the Macau SAR may be exceptionally authorized for purposes of pursuing studies in high education institutions, family reunification or other analogous purposes considered justified.

The Macau SAR Government, in compliance with the international applicable treaties, including the ICESCR, assumes that to ensure the right to education to children is a responsibility of the Region. In this context, and in line with the Order of the Macau SAR Secretary for Social Affairs and Culture, the Department of Education and Youth Affairs has issued a specific Guideline, dated 16 January 2002, informing all educational institutions of the Region that any person staying in the Macau SAR for a period of time exceeding 90 days is authorized to enrol in non-high level education institutions of the Region for the period of time of his/her legal sojourn, being all educational expenses supported by the concerned person.

**PART III**

**CONCLUDING OBSERVATIONS OF THE  
COMMITTEE ON ECONOMIC, SOCIAL AND  
CULTURAL RIGHTS**





## 1996 CONCLUDING OBSERVATIONS OF THE CESCR IN RELATION TO PORTUGAL (MACAU) \* \*\*

1. At its 31<sup>st</sup>, 32<sup>nd</sup> and 33<sup>rd</sup> meetings, held on 20 and 21 November 1996, the Committee considered the second periodic report of Portugal relating to Macau concerning the rights covered by articles 1 to 15 of the Covenant (E/1990/6/Add.8), as well as the written replies to the additional questions drawn up by the pre-sessional working group (E/C.12/1995/LQ.10), and adopted, at its 54<sup>th</sup> meeting, held on 5 December 1996, the following concluding observations.

### A. Introduction

2. The Committee expresses its appreciation to the State party for its report and written replies to the list of issues, and for the open dialogue conducted between the Committee members and the large delegation from Macau.

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\* E/C.12/1/Add.9, 6 December 1996.

\*\* Consideration of reports submitted by States Parties under Articles 16 and 17 of the Covenant.

3. The Committee notes that the report and the written replies to the list of issues have not been prepared in a manner which enable the Committee to adequately evaluate the enjoyment of economic, social and cultural rights in Macau.

### **B. Positive aspects**

4. The Committee appreciates the efforts being made by the Portuguese Government to secure from the Government of the People's Republic of China all possible guarantees regarding respect for the provisions of the International Covenant on Economic, Social and Cultural Rights in the Territory of Macau after 1999. The Committee notes the enactment of article 40 of the Basic Law of the Macau Special Administration Region which prescribes that the precepts of the Covenant, which are applicable to Macau, will continue to apply and shall be implemented through legislation enacted by the Special Administrative Region of Macau. The Committee hopes that the ongoing discussions between the Portuguese Government and the Chinese Government through the Sino-Portuguese Joint Liaison Group will lead to a continuation of the reporting practice under articles 16 and 17 of the Covenant beyond the year 1999.

5. The Committee notes with satisfaction that the Covenant was published on 31 December 1992 in Macau's *Official Gazette* in both official languages (Portuguese and Chinese) and also that its contents have been disseminated in the Administrative Region.

6. The Committee notes that in January 1993, the Portuguese Government gave the Chinese language (Cantonese) an official status comparable to that of Portuguese.

7. The Committee welcomes the efforts undertaken by the State party to extend coverage of social security, in particular in the private sector, as stated in Decree-Law 58/93/M which came into force in January 1994.

### **C. Factors and difficulties impeding the implementation of the Covenant**

8. The Committee notes that prevailing Chinese traditions, namely of avoiding direct confrontations and strikes in favour of personal or family ties, have not been conducive to the application of the laws concerning the right to collective bargaining and to strikes.

### **D. Principal subjects of concern**

9. The Committee notes with concern that labour regulations are not enforced effectively in Macau, resulting in workers having to work under unfavourable and repressive conditions without access to legal recourse. Protective measures on working conditions and social security for non-resident workers are still lacking. Measures protecting the right to strike, the right to organize trade unions and the right to bargain collectively are also lacking.

10. The Committee is concerned that the majority of the population is not familiar with the judicial system of the Territory, and that insufficient measures have been adopted to ensure that the principles and the provisions of the Covenant are made widely known to the population.

11. The Committee, bearing in mind that China does not recognize dual nationality, expresses concern that residents of Macau, including

civil servants who hold Portuguese passports, may not be able to stay in Macau after 1999.

12. The Committee notes with concern that no special programme aimed at helping the physically and mentally disabled to facilitate their access to employment, education and public facilities exists.

13. The Committee expresses concern that non-resident workers are not covered by the social security system.

14. Although Chinese constitute about 95 per cent of the population in Macau, the requirements for the civil service effectively exclude many persons of Chinese origin who cannot satisfy the criteria of being “local” because they lack a necessary language or other qualifications or for other reasons which cannot be overcome in a short period of time. The Committee, therefore, considers it necessary to incorporate persons of Chinese origin into the civil service in order to facilitate a smooth transmission of administration to China.

15. The Committee is further concerned that the territory does not have a procedure for the determination of minimum wages.

### **E. Suggestions and recommendations**

16. The Committee takes note of the readiness of the State party to provide it with additional information in reply to the concerns expressed by it in the course of the discussion and recommends that in its replies the State party pay particular attention to the issue of family reunification and to the legislative provisions safeguarding the principles of the International Labour Organization Conventions No. 103 (Maternity Protection Convention) and No. 138 (Minimum Age Convention) and their practical applications.

17. The Committee recommends that appropriate measures be taken to effectively secure the economic, social and cultural rights of

disabled persons, particularly through funding for special programmes aimed at helping the physically and mentally disabled to gain better access to employment, education and public facilities.

18. The Committee recommends, in view of the lack of sufficient information provided by the State party with respect to article 10 of the Covenant, that detailed information be provided on measures taken to implement the provisions of article 10. In that connection, the attention of the State party is drawn to the relevant parts of the Committee's revised guidelines regarding the form and contents of reports to be submitted by State parties.

19. The Committee urges the Portuguese Administration to take affirmative steps to facilitate the integration of persons of Chinese origin into the placement programme of the civil service.

20. The Committee urges the Portuguese Administration to promote appropriate policies which would facilitate the right to form labour unions, the right to engage in collective bargaining and the right to strike, so as to fill the gap between domestic law and the Covenant.

21. The Committee also urges the enactment of legislation on the right to social security so as to ensure full compliance with the requirements of the Covenant, and recommends that the State party extend the coverage of social security to non-resident workers.

22. The Committee urges the Portuguese Administration to make more efforts to disseminate the Covenant within the civil society.

23. The Committee welcomes the statement by the State party that measures shall be taken to develop information and awareness programmes on the judicial system of the Territory and on the principles and provisions of the Covenant in the various languages spoken in Macau. Additionally, the Committee recommends that comprehensive human rights training

be provided to all segments of the population, including law enforcement officers and all the persons involved in the administration of justice.

24. The Committee strongly urges the Portuguese Administration to take all necessary measures to ensure that the reports under the Covenant are submitted after 1999.

25. The Committee encourages the State party to disseminate widely the concluding observations adopted by the Committee following the consideration of the State party's second periodic report.

**2004 CONCLUDING OBSERVATIONS OF THE  
CESCR IN RELATION TO THE PR OF CHINA  
(MACAO SAR) \* \*\***

**(PART III)**

**MACAO SPECIAL ADMINISTRATIVE REGION**

1. The Committee on Economic, Social and Cultural Rights considered the initial report of the People's Republic of China (including Hong Kong and Macao) on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/1990/5/Add.59) at its 6<sup>th</sup> to 10<sup>th</sup> meetings, held on 27, 28 and 29 April 2005 (E/C.12/2005/SR.6-10), and adopted, at its 27<sup>th</sup> meeting held on 13 May 2005, the following concluding observations.

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\* E/C.12/1/Add.107, of 13 May 2005.

\*\* Consideration of reports submitted by States Parties under Articles 16 and 17 of the Covenant.



## **A. Introduction**

2. The Committee welcomes the submission of the initial report of the State party, which was submitted on time and prepared in general conformity with the Committee's guidelines. The Committee also notes with appreciation the comprehensive written replies to its list of issues.

3. The Committee welcomes the constructive dialogue with the delegation of the State party, which included representatives of Hong Kong Special Administrative Region (HKSAR) and Macao Special Administrative Region (MSAR). The Committee appreciates that the delegation was composed of experts in the different areas covered by the Covenant.

(...)

## **III. MACAO SPECIAL ADMINISTRATIVE REGION (MSAR)**

### **B. Positive aspects**

103. The Committee welcomes the assurance that the Covenant may be directly invoked before domestic courts in MSAR, and that there have been specific decisions of domestic courts in which reference has been made to the Covenant and its provisions.

104. The Committee welcomes the assurance provided by MSAR that the Office of the Ombudsman has the mandate to receive complaints on violations of economic, social and cultural rights.

105. The Committee commends MSAR for the establishment of a special unit within the Social Welfare Institute offering assistance to victims of domestic violence.

106. The Committee welcomes the planned enactment of legislation

to protect the rights of children, specifically aimed at protecting their rights and interests.

### **C. Factors and difficulties impeding the implementation of the Covenant**

107. The Committee notes the absence of any significant factors or difficulties preventing the effective implementation of the Covenant in MSAR.

### **D. Principal subjects of concern**

108. The Committee expresses its concern that women continue to be in a disadvantaged position in society in MSAR, especially with regard to employment and equal pay for work of equal value and participation in decision-making.

109. The Committee is concerned about the differences in the criteria for entitlement to maternity leave for workers in the public and private sectors, and that the entitlement of male workers to five days of paternity leave is only applicable in the public sector.

110. The Committee is concerned that no legislation exists to criminalize sexual harassment in the workplace.

111. The Committee expresses its concern that persons with disabilities are not sufficiently integrated in the labour market.

112. The Committee is concerned about the increasing incidence of domestic violence in MSAR and the irregular protection given to victims of domestic violence under existing legislation.

113. The Committee notes with concern that trafficking in women

and children for sexual exploitation is a serious problem in MSAR and that prosecution of traffickers generally has not been effective.

114. The Committee is seriously concerned that migrant workers, who account for a significant proportion of the working population of MSAR, are excluded from the social welfare system.

115. The Committee is concerned about the high incidence of consumption of illicit drugs and the ineffective enforcement of the law prohibiting it.

116. While welcoming efforts made by MSAR to enable the integration of children of migrants in the school system, the Committee notes with regret that education provided to children of migrant workers is not free of charge.

117. The Committee notes the lack of sufficient information on efforts made by MSAR to involve non-governmental organizations in the preparation of the report.

## **E. Suggestions and recommendations**

118. The Committee recommends that MSAR establish a State institution responsible for the promotion and protection of gender equality and engage in sensitization campaigns to raise awareness on gender equality, particularly in employment, and to report, in its next periodic report, on the results achieved in this regard.

119. The Committee recommends that MSAR take effective measures to increase public awareness, especially in the private sector, about the importance of maternity and paternity leaves that reconcile professional and family life for men and women. The Committee further recommends that MSAR take immediate measures to ensure workers in the private

sector their right to maternity leave, without placing limitations on the number of births, and to ensure that male workers in the private sector are granted the right to five days of paternity leave, as in the public sector.

120. The Committee urges MSAR to consider enacting legislation to criminalize sexual harassment in the workplace.

121. The Committee recommends that MSAR take effective measures to promote the integration of people with disabilities into the labour market, including by providing incentives to employers and strengthening the system of job quotas for persons with disabilities.

122. The Committee calls upon MSAR to intensify its efforts to combat domestic violence. In particular, the Committee encourages MSAR to consider enacting specific legislation criminalizing domestic violence and affording effective protection to victims. The Committee also urges MSAR to take effective measures to provide training for law enforcement personnel and judges regarding the criminal nature of domestic violence. Moreover, the Committee urges MSAR to ensure the availability and accessibility of crisis centres where victims of domestic violence can find safe lodging and counselling.

123. The Committee recommends that MSAR make concerted efforts to combat the phenomenon of trafficking in persons. MSAR should also ensure that victims of trafficking have access to crisis centres where they can receive assistance. The Committee also recommends that MSAR provide in its next periodic report detailed information on the measures taken to combat trafficking and commercial sexual exploitation of women and children, as well as comparative statistical data indicating the extent of the problem.

124. The Committee recommends that MSAR take effective

measures to ensure that all workers are entitled to adequate social security benefits, including migrant workers. The Committee requests MSAR to provide detailed information in its next periodic report on the extent of the coverage of its social security system, including protection for migrant workers and other disadvantaged and marginalized groups.

125. The Committee recommends that measures be continued and strengthened for the effective implementation of programmes to prevent illicit drug consumption, and to report back to the Committee on the progress achieved in its next periodic report.

126. The Committee recommends that MSAR strengthen its efforts to provide free compulsory education to all school-age children, including children of migrant workers.

127. The Committee encourages MSAR to ensure that human rights education is provided in schools at all levels and to raise awareness about human rights, in particular economic, social and cultural rights, among State officials and the judiciary.

128. The Committee underlines the importance of the role of civil society in the full implementation of the Convention and recommends that MSAR consult NGOs and other members of civil society in Macao during the preparation of the next periodic report.

129. The Committee requests the State party to include, in its second periodic report on the implementation of the Covenant, all available information on any measures taken and progress made, particularly with regard to the suggestions and recommendations made by the Committee in the present concluding observations.

130. The Committee requests the State party to widely disseminate the present concluding observations among all levels of society, and in

particular, members of the judiciary, law enforcement officials and NGOs. It also encourages the State party to engage NGOs and other members of civil society in the process of discussions at the national level prior to the submission of the second periodic report.

131. The Committee requests the State party to submit its second periodic report before 30 June 2010.